

TREASURER'S INSTRUCTION 11

PAYMENT OF CREDITORS' ACCOUNTS

Reissued: 31 May 2018

Effective: 1 June 2018

Scope

11.1 This instruction applies to all public authorities unless otherwise stated.

Objective

11.2 To prescribe the policy for the payment of creditors' accounts by public authorities including, where required under the *Late Payment of Debts (Interest) Act 2013*, the payment of interest to small businesses on overdue accounts.

11.3 To require public authorities' to report account payment performance information to the Department of Treasury and Finance.

11.4 To enable public authorities to charge other public authorities interest on overdue accounts.

11.5 To prohibit payment for goods not received and services not rendered.

Interpretation and Definition

11.6 This instruction should be interpreted and applied in accordance with Treasurer's Instruction 1 *Interpretation and Application*.

11.7 For the purposes of this instruction:

11.7.1 "small business" has the same meaning as "small business" defined in section 3 of the *Late Payment of Debts (Interest) Act 2013* and means an Australian-based entity with a turnover of less than \$5 million in the financial year immediately prior to the year in which a claim for late payment interest is made.

11.7.2 "turnover" has the same meaning as "annual turnover" defined in Division 328 of the *Income Tax Assessment Act 1997* and means the total ordinary income that the business derives in the ordinary course of carrying on its business.

- 11.7.3 “disputed invoice/claim” for the purposes of clause 11.16 means an invoice/claim that is not accurate in relation to: GST compliance; goods not received or services not rendered (clause 11.12 and 11.13); amounts charged not in accordance with quotes, purchase orders, contract etc; quality or quantity or delivery of goods or services not in accordance with quotes, purchase orders, contract etc.
- 11.7.4 “designated contract” has the same meaning as “designated contract” defined in section 3 of the *Late Payment of Debts (Interest) Act 2013* and means a contract for the supply of goods or services but does not include -
- (a) a written contract where the contract makes specific provision for payment terms that are greater than 30 days; or makes specific provision for the payment of interest if a payment is not made in accordance with the terms of the contract; or
 - (b) a construction contract under the *Building and Construction Industry Security of Payment Act 2009*; or
 - (c) a contract where the consideration for the sale, transfer or hire of goods, or the provision of services is not or does not include a monetary consideration; or
 - (d) a contract of a class excluded from the ambit of this definition by the regulations.

Instruction

Payment of creditors’ accounts

- 11.8 The Chief Executive of each public authority shall ensure that undisputed creditors’ accounts are processed promptly.
- 11.8.1 Where a commercial discount is offered by a creditor for payment within a specified period, payment should be made within the period specified.
- 11.8.2 Where a creditor’s invoice or claim is submitted in connection with a written contract between a public authority (including a Minister) and the creditor, payment should be made in accordance with the terms specified in the contract.
- 11.8.3 For all other undisputed invoices or claims, payment should be made within thirty days of:
- 11.8.3.1 the date the GST compliant invoice is first received by the public authority.
 - 11.8.3.2 where account payment functions and responsibilities are subject to an outsourced service arrangement, including an arrangement with Shared Services SA, the date the GST compliant invoice is first received by either the public authority or the service provider, which ever comes first.

- 11.9 Public authorities must not withhold payment, beyond the timeframes set out in clause 11.8, of undisputed creditors' accounts on cash management grounds without the approval of the Treasurer or the Treasurer's delegate.
- 11.10 The Chief Executive of each public authority must develop, document, implement and maintain policies, procedures, systems and internal controls relating the payment of creditors' accounts.
- 11.11 An invoicing public authority may charge a public authority, where payment is not received within 30 days, based on the Official RBA cash rate plus a penalty of five percent per annum on the daily outstanding balance.
- 11.12 Subject to clause 11.12.1, public authorities that are administrative units must not make payments in advance for goods that have not been received or for services not yet rendered.
- 11.12.1 Payments in advance for goods that have not been received or for services not yet rendered may only be made as follows:
- (a) it is in the ordinary course of business to make such payments; or
 - (b) it is deemed by the Under Treasurer or the Under Treasurer's delegate to be a payment in accordance with clause 11.12.1(a); or
 - (c) the payment is made via a purchase card or stored value card governed by TI 12 *Government Purchase Cards and Stored Value Cards* and the payment does not exceed \$2,000 (inclusive of GST) and it is in the ordinary course or manner of business to make such payments; or
 - (d) the payment represents a deposit of 10% or less of the total value of goods to be received; or
 - (e) the Treasurer has provided express approval for the payment to be made; or
 - (f) where the payment does not exceed \$25,000 (inclusive of GST) and the Chief Executive considers it to be in the best interest of the SA Government to make a payment in advance for goods that have not been received or for services not yet rendered – then the payment may be made with the express approval of the responsible Minister.
- 11.13 Subject to clause 11.13.1, public authorities that are not administrative units must not make payments in advance for goods that have not been received or for services not yet rendered.
- 11.13.1 Payments in advance for goods that have not been received or for services not yet rendered may only be made as follows:
- (a) it is in the ordinary course of business to make such payments; or
 - (b) it is deemed by the Under Treasurer or the Under Treasurer's delegate to be a payment in accordance with clause 11.13.1(a); or
 - (c) the payment is made via a purchase card or stored value card governed by TI 12 *Government Purchase Cards and Stored Value Cards* and the payment does not exceed \$2,000 (inclusive of GST) and

