

## CHAPTER 2. SCOPE AND PROCEDURES

### 2-1 SCOPE

A. The major types of payments that are subject to the Prompt Payment Act are listed below. This list is not intended to be all-inclusive but is to be used as a source of guidance in determining if a particular type of payment is subject to the Act.

1. Maintenance and repair expenses including rehabilitation and demolition expenses on HUD-owned, leased, or rented property.
2. Research studies, tests, surveys, etc., where a product or service is delivered to HUD for its use.
3. Service contracts - cleaning, ADP, library, lockbox, and area management broker contracts are examples of service contracts, all of which require payments covered by this policy.
4. Purchase, lease, or rental of supplies and property used by or on behalf of HUD. NOTE: When rental, lease, or maintenance payments are appropriately made prior to receipt of services, payment will be treated as an advance and, therefore, not subject to prompt pay.
5. Fees paid pursuant to contract: appraisal, inspection, mortgage credit examination, broker, architect, recording fees, or other professional fees.
6. Advertising fees including newspaper, radio, and TV.
7. Sales fees and commissions on the sale of property under

direct billing not deducted from settlement proceeds.

8. Partial payments unless otherwise specified in the contract.

9. Payments made for HUD by its fiscal agents.

10. Final contract payments under cost reimbursement contracts.

\*\* (Contact the Office of Finance and Accounting, Cash and Credit Management Division, if guidance is required for any payment not listed.)\*\*

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B The following types of payments are not subject to the Prompt Payments Act unless specifically included by the contract language or required by local law. Therefore, prompt payment interest penalties will not be paid for late payment of these types of property or services. This list is not intended to be all-inclusive but is to be used as a source of guidance in determining if a particular type of payment is excluded from the Act.

1. Advances.
2. Payments made from retained earnings or reserve accounts such as dividends, distributive shares, co-insurance reserves, and reserves for replacement.
3. Refunds.
4. Grants, subsidy payments, direct loans, cooperative agreements, interagency agreements, and debt collection services/agencies.

5. Payments which already include a "late charge" or other added amounts assessable by statute, regulatory license or contract and the inclusion of the prompt payment penalty would result in a double penalty being paid. Tax and utility bills as well as some condominium and cooperative fees are examples of these types of exclusions. Also, payments governed by state usury laws are not applicable.
6. Payments to Federal employees (e.g., salaries, reimbursements for travel, etc.).
7. Interest payments on HUD debentures nor services provided by Federal Reserve Boards.
8. Provisional payments under cost reimbursement contracts. All contracts issued after October 1, 1987, must include the information provided in subparagraph 3-1 A.I. If a contract does not specify a payment due date, payment generally should be made (or is due) 30-days after receipt of a proper invoice. If notification of an improper invoice is not made within 7 calendar days, the number of days for payment of the corrected, proper invoice will be adjusted by the number of days between the 7th day (unless the contract specifies a longer acceptance period) and the day notification was provided to the contractor.
9. Payments to Federal entities.

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2-2 PROCEDURES

A. The due date for payments subject to the Prompt Payment Act shall be determined as follows:

1. If the contract or purchase order specifies when payments are to be made, the due date for a proper invoice is as specified.
2. If the contract does not specify a due date and the contractor is not notified of an invoice discrepancy; the due date will ordinarily be 30 days after the receipt of invoice due date of a proper invoice or 30 days after HUD's acceptance of the goods or services being invoiced, whichever is later. On Sundays 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. Payments falling due on Saturday should be made on the preceding business day to avoid late payment interest penalties.
3. If an invoice is returned to the contractor no later than 7 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. If the invoice is returned to the contractor more than 7 days after the receipt-of-invoice date, the due date for a corrected or replacement invoice shall be adjusted by the number of days the invoice was returned after the 7th day.
4. 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 3 as cited above).

B. Invoice payments can be made up to 7 days before due or earlier on a case-by-case basis.

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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. Penalties shall be paid to contractors for such delays caused by agency errors without the contractor requesting the payments. 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 will:

1. Be stated separately on the check or accompanying remittance advice which will specify the rate and the period used to compute the late payment interest penalty.
2. Be calculated as stated in this handbook.
3. Not be paid for amounts less than \$1.00.

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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., some 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.

NOTE: In the event a payment is made without including the late payment interest penalty due, the contractor is entitled to an additional interest penalty, as prescribed by OMB.

