



NEW YORK STATE  
**Unified Court System**

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## Division of Financial Management

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TO: Holders of the Financial Planning and Control Manual

SUBJECT: Prompt Payment - Clarification

*\* This supersedes Budget Bulletin Number 269, dated March 16, 1995.*

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 Office of the State Comptroller (OSC), 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 Unified Court System (UCS) budget appropriations.

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 requirements of Chapter 618 of the Laws of 1994, which are 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:

- 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, transcript payments to court reporters, etc.).
- Payments made from funds held in the joint custody of OSC 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:

- 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, hospitality costs).
- 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.

Most vouchers submitted for payment via the Statewide Financial System (SFS) automatically default to calculate interest due. To indicate a payment is not interest eligible, the “Late Charge” hyperlink must be accessed within the voucher. In the “Late Charge Information” drop down menu, the voucher processor must change the “Late Charge Option” field to “Not Applicable”.

## Determination of MIR Date

SFS compares the Invoice Received Date of the voucher to the Merchandise Received Date or Merchandise Inspection Date from the SFS receipt (if applicable) and calculates the MIR Date, which determines if the vendor is owed **interest**. There may be instances where Business Units must adjust the MIR Date if there is no receiving associated with the voucher. In these instances, the computed MIR Date should be entered into the Invoice Received Date field. *(Note: This may be different from the date the invoice was received.)*

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 'Accounting 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, 2013 would be April 1, 2013).

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.)*
- 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* thirty (30) days.
- If OSC determines that there is reasonable cause to believe that payment may not properly be 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 Claims for Payment upon receipt by the court or agency.
- Perform necessary inspection and verification functions and submit all Claims for Payment 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.*

### Fiscal 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 or are noted on the invoice. 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 SFS. Any interest penalties imposed as a result of incorrect agency data input will be charged back to the UCS.
- Perform necessary processing and approval functions SFS.

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

NYS UNIFIED COURT SYSTEM  
FOR ADMINISTRATIVE  
PURPOSES ONLY

  
Maureen H. McAlary