

CHAPTER 2 – SCOPE and POLICY

2-1 SCOPE. The major types of payments that are subject to the Prompt Payment Act are fixed price and cost type contracts.

2-2 POLICY

A. Determining the payment due date for payments subject to the Prompt Payment Act is as follows:

Section 1315.4(f) of the Prompt Payment rule states that the period available to an agency to make a timely payment without incurring an interest penalty begins on the date of receipt by the designated billing office of a proper invoice.

1. Section 1315.4(b) of the rule provides that an invoice is deemed to be received on the later of 1) the date a proper invoice is received by an agency if the agency annotates the invoice with the date of receipt, or 2) the seventh day after the date in which goods are delivered or services completed, unless acceptance occurs earlier or if a longer acceptance period is specified in the contract. If the agency fails to annotate an invoice with the date of receipt of the invoice, the date placed on the invoice by the contractor is used to determine the start date for the payment period.
2. Unless otherwise specified, Section 1315.4(g) of the Prompt Payment rule states that payment is due on either 1) the date specified in the contract, 2) in accordance with discount terms when discounts are offered and taken, 3) in accordance with Accelerated Payment Methods, or 4) 30 days after the start of a payment period, when a proper invoice is received
3. For contractors categorized as “small businesses,” payments will be made within 15 days after the receipt of [proper] invoice date (per OMB M-11-32); however, prompt payment interest penalties are not incurred until after 30 days. On weekends and legal holidays, when Federal Government offices are closed and Government business is not expected to be conducted, payments falling due may be made on the following business day without incurring late payment interest penalties.
4. If an invoice is returned to the contractor no later than seven days after the receipt-of-invoice date as an improper invoice, the due date for a corrected or replacement invoice subsequently submitted by the contractor shall be calculated from the receipt-of-invoice date for the corrected or replacement invoice date as if the corrected or replacement invoice were a new invoice.
5. If the contractor is notified of a discrepancy in an invoice, the 30-day payment clock shall be stopped, and the due date adjusted accordingly, until the discrepancy is resolved. If the resolution of the discrepancy results in a

decision to pay the invoice either as submitted or as modified, the 30-day payment clock shall be re-started on the date that the discrepancy is resolved. (If the invoice is returned, follow the steps in number 5 as cited above).

- B. Invoice payments to contractors categorized as “other than small businesses” can be made up to seven days before due or earlier on a case-by-case basis. Using the accelerated payment method, Small Businesses, as defined in FAR 19.0001, may be paid as quickly as possible (see OMB M-11-32).
- C. Failures/errors by agency personnel that result in delays in payments of a proper invoice after the due date shall be the responsibility of the agency and shall not work to the detriment of the contractor. Temporary unavailability of funds to make a timely payment does not relieve the obligation to pay late penalties.
- D. There is no grace period provision. Interest penalties will be calculated based on the due date and must be paid on late payment. Contractors are not required to request or bill for penalties; they are to be automatically included with the payments.
- E. Discounts will be taken only when payments are made within the discount period and if the discount terms yield an effective annual interest rate equal to or greater than the percentage rate based on the current value of funds to the Treasury. The period for taking a discount is calculated from the date placed on a proper invoice by the contractor to the discount date, unless otherwise stipulated in the contract or purchase order. If discounts are taken after expiration of the discount period, interest penalties must be paid on the amount of the discount improperly taken for the period beginning the day after the end of the specified discount period through the payment date. All discount payments must be scheduled for check issuance as close as possible to, but not later than the last day of the discount period. A payment made by the Electronic Funds Transfer (EFT) mechanism will be made on the last day of the discount period. However, payment should not be made unless the related goods or service have been received and accepted, except as specifically provided by contract.
- F. Penalty amounts:
 - 1. Will be paid without regard to whether the vendor has requested payment of such penalty, and be accompanied by a notice stating the amount of the interest penalty, the number of days late, and the rate used.
 - 2. Will be calculated as stated in this handbook.
 - 3. Of \$1.00 or over are required to be paid to the vendor; however, interest may not accrue for more than one year.

