



Llywodraeth Cymru
Welsh Government

GUIDANCE

Welsh procurement policy note WPPN 03/21: Project bank accounts policy

Version v2 replaces v1 December 2017 and should be read in conjunction with WPPN 04/21 Guidelines for deploying Welsh Government Project Bank Account Policy.

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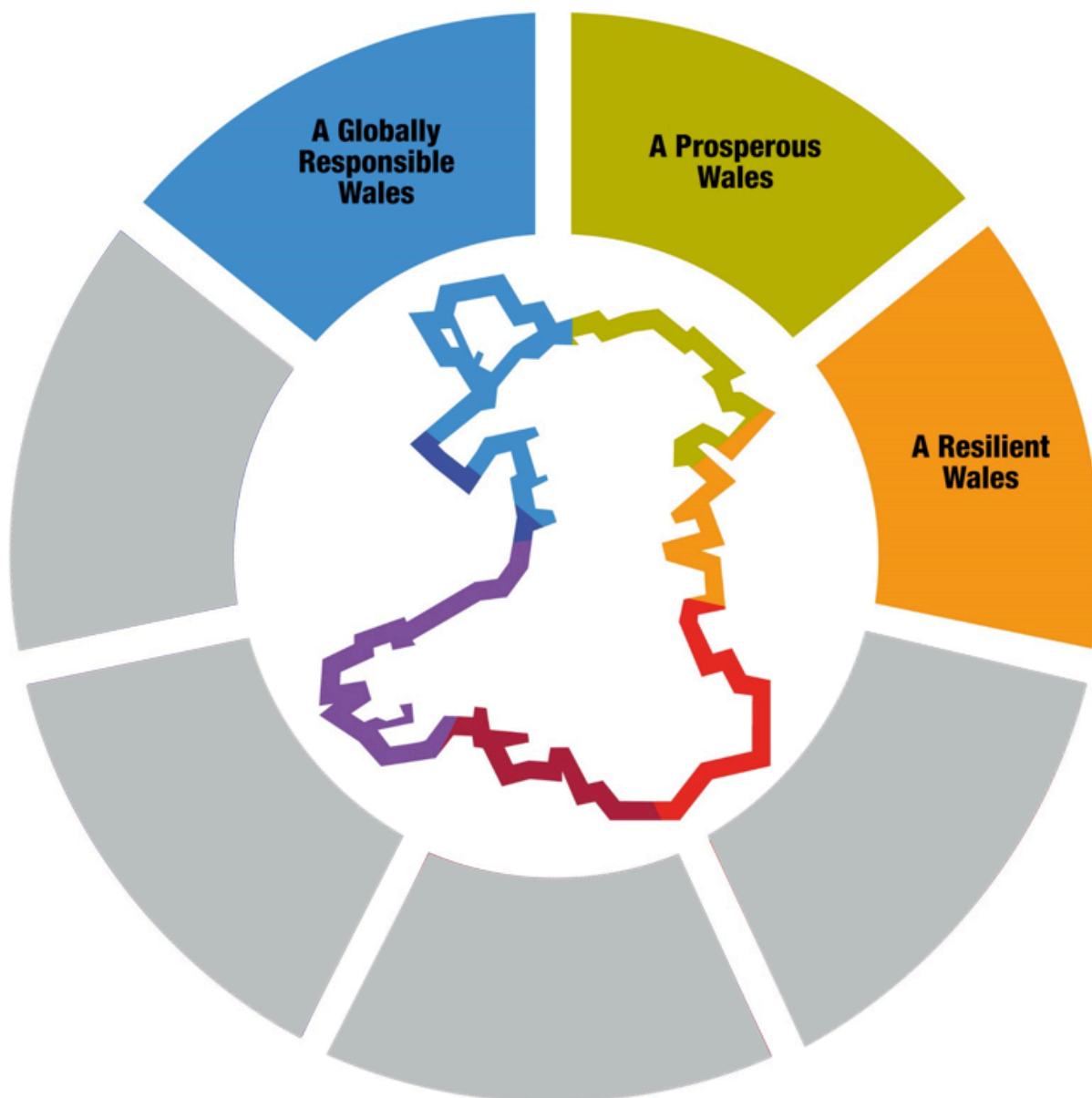
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References

Well-being of Future Generations Act's well-being goals supported by this WPPN



- A prosperous Wales
- A resilient Wales

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- A globally responsible Wales

Points to note

- The information set out in this document is not legal advice and is not intended to be exhaustive – contracting parties should seek their own independent advice as appropriate. Please also note that the law is subject to constant change and advice should be sought in individual cases. This document reflects the position as at May 2021.
- This Welsh Procurement Policy Note (WPPN) is consistent with the Public Contracts Regulations 2015 The provisions of which remain unaffected by the UK Statutory Instrument (SI) no: 1319 The Public Procurement (Amendment etc.) (EU Exit) Regulations 2020, effective from 1 January. The SI only corrects deficiencies arising from the UK's exit from the EU and implements the relevant aspects of the UK/EU Withdrawal Agreement.
- This Wales Procurement Policy Note (WPPN) is drafted primarily for public sector officials in procurement, commercial and finance roles and therefore assumes a certain level of knowledge of public procurement.
- This WPPN is available via the Welsh Government website GOV.WALES and any queries should be directed to CommercialPolicy@gov.wales or via the [Welsh Government customer services](#).

