

# Final Business and Regulatory Impact Assessment

## Title of Proposal

Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on Electronic Invoicing in Public Procurement

## 1. Purpose and intended effect:-

### Objectives:

- to transpose Directive 2014/55/EU through amendment to the Public Contracts (Scotland) Regulations 2015
- to ensure that Scottish public bodies are in a position to automatically receive and process electronic invoices (eInvoices) from their suppliers. Central contracting authorities (that are named in Schedule 1 of the Public Contracts (Scotland) Regulations 2015) must comply with the Directive no later than 18 April 2019. All other sub-central contracting authorities may have a further twelve months to comply with the Directive (no later than 18 April 2020).
- to modernise and simplify purchase-to-pay (P2P) processes for Scottish public bodies and suppliers that are consistent with trends at national and EU levels.
- To deliver faster payment to suppliers

### Background:

The purpose of this document is to provide a final **Business and Regulatory Impact Assessment (BRIA)** describing the change being introduced by the EU eInvoicing Directive.

The **European Directive 2014/55/EU on Electronic Invoicing in Public Procurement** was published in the Official Journal of the European Union (OJEU) on 26 May 2014 and will be implemented through amendment to the Public Contracts (Scotland) Regulations 2015.

The overall rationale for this change is positive. The aim is to further simplify and streamline P2P processes and reduce costs for both public bodies and suppliers through improving the processing and payment of invoices.

The change applies to contracts that are regulated by the European Public Procurement Regulations and which are advertised in the Official Journal of the European Union (OJEU). However, it is widely recognised that eInvoicing is an efficient and time saving process for both public bodies and suppliers, therefore where deemed appropriate and benefits have been identified, non-OJEU contracts and their incumbent suppliers will have the opportunity to send eInvoices.

There are no optional elements available under this Directive. While the specific nature of Brexit arrangements may impact on obligations to implement this Directive, the Scottish Government is consulting on its implementation based on business efficiencies and benefits eInvoicing is expected to provide to public sector bodies and suppliers.

To support the implementation of the Directive, the Scottish Government is providing eInvoicing capability through the national purchase-to-pay (P2P) platform, PECOS, which is available to all Scottish public bodies. This approach will help to embed continuous improvement in the P2P cycle, reduce duplication of effort, fragmentation of approach and decrease the overall costs of delivering eInvoicing capability across the Scottish public sector. The overall cost (other than any interfaces that may be required between PECOS and finance systems) is currently being funded by the Scottish Government

The Scottish Government solution was successfully piloted with West Lothian Council from April 2013 to March 2014. To date there are currently 17 public bodies using it with a further seventy public bodies actively engaging in discussions regarding the implementation of the solution. Since 2013, over 412,000 invoices have been captured delivering approximately £5.4 million of transactional efficiency savings.

#### **Rationale for Government intervention:**

Apart from the legislative requirement for changes to be made, the overall rationale for Government action on eInvoicing in public procurement is to:

- Comply with the eInvoicing Directive to help drive efficiency benefits throughout the P2P cycle for both contracting authorities and suppliers; and
- Support the [Digital Strategy for Scotland](#) by providing the opportunity to provide shared technology platforms as a core part of the process of public service reform.

The Directive and transposition into Scots Law will require public bodies to have in place the capability to automatically receive and process eInvoices for all contracts regulated by the European Public Procurement Directives. In doing so, it will increase transparency and help to tackle unnecessary inconsistencies for suppliers doing business with the public sector.

The public sector spends approximately £11.7 billion each year on goods, works and services (data from procurement information Hub). This provides an excellent platform to work with the public, private and third sectors to deliver procurement that improves public services for a prosperous, fairer and more sustainable Scotland.

It is generally accepted that the implementation of eInvoicing by the public sector will make it much easier to do business with as well as facilitate more efficient payment processes to suppliers, including SMEs, which will bring cost savings and

liquidity benefits. There are three good reasons why the public sector should adopt eInvoicing:

1. Electronic invoicing is supportive of public policy priorities for economic growth, deficit reduction and financial transparency;
2. It will specifically make a material contribution to public sector cost reduction and efficiency; and
3. It will provide major benefits to private sector suppliers and clear opportunities for the public sector to act as a catalyst for the wider adoption of digital processes with the resultant productivity gains throughout the economy.

There are a range of transactional efficiencies and benefits that can be achieved by public bodies through the implementation of eInvoicing:

- Reduced costs;
- Increased accuracy and processing efficiencies;
- Faster processing and payment cycles;
- Improved controls and compliance;
- Increased visibility and transparency;
- Focus on higher value activities; and
- Lower carbon footprint

The above reasons provide the rationale for Scottish Government intervention.

## **2. Consultation**

### **Within Government**

The main elements of the new eInvoicing Directive have been communicated to all central government bodies (including NHS) at numerous events since the Directive was first proposed in 2012 (this list is not exhaustive):

- Scottish Government National Procurement Conference (Procurex): 23 October 2012, 22 October 2013, 21 October 2014, 6 October 2015; 9 November 2016; and 25 October 2017;
- Scottish Procurement letter in June 2016 to all central government Directors/Heads of Finance and Directors/Heads of Procurement;
- Central Government Annual Procurement Improvement Event on 23 March 2017;
- Various face-to-face meetings with a number of central government bodies during 2017;
- Regular updates to central government bodies currently using PECOS P2P;
- PECOS P2P Roadshows from 2014 to present; and

There has also been regular engagement with colleagues from across Scottish Procurement & Commercial Directorate and the Scottish Government Legal Directorate.

The Scottish Government has also engaged extensively with all Scottish local authorities, universities, colleges, 3<sup>rd</sup> sector and suppliers.