G. Interest penalties will be paid automatically when due without regard to whether the business concern has requested payment provided that all of the following conditions are met:

1. There is a contract or purchase order with a business concern.
2. Acceptance of property or services has occurred and there is no disagreement over quantity, quality, or other contract provisions.
3. An invoice has been received (except where no invoice is required, e.g., periodic lease payments) and the agency fails to give notice prior to the due date that the invoice is not proper.
4. Payment is made to the contractor after the due date. This includes payment of amounts retained by the Government upon final settlement of the contract. Interest penalties will be paid at the [rate](#) established by the Secretary of the Treasury pursuant to [31 U.S.C. § 3902\(a\)](#). Penalties will be charged to funds available for the administration or operation of the program for which the penalties are incurred, that is, to the fund or account which financed the acquisition of the property or services.

H. Interest Calculation. Interest will be calculated from the day after the due-date through the payment date. For each 30-day calendar period, the accrued penalty amount will be compounded, i.e., added to the invoice amount to calculate the subsequent period(s) penalty amount. The interest rate to be used for calculating any late payment interest penalty is the [rate in effect](#) on the date on which the obligation to pay the penalty accrues. Interest penalties will not continue to accrue for more than 1 year. In addition, a vendor is also entitled to an additional penalty if he or she does not receive a late payment interest penalty within 10 days of receiving the principal amount. Any additional penalty owed is equal to one hundred percent of the original late payment interest penalty, but cannot exceed \$5,000.

I. Unless otherwise stated in the contract, penalties will not be paid when:

1. The payments are made solely for financing purposes or in advance.
2. Portions of payment are withheld temporarily in accordance with the contract.
3. Payment is not made because of a dispute between HUD and a contractor over the amount of the payment or compliance with the contract. A claim related to such a dispute and interest payable for the period during which the dispute is being resolved is subject to the [Contracts Disputes Act](#).
4. Payment to a contractor by EFT cannot be made because of incorrect account information provided by the contractor and the contractor has been given

notice of the defective account information after the accounting office has been notified that payment could not be made.

5. Payment by check to a contractor cannot be made because an incorrect address for receipt of payment was supplied by the contractor.
 6. The interest penalty is less than \$1.00.
 7. An EFT payment is not credited to the contractor account by the payment due date because of the failure of the Federal Reserve or the contractor bank to do so.
- J. Contractors are entitled to periodic payments for partial deliveries and other contract performance (after acceptance) during the term of any contract which does not prohibit periodic payments.
- K. If the contract includes the Federal Acquisition Regulation clause at [52.213.1](#), *“Fast Payment Procedures,”* payments will be made within 15 calendar days after receipt of a proper invoice. In addition, the Prompt Payment rule expands the options for making early payments in certain circumstances if doing so is in the best interest of the government. Agencies may accelerate payments for single invoices under \$2,500, payments to small businesses, or payments related to emergencies, disasters, and military deployments.
- L. Late payment rates for utility services and taxes issued by state, local, or foreign governments take precedence over prompt payment late interest penalties for determining the amount of interest due for late payments.
- M. The [Federal Travel Regulation; Final Rule](#) (April 21, 2000) provides for late payment interest penalties for Federal government employee travel reimbursements.
- 2-3 RECORDS.** The accounting offices are responsible for maintaining records of payments in compliance with current National Archives and Records Administration General Records Schedule requirements. The filing methodology used must provide for retrieval of specific paid documents on request.
- 2-4 MONITORING.** Accounting offices responsible for making payments shall establish monitoring processes sufficient to ensure compliance with all Prompt Payment requirements. In order to minimize the cost of reporting, statistical sampling methods may be used to generate these reports.
- 2-5 TIMEFRAMES.** Accounting offices responsible for making payments shall establish disbursement processes with sufficient timeframes to ensure compliance with all prompt payment due date requirements.

2-6 STANDARD OPERATING PROCEDURES. Each accounting office shall have written Standard Operating Procedures (SOPs) setting forth procedures that management is satisfied are adequate to ensure timely processing (such as the designation of backup personnel for handling invoices) and compliance with all Prompt Payment Act requirements.