

# Small Business Shorter Payment Terms Policy









## **Acknowledgement of Country**

NSW Treasury acknowledges that Aboriginal and Torres Strait Islander peoples are the First Peoples and Traditional Custodians of Australia, and the oldest running continuing culture in human history.

We pay respect to Elders past and present and commit to respecting the lands we walk on, and the communities we walk with.

We celebrate the deep and enduring connection of Aboriginal and Torres Strait Islander peoples to country and acknowledge their continuing custodianship of the land, seas and sky.

We acknowledge the ongoing stewardship of Aboriginal and Torres Strait Islander peoples, and the important contribution they make to our communities and economies.

We reflect on the continuing impact of government policies and practices, and recognise our responsibility to work together with and for Aboriginal and Torres Strait Islander peoples, families and communities, towards improved economic, social and cultural outcomes.

“

Promoting the  
faster payment  
of small  
businesses



# Overview

---

Cash flow can be a major issue for small businesses and can be impacted by non-payment, late payment or extended payment terms imposed by larger businesses. The *Small Business Shorter Payment Terms Policy*

(‘the Policy’) aims to support the important role of small businesses in the NSW economy by promoting the faster payment of small businesses on NSW Government contracts.

# Policy

---

Under the Policy, for goods or services contracts with a large business with a contract value of \$7.5 million or above, a NSW Government agency must require the large business to:

a) identify direct subcontractors<sup>1</sup>, which are engaged to provide goods or services to the large business for the purposes of the relevant goods or services head contract between the large business and the NSW Government, and inform them of this Policy

b) include in its subcontracts with small business subcontractors, which are (wholly or in part) for the provision of goods or services for the purposes of the relevant NSW Government head contract, a requirement that the large business make payments under the subcontracts within 20 business days following the receipt of a correctly rendered invoice from the small business subcontractor

c) pay small business subcontractors for the provision of goods or services relevant to the NSW Government agency head contract<sup>2</sup> within 20 business days following receipt of a correctly rendered invoice; and

d) report under the head contract as per the contractual requirements relating to this Policy.

<sup>1</sup> This relates to direct subcontractors of the Large Business only and not to further levels of subcontracting in the supply chain.

<sup>2</sup> This relates to payment terms associated with the provision of goods or services relevant to the head contract with the NSW Government agency only. This policy does not cover, nor does it require changes to be made to, payment terms associated with the provision of goods or services by a small business to the Large Business to the extent those goods or services are not relevant to the NSW Government head contract.





## Definitions

**BUSINESS DAY** means a day that is not a Saturday, a Sunday or a public holiday in NSW.

**LARGE BUSINESS** is defined as an entity which:

- a) has 200 or more full time equivalent employees (excluding registered charities and not-for-profit organisations); or
- b) is a 'reporting entity' within the meaning of the *Payment Times Reporting Act 2020* (Cth).

**SMALL BUSINESS SUBCONTRACTOR** means a direct subcontractor entity, which is identified as a small business on the NSW Government website at <https://buy.nsw.gov.au>.

## Application

This Policy applies to the procurement of all goods or services by a NSW Government agency, within the meaning of section 162 of the *Public Works and Procurement Act 1912*.

A NSW Government agency must apply this Policy to all new goods or services procurement activities that commence from 1 July 2021. The Policy does not apply to goods or services contracts between a NSW Government agency and a large business executed:

- a) before 1 July 2021; or
- b) after 1 July 2021 in circumstances where the approach to market in respect of that contract commenced before 1 July 2021.

The Policy does not apply to construction work or the provision of goods or services under a construction contract, which is subject to the *Building and Construction Industry Security of Payment Act 1999* (NSW).

## Compliance

In the first instance, a small business subcontractor should raise with the relevant large business any issues relating to potential non-compliance with contracted payment terms.

The NSW Small Business Commissioner can provide mediation services to small businesses if necessary.

In the event the issue cannot be resolved with the large business, a small business subcontractor may raise the issue with the relevant contracting agency.

A NSW Government agency may undertake a review at any time to determine a large business's compliance with contractual obligations relating to this policy, regardless of whether an issue has been raised by a small business subcontractor.

Published by NSW Treasury

[buy.nsw.gov.au](http://buy.nsw.gov.au)

This publication is protected by copyright. With the exception of (a) any coat of arms, logo, trade mark or other branding; (b) any third party intellectual property; and (c) personal information such as photographs of people, this publication is licensed under the Creative Commons Attribution 3.0 Australia Licence. The licence terms are available at the Creative Commons website at: [creativecommons.org/licenses/by/3.0/au/legalcode](http://creativecommons.org/licenses/by/3.0/au/legalcode)

NSW Treasury requires that it be attributed as creator of the licensed material in the following manner: © State of New South Wales (NSW Treasury), (2021)

Image credits: Destination NSW, Adobe Stock, iStock.

