



STATE OF NEW YORK
UNIFIED COURT SYSTEM
OFFICE OF MANAGEMENT SUPPORT
(OFFICE OF COURT ADMINISTRATION)
EMPIRE STATE PLAZA
4 ESP, SUITE 2001
ALBANY, NEW YORK 12223-1450
(518) 474-4971

E. LEO MILONAS
Chief Administrative Judge

JONATHAN LIPPMAN
Deputy Chief Administrator

WILLIAM L. CLAPHAM
Director of Financial Management
and Audit Services

BUDGET BULLETIN	NUMBER 267	March 1, 1995
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TO: Holders of the Financial Planning and Control Manual

SUBJECT: Prompt Payment

**** This bulletin supersedes New Accounting Procedures Bulletin number 93, dated March 20, 1987; as well as Budget Bulletins 204 and 236, dated May 15, 1989 and January 6, 1993, respectively.***

Article XI-A of the State Finance Law, often referred to as the Prompt Payment Law, provides that all contractors and vendors doing business with the State shall be paid within thirty (30) days of receipt, by the designated payment office, of a proper voucher or invoice for goods provided or services rendered.

Pursuant to rules promulgated by the State Comptroller, courts and agencies are allocated twenty two (22) days for voucher processing functions and OSC is allocated eight (8) days for pre-audit and payment release. Interest-eligible payments issued more than thirty (30) days after the Merchandise/Invoice Received Date (MIR Date) make the State liable for the payment of interest penalties. Interest penalties attributable to court/agency delays are assessed against UCS budget appropriations.

Over the past year, interest penalties assessed against State agencies pursuant to these provisions, including those assessed against the courts and agencies of the UCS, have increased substantially. The purpose of this bulletin is to reiterate agency responsibilities under the Prompt Payment Law in an effort to control interest costs. District/administrative offices responsible for the processing of voucher payments should be aware of the new vendor notice mandate enacted as Chapter 618 of the Laws of 1994 and which is discussed herein.

Prompt Payment Interest Eligibility

Generally, the following payments are *eligible* for the calculation of interest under the provisions of the Prompt Payment Law and should be so noted by entering a "Y" in the 'Interest Eligible (Y/N)' block which appears on all vouchers:

- Payments to any person, partnership, corporation, public utility or association which sells goods or services, or leases equipment or property, to the State or its agencies. This includes payments for professional services provided pursuant to section 35 of the Judiciary Law, section 702 of the County Law and various other statutes (i.e. law guardians, assigned counsel, judicial hearing officers, arbitrators, per diem interpreters, per diem reporters, etc.).
- Payments made from funds held in the joint custody of the State Comptroller and the Commissioner of Taxation and Finance are interest eligible under these provisions.

Generally, the following payments are *ineligible* to receive interest under the Prompt Payment provisions and should be so identified by entering an "N" in the 'Interest Eligible (Y/N)' block which appears on all vouchers:

- Payments to Federal, State or Local government entities, including government-related entities such as authorities (e.g. payments to localities for contractual security services).
- Payments to State employees performing duties in their employment capacity (e.g. employee travel reimbursements, overtime meals, uniform allowances, transcript payments to court reporters who are state employees).
- Payments to contractors of third party payment agreements.
- Payments withheld in whole or part as a result of a legal action such as a lien, attachment or judgement.
- Payments made from sole custody funds such as agency petty cash accounts.
- Other ineligible payments include: juror fees; crime victims compensation awards; employee incentive awards.

Determination of MIR Date

The following general rules should be used to determine the appropriate Merchandise/Invoice Received Date (MIR Date) which must be entered on all vouchers:

For Typical Vendor Payments:

- The MIR date will generally be the date the agency receives the goods or services, or an appropriate voucher or invoice, whichever is later.

For Contracts With Specified Payment Periods:

- The MIR date will generally be the date which occurs 30 days before the required payment date as specified in the agreement, or the date an appropriate voucher or invoice is received, whichever is later. *(Note: the actual 'Payment Date' assigned on such transactions should be 5 to 7 days before the MIR Date to allow for check mailing time. The 'Liability Date' assigned should be the date service began for that payment cycle .)*

For Payments Not Eligible for Interest:

- The MIR Date assigned should be that date which best represents the beginning of the payment cycle (i.e. the MIR Date for the quarterly payment covering the period April 1 - June 30, 1995 would be April 1, 1995).

Adjustments to the MIR Date may be made under the following circumstances (explanations for MIR Date adjustments should be noted on affected vouchers):

- When the vendor delivers the voucher or invoice to a location other than the payment office as designated by the agency. Under these circumstances, the MIR Date then becomes the date the designated payment office actually receives the voucher or invoice. *(Note: Designated payment offices must be specified in the contract or purchase order. If a designated payment office is not specified, the 22 day prompt payment clock commences on the date the voucher or invoice is received at any court or agency location. All vouchers and/or invoices must be marked to reflect the date received via date stamp or other method.)*
- When the goods, services or invoice are defective, or if improprieties of any type are suspected. In such cases, the MIR Date would be increased by the number of days required to correct any of these conditions. *(Note: agencies are responsible for notifying the vendor of such defects within 15 calendar days of receipt of the invoice. If notice is not given within 15 days, the MIR Date is to be reduced by the number of calendar days in excess of 15 that transpires before notice is given. Written notification is the recommended method in the event that questions arise later. A suggested sample letter is included with this bulletin).*