Interest penalties will be paid at the rate established by the Secretary of the Treasury, 1978 (42 USC 611) and published in the Federal Register semi-annually on or about January 1 and July 1. the rate is also known as the "Renegotiation Board Interest Rate." 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.

- I. Unless otherwise stated in the contract, penalties will not be paid when:
1. The payment is not subject to PL 97-177. (See above list of exclusions.)
  2. Payment date is made after the due date.
  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. Payment is delayed because of disagreement between the agency and the contractor over the amount of the payment or other issues concerning compliance with the terms of the contract.
- J. Contractors are entitled to periodic payments for partial deliveries and other contract performance during the term of any contract which does not prohibit periodic payments.
- K. If contract includes the clause at 52.213.1, "Fast Payment Procedures," payments will be made within 15 calendar days



after invoice receipt.

2-3 RECORDS. The accounting offices are responsible for maintaining records of payments in compliance with current HUD Handbook requirements. The filing methodology used must provide for retrieval of specific paid documents on request. In addition, the records must contain the following data, for those payments subject to the Prompt Payment Act, to provide for the required reporting to the Director of OMB within 120 calendar days at the end of each fiscal year.

- A. Number and amount of invoice payments subject to the Prompt Payment Act.
- B. Number and dollar value of invoice payments that included interest penalties.

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- C. Amount of interest penalties paid (dollar amount and number).
- D. Relative frequency, on a percentage basis, of interest penalty payments to the total number of invoice payments subject to the Prompt Payment Act.
- E. Number, total amount and relative frequency, on a percentage basis, of invoice payments made 8 calendar days or more before the due date, except where cash discounts were taken.
- F. Reasons that interest penalties were incurred.
- G. Number, amount, and relative frequency of invoices paid 1-7 calendar days and 8-15 calendar days after the due date.

H. Number, amount, and relative frequency of invoices paid after the due date without including an interest penalty and the reasons for not including such interest penalty.

I. An analysis of the progress made from previous years in improving the timeliness of payments.

J. Total interest dollars and number of interest and other late penalties which were due but not paid and the reason(s) why.

K. Discounts taken, number available, and reason(s) for failing to take discounts.

L. Description of payment practices.

M. Updated description of quality control system.

N. Updated list of accounting personnel to provide assistance in determining the status of invoice.

2-4 REPORTS. Accounting offices responsible for making payments will establish reporting capabilities sufficient to meet the HUD and OMB quarterly and annual requirements. In order to minimize the cost of reporting, statistical sampling methods may be used to generate these reports.

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2-4Quality Control Program. The Quality Control Program (QC) is used to assess performance of payments systems and to provide a reliable way to estimate payment performance. The following describes the QC program presently in place.

A.The objectives of the QC program are to:

- o Provide and independent review of the Department's payment performance;

- o Evaluate the accuracy of reporting being performed by Departmental organizations; and,

- o Assesses the performance of payment systems.

B.Scope. The QC program will be implemented in those organizational units which have disbursements under the Prompt Payment Act. These organizational units include the following:

Headquarters:

Office of Finance and Accounting (OFA)

Government National Mortgage Association (GNMA)

Federal Housing Administration (FHA)

Field:

Field Accounting Divisions (FADs). Regions I through X.

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C.Conduct of Reviews. Respective program area comptrollers and the Director, OFA, will designate personnel, independent of payment and Prompt Payment reporting functions, to examine the individual elements of the sample population for QC reviews within their respective areas. QC reviews will take place quarterly based upon a schedule established by OFA under the Chief Financial Officer (CFO).

D.Documentation Requirements. Records of the QC program testing will be maintained within each organization, including such elements as the specific sampling procedures, the statistical formulas used, and the results of the review performed.

E.Sampling Methodology (Appendix 5). The required sample size for each review will be determined by selecting a sample of the disbursements under review with a 90 percent confidence level and an upper precision limit of 5 percent (i.e., 273 items). OFA will allocate the sample to the respective organizations based on the weighted average dollar volume of disbursements for the previous fiscal year. The sample allocations will be provided to other organizations on an annual basis, upon establishment of the annual QC review schedule.

Systemic sampling techniques will be used to select individual items for testing, with the use of a random selection for the initial sample item.