it is in the ordinary course or manner of business to make such payments; or

- (d) the payment represents a deposit of 10% or less of the total value of goods to be received; or
- (e) the Treasurer has provided express approval for the payment to be made; or
- (f) where the payment does not exceed \$25,000 (inclusive of GST) and the Chief Executive considers it to be in the best interest of the SA Government to make a payment in advance for goods that have not been received or for services not yet rendered – the payment may be made with the express approval of the responsible Minister.

11.14 For the purposes of clause 11.12.1(a) and 11.13.1(a), payments in advance for items such as insurance, leases where the agreement states that payments must be made monthly in advance, motor vehicle registrations, subscriptions, telephone rental, water rates and similar would be considered to be in the ordinary course of business.

Reporting of account payment performance

- 11.14A (1) The Chief Executive of a public authority must, within 21 days after the end of each month, forward to:
- (a) the Department of Treasury and Finance; and
 - (b) the Minister with responsibility for the public authority,
- a report detailing in relation to the month that has just ended:
- (c) the public authority's account payment performance by volume and value; and
 - (d) an analysis/explanation of the public authority's account payment performance including action taken or to be taken; and
 - (e) unless a report is provided under subclause (2), the total value of interest paid by the public authority and the number of creditors' invoices/claims on which the interest was paid.
- (2) The following information must be included in a report under section 8 of the *Late Payment of Government Debts (Interest) Act 2013* in relation to the month to which the report applies:
- (a) the number of payments of interest made under the Act; and
 - (b) the amount of each interest payment and the total amount of interest paid for the month; and
 - (c) in the case of a payment that has been made after the resolution of a dispute under the Act – information about the nature of the dispute and the dispute resolution process.
- (3) In a case where the report under section 8 of the *Late Payment of Government Debts (Interest) Act 2013* is furnished to the governing body of a public authority under section 8(2)(b) of that Act, a copy of the report must also be furnished to the Minister with responsibility for the public authority.

- (4) A copy of a report under subclause (2) must be provided to the Department of Treasury and Finance at the time that it is provided to an entity under section 8 of the *Late Payment of Government Debts (Interest) Act 2013*.
- (5) The information provided in a report under this clause must be certified correct by the Chief Finance Officer of the public authority.

11.15 The Chief Executive of a public authority must, by 31 August each year, forward to the Department of Treasury and Finance a report detailing:

- 11.15.1 account payment performance by volume and value, for the financial year just ended, within the following time bands: within 30 days; 30 to 60 days; greater than 60 days. This information must be certified correct by the Chief Finance Officer and will be published on the Department of Treasury and Finance's website.
- 11.15.2 an analysis/explanation of account payment performance including action taken or to be taken.
- 11.15.3 where the public authority is subject to the *Late Payment of Debts (Interest) Act 2013*: the total value of interest paid and the number of creditors' invoices/claims on which interest was paid, for the financial year just ended.

Payment of interest to small businesses

11.16 Public authorities subject to *Late Payment of Debts (Interest) Act 2013* must, prior to paying interest to small businesses on overdue accounts:

- 11.16.1 be satisfied that the creditors' account is not a disputed invoice/claim and relates to a designated contract;
- 11.16.2 substantiate that the business is a small business via obtaining:
 - (a) where the small business is registered for GST: a copy of the business' Business Activity Statement(s) (BAS) for the preceding financial year (annual return or each of the 4 quarterly returns);
 - (b) where the small business is not registered for GST: a copy of the business' income tax return for the preceding financial year.
 - (c) where the small business was not operational in the preceding financial year and is registered for GST: a copy of the business' BAS for each of the 2 preceding quarters.
 - (d) where the small business was not operational in the preceding financial year and is not registered for GST: a copy of the business' income and expenditure statement (for at least a 6 month period) certified by a qualified accountant as true and correct.
- 11.16.3 be in receipt of an invoice/claim stipulating:
 - (a) the name and address of the creditor;
 - (b) the creditor's ABN, where the creditor is registered for GST;

- (c) the invoice number or other unique identifier to enable reference to the original invoice/claim against which the interest on late payment is being sought. A copy of the purchase card receipt must be obtained, where the original invoice/claim was paid by a purchase card; and
- (d) the amount of interest being claimed, that has been calculated in accordance with the *Late Payment of Debts (Interest) Act 2013*.

For queries relating to TI 11 contact:

Department of Treasury and Finance
Financial Management Team
Telephone No. (08) 8226 9529

For queries relating to interest being paid on the late payment of debts due to small businesses under the *Late Payment of Debts (Interest) Act 2013* contact:

Shared Services SA
Telephone No (08) 8462 1304