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1. Purpose

This Welsh procurement policy note (WPPN 03/21) updates and replaces Project Bank Accounts – Procurement Advice Note (PAN) v1 December 2017, is published by the Welsh Government to encourage use of project bank accounts (PBAs) as a means of addressing poor payment practices in public sector supply chains by facilitating fair and prompt payment. It sets out Welsh Government's Policy on PBAs for Welsh Government departments required to apply PBAs unless there are compelling reasons not to do so and to promote the use of PBAs as best practice to public sector bodies in Wales.

2. Background

2.1 The Welsh Government is committed to using procurement as a lever for driving economic, social and environmental benefits and supporting jobs and growth. Public procurement should help promote Wales as a good place for doing business and should provide mechanisms that allow suppliers of all sizes to flourish, PBAs are a mechanism that supports this ethos.

2.2 PBAs represent best practice in ensuring fair and prompt payment in the supply-chain. It is important to ensure cash flow through supply chains to reduce the risk of supply chain failure for Welsh businesses and enable more rapid circulation of money through the economy and local communities.

2.3 Although PBAs have been developed in response to poor supply chain payment practices that persist in the construction industry, they can also be applied in any contract that relies on sub-contractors.

2.4 Welsh Government's PBA Policy has been informed by the experience of PBA implementation by UK Government Departments (Highways England), the

Northern Ireland Executive and Scottish Government supplemented by a series of pilot projects in Wales between 2015 and 2017.

What are Project Bank Accounts and why are they needed?

2.5 Small to medium enterprises (SMEs) play critical roles in the delivery of public sector projects through sub-contracting arrangements. Access to finance and cash flow are vital to any business and no more so than smaller businesses with limited resources. It is therefore essential that public sector clients ensure fair and prompt payment, not only to our tier 1 contractors but throughout their supply chains when delivering public contracts.

2.5.1 PBAs are ring-fenced bank accounts with trust status that act solely as a mechanism for making payments. PBAs replace the traditional multi-layered payment terms between subsequent tiers in the supply chain with simultaneous payments to the lead contractor and supply chain partners. Traditional payment methods have resulted in sub-contractors commonly having to manage 60-90 day, or longer payment terms in some instances, whereas payments via a PBA typically take between 3-5 days from the deposit of money into the account following certification of the payment schedule.

2.5.2 PBAs have the added benefit of streamlining payment processes for clients, contractors and sub-contractors. Sub-contractors further benefit from PBAs as they alleviate the time and cost burden of chasing late payments and dispute resolution proceedings by ensuring timeliness and certainty of payment.

2.5.3 PBAs help public sector bodies to meet the statutory requirement of the Public Contracts Regulations 2015 (PCR) to ensure that the maximum 30 day payment terms for undisputed invoices are reflected down the supply chain and not just to main contractors. They also safeguard public sector bodies from legal action under the Late Payment of Commercial Debts (Interest) Act 1998 that

allows businesses of any size to claim statutory interest on late payment of undisputed invoices within 30 days.

2.5.4 In addition to providing security and certainty of payment to the supply chain, PBAs can also deliver efficiency savings. A cost benefits analysis undertaken for the Queensland Department of Housing and Public Works (**Analysis of security of payment reform for the building and construction industry – addendum report** - Queensland Department of Housing and Public Works, Deloitte 2017)¹ indicated the benefits of introducing PBAs to both the contracting organisation and supply chain, largely through the reduction in and the overheads relating to debt chasing and administration outweighed the costs.

2.5.5. More stable cash-flow and increased liquidity (**£50 billion locked up in late payments**, Supply Management 2018) as a result of shorter payment timescales have the potential to increase productivity and create employment and training opportunities in our supply chains.

3. Dissemination and scope

3.1 This WPPN is directly applicable to:

3.1.1 All Welsh Government construction and infrastructure contracts and any other ‘appropriate contracts’ valued at £2m or more (see section 3.2) which are delivered directly on behalf of Welsh Government Departments that require a PBA be applied unless there are compelling reasons not to do so. Where such compelling reason are identified a decision report detailing those reasons must be completed and filed to allow for audit.