### **Public Consultation**

A consultation took place over a 12 week period from 1 August to 24 October 2018. In total 21 responses were received: 13 from local authorities; 1 from NHS; 2 from central government; 2 from trade organisations; 2 from suppliers; and 1 from an individual.

Although some challenges were identified, the overall response to the consultation was positive.

### **Business**

The Directive covers those contracts that are regulated by the European Public Procurement Directives and advertised in the Official Journal of the European Union (OJEU). The Scottish Government is centrally co-ordinating the adoption of all suppliers of these contracts as these will deliver the biggest transactional efficiency savings and benefits across the Scottish public sector.

As part of the wider stakeholder engagement work outlined above, the Scottish Government has also engaged with business including Scottish Chambers of Commerce and the Federation of Small Businesses.

## **3. Options**

Scottish contracting authorities must demonstrate compliance with the Directive within the required timescales and be in a position to automatically receive, process and pay electronic invoices for any contract that is awarded above the EU thresholds.

However, some Scottish public bodies may decide to do nothing for a number of reasons including: the cost to deliver eInvoicing capability within existing finance systems or their invoice volumes are too low to merit any technology changes and associated costs.

### **Sectors and groups affected**

**Scottish contracting authorities:** contracting authorities must demonstrate compliance with the requirements of the Directive in the timescales stated.

**Suppliers:** it is not mandatory for suppliers to comply with the requirements of the Directive. However, due to the key business efficiency benefits that could be achieved by suppliers, the feedback received to date has been very positive.

Benefits to suppliers include:

- Faster payment;
- Reduced costs;
- Improved customer satisfaction; and
- Reduced carbon footprint

### **Costs**

eInvoicing capability is being delivered through the national Purchase-to-Pay (P2P) platform PECOS which is being funded by the Scottish Government.

### **Scottish Firms Impact Test**

The introduction of eInvoicing will not impact negatively on suppliers who should enjoy transactional process savings directly related to the introduction of eInvoicing

For the Scottish Government's eInvoicing solution, the minimum requirement for suppliers is the ability to automatically eMail an invoice in a PDF format to a predetermined email address. The Scottish Government is funding all transactional fees so suppliers are not required to pay for any eInvoices they issue.

The Scottish Government is not sighted on any other commercial arrangements that are in place between public bodies and other eInvoicing service providers.

### **Competition Assessment**

This Directive solely targets the ability of public bodies to automatically receive eInvoices and make an electronic payment. Once a public body has implemented an eInvoicing solution it is believed that further efficiencies and simplifications will arise as a result which may support improvement in payment timescales to suppliers.

### **Test run of business forms**

A new EU standard eInvoice template has been published and is an option that could be embedded within all eInvoicing solutions. However, the Directive does not make it mandatory for suppliers to use the EU eInvoicing standard, nor does it make it mandatory for contracting authorities to request eInvoices in the EU standard. Contracting authorities could request eInvoices be submitted in a different format or another eInvoice standard.

### **Legal Aid Impact Test**

This section has been discussed with colleagues in the Access to Justice team who are content that the legal aid implications have been given due consideration.

It is not envisaged that there will be any impact on the legal aid fund.

### **Other Impact Assessments**

It is not envisaged there will be any impact on Privacy or Human Resources.

### **Enforcement, sanctions and monitoring**

The Scottish Government will be required to actively monitor the progress of public bodies compliance with the Directive and will provide updates as and when required to the UK Government as the Member State. The Directive offers no remedies for non-compliance.

### **Implementation and delivery plan**

The eInvoicing Directive must be implemented in Scottish Regulations no later than 18 April 2019. Central contracting authorities (that are named in Schedule 1 of the Public Contract (Scotland) Regulations 2015) must be compliant with this date with all other Scottish public bodies (such as local authorities and universities and colleges) may have a further 12 months to be compliant (no later than 18 April 2020).

The Scottish Government is actively engaging with all Scottish contracting authorities to ensure that they are fully aware of not only the requirements of the Directive but the timescales for compliance. For those public bodies that intend to implement the Scottish Government's eInvoicing solution, Scottish Procurement & Commercial Directorate will manage all implementations.

As part of the implementation plan, the Scottish Government will continue to issue updates to all relevant stakeholders on the progress of the implementation of the Directive via communication channels such as Scottish Procurement Policy Notes (SPPNs), Scottish Procurement twitter account, Scottish Procurement eBulletins, P2P Roadshows and Procurex Scotland.

### **Post-implementation review**

The Scottish Government will monitor the implementation of eInvoicing across the Scottish public sector.

## **4. Summary and recommendation**

It is recommended that EU Directive 2014/55/EU for electronic invoicing is transposed through amendment to the Public Contracts (Scotland) Regulations 2015

- **Summary of Costs:**

The Scottish Government is funding the deployment of the eInvoicing solution that is part of the national P2P platform. Any public body wishing to use this solution will only have to pay for technical integration to finance systems to enable invoices to be processed and paid. Public bodies using this solution will not have to pay transaction fees or annual support and maintenance charges.

Any supplier issuing an eInvoice to the Scottish Government's eInvoicing solution will not be required to pay any technical costs or transaction fees.

For any public body that wishes to implement other eInvoicing solutions, they will be liable for any costs as will any supplier that issues an eInvoice to these other solutions. The Scottish Government is not party to the commercial arrangements that are in place for these other solutions so cannot comment on potential costs.

### **Declaration and publication**

#### Sign-off for final BRIA:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed: Derek Mackay**

**Date: 6 November 2018**

**Derek Mackay  
Cabinet Secretary for Finance, Economy and Fair Work**

#### **Scottish Government Contact point:**

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