F.Program Review. During QC reviews, original documents will be used for recalculations pertaining to the payments made. Errors found during the QC reviews will be coded and tabulated by the following attributes:

For each disbursement selected for testing:

- o Determine whether payment was processed in accordance with OMB circular A-125:
  - Ascertain receiving data/service date
  - Ascertain invoice received date
  - Determine payment due date

For example, if services rendered and accepted by the Field Office on 11/27/92 and the invoice received date is 12/3/92, the 12/3/92 would be the invoice receipt date and 1/2/93 would be payment due date. For further guidance, refer to Section 2-2 in

the Handbook.

Determine whether payment was made on time, early, or late by recalculating the payment due date and comparing it to date of disbursement. The disbursement date (payment confirmation date) must be the payment due date or within 7 days Prior to the payment due date to be considered paid "on time."

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- From this information, calculate to determine if:

Item A: Was payment due date accurately computed?

Item B: Invoice was paid early: If payment was confirmed 8 or more days prior to the invoice's due date, the invoice is considered to be paid early. Ensure that appropriate authorization (refer to Circular A-125) was obtained prior to early payment.

Item C: Discounts taken: Verify if discount was available or lost. If discount was taken, recalculate discount amount.

Item D: Late payments and related penalties: For late payments, validate that interest penalties, as applicable, were calculated accurately and paid.

Item E: Partial Payments: Agencies shall pay for partial delivery or performance, unless specifically prohibited by contract. Verify that there were no prohibitions for partial payment.

Item F: Determine that appropriate documentation is included in  
disbursement package:

- Name of vendor/contractor
- Invoice date
- Contract number/Purchase order number
- Description of purchase/service rendered
- Price for service rendered
- Remittance information (i.e., name, mailing address,  
etc.)
- Appropriate receiving documentation
- Evidence of authorization to process payment

NOTE: If an item is paid manually, send a copy of the manual schedule with the disbursement package.

Item G: Based on review, determine if particular disbursement was accurately reported in the area's submission for the quarter.

The results of these tabulations will be used by management to develop plans for corrective action, including training, and to assess performance against standards set by HUD and in accordance with OMB Circular A-125. A sample workpaper is included on Appendix 6.

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As part of the QC review process, payment systems will be observed and recommendations for the improvement of these systems will be made.

Other reporting organizations (i.e., GNMA, FHA) performing the Quality Control Reviews should ensure the accuracy of their reports and resubmit corrected reports for the affected quarter to CCMD if necessary.

G.Evaluation of QC Results. OFA will evaluate the results of the QC reviews and assess the impact of any discrepancies found against the information reported by the Department and the payment process enhancements identified by reporting organizations.

H.As stated in OMB Circular A-125, each Federal agency will report the information enumerated in Section 14, paragraphs A through J, annually to the Director of OMB by November 30th, for the prior fiscal year. The consolidated information will also be evaluated in the QC Review program by OFA.

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2-5PERIODIC REPORTING TO THE OFFICE OF MANAGEMENT AND BUDGET. The automated Prompt Payment Report (Appendix 5) is to be used by reporting organizations to provide the periodic reports to the Office of Management and Budget (OMB), which are required quarterly and at fiscal year-end.

The following describes the Prompt Payment Report format which supports the QC program. Each Field Accounting Division will complete

the Prompt Payment Report at the prescribed time and forward it to Headquarters, who will consolidate all the Field reports with Headquarters organizational units reports and transmit to OMB. The Prompt Payment Report captures the following data:

A.Total dollar value of the invoices paid subject to the Prompt Payment Act.

B.Number of invoices subject to the Prompt Payment Act.

C.Dollar value of the late interest penalties paid.

D.Number invoices paid late.

E.Dollar value of additional penalties paid for failure to pay interest penalties.

F.Number of invoices paid with additional penalties.

G.Total dollar value of interest less than \$1.00.

H.Total dollar value of invoices paid 8 days or more before the due date, subject to OMB Circular A-125 (except discounts).

I.Total dollar value of invoices paid 8 days or more before the due date, not subject to OMB Circular A-125.

J.Number of discounts available.

K.Number of discounts taken.

L.Number of discounts not taken because it was not advantageous to the Government.

M.A narrative part which describes enhancements or changes to the QC system.



Specific instructions are included in Appendix 5 detailing how to enter the data for the required fields.

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