- When an inspection period or audit is specifically required pursuant to statute or contract provision, or when inspection of the invoice by an agency of the Federal Government is mandated. Wherever appropriate, agencies are encouraged to include contract language which allows a specified period of time for the receiving court or agency to inspect goods received or services provided to ensure that all contract or purchase order specifications have been met. The MIR Date is to be increased by the number of calendar days specified for such inspection or audit.
- When the applicable budget appropriation has not been enacted by the Legislature the MIR Date is increased by the number of calendar days between the receipt of the voucher or invoice and the enactment of the budget appropriation bill. *(Note: If a liability is not paid due to insufficient funds and an agency's appropriation bill includes language which permits the payment of prior year liabilities from current year appropriations, the MIR Date for these liabilities would not be adjusted while awaiting a new budget, in that at the time the liability was incurred, there was an existing, albeit insufficient, appropriation in force.)*
- When contract or statute provides that payment will be made on a specific predetermined date without the submission of an invoice or voucher the MIR Date becomes the specified payment date *less* 30 days.
- If OSC determines that there is reasonable cause to believe that payment may not properly due in whole or in part. The MIR Date is then increased by the number of days required to resolve any such issues. *(Note: OSC makes these MIR Date adjustments.)*
- The MIR Date cannot precede the OSC approval date when the payment is to be made pursuant to a formal contract. *(Note: The MIR Date is not to be adjusted for encumbrance-only transactions or T-contracts.)*

Notice to Vendors - Payments Rejected by OSC

Chapter 618 of the Laws of 1994 amended section 179-m(1)(d) of the State Finance Law such that *courts and agencies are now required to promptly notify vendors* whenever payment is to be delayed due to an error or omission by the vendor or contractor which causes OSC to reject the voucher. Previously, responsibility for such notice rested with OSC. District/administrative offices responsible for the processing of payments should develop form letters or other means to provide rapid notice to vendors of such problems. The MIR Date for such payments should be increased by the number of days required to remedy such errors or omissions.

Court/Agency Responsibilities

Compliance with the provisions of the Prompt Payment Law requires the awareness and cooperation of local judges and court staff, as well as the personnel of the district/administrative offices who are responsible for the processing of vouchers:

Local Court Responsibilities:

- Date stamp all invoices or vouchers upon receipt by the court or agency.
- Perform necessary inspection and verification functions and transmit all vouchers and/or invoices to the appropriate district/administrative office within twelve (12) calendar days of receipt. *Interest penalties assessed solely because this 12 day limit is exceeded will be charged to the cost center of the local court or agency responsible for the delay.*

District/administrative office responsibilities:

- Date stamp all invoices or vouchers upon receipt from local courts or from vendors.
- Ensure that the 'Interest Eligible (Y/N)', 'MIR Date' and 'Payment Date' fields on all vouchers are completed correctly. Payments should be scheduled to take advantage of vendor discounts and to take into account the welfare of persons whose protection is the responsibility of state government, or to ensure the solvency of small businesses.
- Ensure that vendors are promptly notified in writing of any errors or omissions which may delay payment.
- Adjust the MIR Date to reflect the number of days necessary to correct any errors or omissions and note such adjustments on the affected vouchers.
- Ensure the accuracy of all transactions entered into the Central Accounting System. Any interest penalties imposed as a result of incorrect agency data input will be charged back to the UCS.
- Perform necessary processing and certification functions and transmit all invoices and/or vouchers to the State Comptroller within ten (10) days of receipt. *Interest penalties assessed solely because this 10 day limit is exceeded should be charged to the cost center of the district/administrative office responsible for the delay.*

- Unless specifically directed otherwise, all vouchers being transmitted for payment should be mailed to the following address:

**Office of the State Comptroller
Receiving Unit, Document Control Section
A. E. Smith State Office Building
Albany, New York 12236**

- Review daily Warrants (VOU065) to ensure that all vouchers submitted have been paid as intended.
- Review the Vouchers Not Received Within 8 Days of Incurring Interest (VOU632) reports to ensure that all transmitted vouchers have been received by OSC.

Please ensure the distribution of this bulletin to all judges and nonjudicial personnel within your respective jurisdictions whose duties involve contracting for, procuring, or processing payment for the goods or services utilized by the Unified Court System.



William L. Clapham

**Notification of Contractor or Vendor of Unacceptable Invoice/Merchandise
As Required Pursuant to New York State Finance Law Section 179-f (3)**

Date: (Current Date)

To: (Vendor Name)
(Street Address, City, State, Zip Code)

From: (Court/Agency)
(Street Address, City, State, Zip Code)

Subject: Invoice No. PO/Contract No.

Article XI-A of the New York State Finance Law provides that within fifteen (15) calendar days following receipt of an invoice at the designated payment office, vendors are to receive written notification of (a) any defects in the goods delivered or services provided; (b) any defects in the invoice; or (c) suspected improprieties of any kind, and that existence of any of these shall prevent the commencement of the time period used for the calculation of any interest owed pursuant to Section 179-f (2) of the State Finance Law. Such notification is hereby given that the merchandise/service received by this agency and billed via the above referenced invoice is unacceptable, or the invoice itself is defective, as follows:

Merchandise/service was delivered damaged or defective as follows: _____

Merchandise/service delivered differs from order specifications as follows: _____

Invoice amount differs from order specifications as follows: _____

Invoice calculations are incorrect as follows: _____

Merchandise was unsolicited: _____

Other : _____

Please contact _____ at _____ to
remedy these defects as soon as possible. Your cooperation is appreciated.