24 November 2008

Circular 26/08: Payments (Matured Liabilities)

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I am directed by the Minister for Finance to refer to the existing financial procedures for the treatment of payments in Departments/Offices and to state that these procedures have been clarified / revised on foot of a revised edition of Public Financial Procedures (PFP) which was published recently. These instructions (from Sections C5.1 – C5.7 of the revised PFP) supersede the procedures outlined in paragraphs C5.1 – C5.7 of the previous edition of Public Financial Procedures.

This revision makes reference to cash-limited grant schemes (paragraph 5 below). Paragraph 6 has been updated to make reference to the Late Payment in Commercial Transactions Regulations 2002, the unsuitability of Payable Orders being drawn on the PMG to make payment to a foreign payee and requirements in relation to tax clearance certificates.

Payments

1. Section 24 of the Exchequer and Audit Departments Act, 1866 prescribes that the sums that have actually come in course of payment in a year should be shown in the Appropriation Account for that year. This means that all payments made by a Department/Office in the year must be recognised in the Appropriation Account for that year.

2. Payments should be recognised on the following basis:

(a) in the case of payment by cheque, Payable Order or electronic funds transfer (EFT), when the payment instrument has been drawn;

(b) in the case of social welfare payments, through the agency of An Post when the amounts have been disbursed by that agency.

3. Payment procedures must be initiated where a liability has been incurred and when payment is due (matured), even at the risk of incurring an Excess Vote. Payment procedures must **not** be initiated where a liability has not matured for payment. In the case of goods and services, payment is due when the goods or services have been provided satisfactorily and the supplier has submitted their account (which may be in electronic format) and when optimum advantage has been taken of the credit terms, if any, allowed by the supplier, at the same time avoiding the incurrence of any interest on late payments.

4. In the case of grant payments, payment is due when the grant or benefit payment has been fully approved and processed in accordance with the terms and conditions of the particular scheme and when the applicant has fulfilled all the necessary conditions.

5. Payments under cash-limited grant schemes must cease when the subhead allocation has been exhausted. The exercise of virement to increase or create a cash-limited grant scheme is not permissible. Proper management of such schemes should ensure that no commitments are made or approvals issued once the limit has been reached. In the case of open-ended schemes, there may be an obligation to pay (i.e. liabilities may mature for payment) even where the allocation has been exhausted.

6. Departmental arrangements for making payments should ensure that:

a. there is proper authority for the service, viz. Finance sanction, etc;
b. the service has been properly performed or goods received or the grant/benefit application has been fully processed;
c. the making of a grant payment is consistent with the subhead provision (e.g. if cash-limited, that the limit has not been exhausted);
d. the claim is in accordance with the contract terms;
e. the claim is arithmetically correct;
f. payment has not already been made;
g. that the requirements of the Late Payment in Commercial Transactions Regulations 2002 are met;
h. the payment method meets the needs of the payee with regard to their circumstances and location, e.g. it may not be appropriate to send a Payable Order drawn on the PMG to a foreign payee;
i. valid tax clearance arrangements exist. For public sector contracts, grants and similar type payments, these arrangements are set out in Department of Finance Circulars 43/2006 and 44/2006. In summary, subject to certain exclusions set out in these circulars, where payments are expected to total €10,000 (inclusive of VAT) or more within any 12-month period, a payee is required to produce either a valid tax clearance certificate (TCC) or a C2 certificate as issued to them by the Revenue Commissioners (a C2 allows a principal contractor to request authorisation from the Revenue Commissioners to make gross payments to the subcontractor). As an alternative, a payee may authorise the public sector body to confirm electronically that they hold a valid tax clearance certificate, using the verification facility on the Revenue On-line website, (www.ros.ie). Special tax clearance arrangements apply to construction operations, where the payee is required to produce evidence of tax clearance where payments exceed €650. Sub-contractors involved in public sector projects of €10,000 (inclusive of VAT) or more are required to provide a valid tax clearance certificate to the principal contractor where payments to them exceed €2,600 in any 12-month period. The procedures in relation to tax clearance apply equally to relevant payments to residents and non-residents.

7. To ensure the integrity of the Appropriation Account, all due payments (i.e. matured liabilities) should be settled at year-end and payments that are not matured should not be brought forward into the current accounting period. This instruction does not preclude the making of advance payments in cases where it is necessary **under the terms of a contract** to make payments in advance (e.g. in the case of an overseas supplier). Departments and Offices should be aware that the circumstances under which they may enter into an Escrow or Letter of Credit arrangement are very limited. Any agreement to use these forms of payment requires the prior sanction of the Department of Finance.

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Carmel Keane
Head of Finance Directorate

To: All Accounting Officers