3.1.2 Construction and infrastructure projects and any other appropriate contracts valued at £2m or more (see section 3.2) which are fully, part or grant funded by Welsh Government that require a PBA be applied unless there are

compelling reasons not to do so.

3.1.3 This WPPN is also recommended to all Welsh public sector bodies as fair payment good practice and should be read in conjunction with WPPN 04/21 (WPPN 04/21 Guidelines for deploying Welsh Government Project Bank Account Policy) and be circulated (for information) within your organisation, particularly drawing it to the attention of those with a commissioning, procurement planning and contract management role or those involved in the delivery of construction and infrastructure projects.

3.2 PBA appropriate contracts / projects

3.2.1 Appropriate contracts / projects will largely depend on the value and duration of the project and the extent to which the contract will be delivered by sub-contractors. As general guidance, the following criteria may be used to identify 'appropriate contracts / projects':

1. Any contracts that use a significant sub-contracting supply chain
2. Of over 6 months duration and
3. Valued at over £2 million 'net'*

3.2.2 Exemptions to the £2m net threshold

1. Projects valued at less than £2 million net*
2. shorter than 6 months duration
3. Where a main contractor gives a firm undertaking to self-deliver over 75% of the contract.

* £2 million net value - The primary purpose of a PBA is to safeguard sub-contractors who may be exposed to cash flow risk, hence the focus on the value of the construction element of projects as this is where the main risk to sub-contractors arises. Clients may therefore exclude preliminary / design stage

costs when assessing whether a project / contract meets the £2 million threshold, e.g. VAT, insurance and other costs / overheads that do not affect the supply chain.

3.2.3 Supply chain coverage

To maximise their impact it is recommended that 80% of those businesses engaged in the supply chain of appropriate projects be paid through the PBA and in all cases where a PBA is applied sub-contractors / suppliers who account 1% or more of the main contract award value must be invited to join the PBA and requests from those who account for less than 1% should be considered by the client and main contractor.

4. Welsh Public Sector bodies

4.1 Welsh public sector bodies are advised to apply PBA policy as fair payment best practice in the delivery of self-funded construction and infrastructure projects where appropriate.

4.2 Where existing contracts or framework agreements do not have a PBA option, these should be incorporated into the specification of 'appropriate' (see section 3.2) contracts frameworks when they are re-tendered.

5. Legislation

5.1 Use of PBAs supports the Wellbeing of Future Generation Act Wellbeing Goals of A Prosperous Wales and A Healthier Wales in their positive impact on the economy and mental wellbeing by ensuring prompt and fair payment terms that relieve cash flow pressures particularly on SMEs.

6. Timing

6.1 This WPPN is effective from the date of publication until it is superseded or cancelled.

7. Welsh Government Procurement Policy Statement (WPPS) relevance

7.1 Use of PBAs aligns with the WPPS 2021 vision for Procurement in Wales as a facilitator of change that builds ‘commercial activities that will foster vibrant Welsh supply markets...’ and specifically Principle 5 that promotes support for ‘...Welsh Government policy objectives relating to progressive procurement, including those which nurture resilient local supply chains’.

8. Additional information

8.1 The guidance document, Guidelines for Deploying Welsh Government PBA Policy to support implementation of this Policy is available via the Welsh Government’s website Gov.Wales.

The Guidelines for Deploying Welsh Government PBA Policy guidance outlines the minimum requirements at Annex 1 for a Project Bank Account, how to implement PBAs, the roles and responsibilities of the organisations involved and sample documents.

An eLearning module Project Bank Accounts (PBA) is available via the NHS Wales Shared Service Partnership [Learning@Wales](#) portal.

Welsh Governments Commercial Policy team manage a Project Bank Accounts Community of Practice Group that brings together public sector colleagues to share their experience with the implementation of PBAs. If you would like to join the group please email CommercialPolicy@gov.wales to be added to the circulation list.

9. Contact details

9.1 Enquiries linked to this WPPN should be directed to CommercialPolicy@gov.wales

10. Acknowledgements

10.1 Welsh Government is pleased to acknowledge that it has drawn upon the following publications and organisations to supplement its own research to produce this note:

- UK Fair Payment Group
- Scottish Government
- Northern Ireland Executive
- Highways England
- Environment Agency

11. References

- “A Guide to best Fair Payment practices” The Office of Government Commerce (OGC) 2007

- Project Bank Accounts - Briefing document (Cabinet Office 10 February 2012)
- A Guide to the implementation of Project Bank Accounts (PBAs) in construction for government clients. (Cabinet Office 03 July 2012)
- Analysis of security of payment reform for the building and construction industry – addendum report - Queensland Department of Housing and Public Works (Deloitte July 2017)
- Chartered Institute of Procurement & Supply – Supply Management Daily, ‘£50bn locked up in late payments’ Aug 2018

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