

## TO BE RESCINDED

126-3-01 **Prompt payment requirements.**

## (A) Definitions

- (1) "Date of payment" means the date on the face of a state warrant or state agency check which is issued as payment on an invoice.
- (2) "Designated billing office" is the physical mailing address of the billing office or the email address to which the vendor shall send an invoice as designated in the purchase order or contract.
- (3) "Designated delivery office" is the mailing address of the delivery point to which the vendor shall deliver the equipment, materials, goods, supplies, or services as designated in the purchase order or contract.
- (4) "Invoice" means an itemized listing showing delivery of the supplies or performance of the service described in the order and the date of the purchase or rendering of the service or an itemization of the things done, material supplied, or labor furnished and the sum due pursuant to the contract or obligation.
- (5) "Receipt of a proper invoice" means receipt of both (a) an invoice as defined in paragraph (A)(4) of this rule and (b) the purchased equipment, materials, goods, supplies, or services, both of which shall be free of defects, errors, discrepancies, and other improprieties. A state agency is in receipt of a proper invoice as soon as it has such invoice and such purchased or leased item(s) or service(s).
- (6) "Required payment date" means (a) the date or time when payment is due according to a written agreement between the parties; (b) thirty days after the state agency receives a proper invoice for the amount due if a specific payment date or time of payment is not established by such a written agreement; or (c) with respect to claims submitted to the department of jobs and family services by providers of equipment, materials, goods, supplies, or services, either (i) the date or time when payment is due under the terms of a written agreement between the department and the provider or (ii) thirty days after the department receives a proper claim if a specific payment date or time of payment is not established by a written agreement.
- (7) "State agency" means every organized body, office, and agency established by the laws of the state for the exercise of any function of state government which uses money that has been appropriated to it directly. "State agency" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.

- (8) "Vendor" means any person, partnership, corporation, association, organization, state agency or other party who sells, leases, or otherwise provides equipment, materials, goods, supplies, or services to a state agency pursuant to a written or oral contract between the vendor and a state agency but shall not include any executive officer, legislative officer, judicial officer, member, or employee of any state agency in his capacity as such officer, member, or employee.

(B) Prompt payment

- (1) Each state agency shall make prompt payment for all equipment, materials, goods, supplies, or services which it purchases, leases, or otherwise acquires from any vendor.
- (2) A state agency has made prompt payment if the date of payment is before or no later than the required payment date.
- (3) A state agency which fails to make payment by the required payment date shall pay an interest charge to the vendor. This provision does not apply to billings filed pursuant to the provisions of Chapter 4121., 4123., 4127., or 4131. of the Revised Code. Payment of such billings shall be governed by the provisions of those chapters.
- (4) When the required payment date is calculated from the date that the state agency has received a proper invoice as provided by paragraph (A)(6)(b) of this rule and the invoice received by the state agency is defective or improper, the state agency shall postpone payment in accordance with paragraph (B)(4)(b) of this rule.
- (a) A state agency is in receipt of a defective or improper invoice if the state agency is in receipt of an invoice which does not meet the definition of paragraph (A)(5) of this rule.
- (b) If the state agency is in receipt of a defective or improper invoice, the state agency shall postpone payment as follows:
- (i) Within fifteen days of receipt of the invoice, the state agency shall send notice by letter, by email, or by telephone of the defect or impropriety to the vendor.
- (ii) The notice shall describe the defect or impropriety and shall provide any other information necessary for the vendor to correct the defect or impropriety.

- (iii) If the state agency provides the vendor with such notice, the required payment date shall be thirty days after the state agency is in receipt of a proper invoice.
  - (iv) If the state agency fails to provide such notice to the vendor within fifteen days of receipt of the invoice, the required payment date shall not be postponed.
- (5) If the department of jobs and family services fails to make payment by the required payment date on a claim submitted to the department by a provider of equipment, materials, goods, supplies, or services, the department shall pay an interest charge to the provider.
  - (a) When the required payment date is calculated from the date that the department of jobs and family services has received a proper claim as provided by paragraph (A)(6)(c)(ii) of this rule and the department determines that the claim is improperly executed or that additional evidence of the claim is required, the department shall postpone payment as described in this rule.
  - (b) Within fifteen days after receipt of the claim, the department shall notify the claimant by letter, by email, or by telephone.
  - (c) The notice shall state that the claim is improperly executed and needs correction or that additional information is necessary to establish the validity of the claim.
  - (d) If the department gives such notice to the provider, the required payment date shall be thirty days after the department receives the corrected claim or such additional information as may be necessary to establish the validity of the claim.
  - (e) If the department fails to provide such notice to the provider, the required payment date shall not be postponed.
- (6) Each state agency shall designate the delivery office and the billing office on the purchase order or in the contract. A vendor shall deliver equipment, materials, goods, supplies, or services to the designated delivery office and shall send an invoice to the designated billing office. If the purchase order or contract does not designate the delivery office, the appropriate delivery office shall be the office of the state agency to which the vendor customarily or reasonably delivers equipment, materials, goods, supplies, or services. If the purchase order or contract does not designate the billing office, the appropriate billing office

shall be the office of the state agency to which the vendor customarily or reasonably sends an invoice.

(C) Calculation of interest charge

(1) A state agency which is required to pay an interest charge pursuant to paragraph (B)(3) or (B)(5) of this rule shall calculate the interest charge as follows:

(a) The interest charge shall be paid at the interest rate for the calendar year, i.e., rate per annum, which is established by the tax commissioner of the Ohio department of taxation pursuant to section 5703.47 of the Revised Code. The state agency shall apply the interest rate for the calendar year which includes the month for which the interest charge accrued.

Example

A state agency owes an interest charge for the period beginning December 15, 2015 and ending January 10, 2016. For the period beginning December 15, 2015 and ending December 31, 2015, the state agency shall calculate the interest charge at the interest rate established by the tax commissioner for calendar year 2015. For the period beginning January 1, 2016 and ending January 10, 2016, the state agency shall calculate the interest rate established by the tax commissioner for calendar year 2016.

(b) Interest charges shall be paid for the period beginning on the day after the required payment date and ending on the date of payment.

(c) If payment is not made by the required payment date but is made no more than thirty days after the required payment date, the state agency shall multiply the principal (the amount of the invoice) by the interest rate per annum and divide the product by three hundred sixty. The quotient shall be multiplied by the number of days that payment was made after the required payment date. The product is the amount of the interest charge.

Example: an invoice for five thousand dollars was paid fifteen days after the required payment date.

Step 1:  $\$5000 \times 3\%$  (rate per annum for calendar year 2015) = \$150.00

Step 2:  $\$150/360 = \$0.42$

Step 3:  $\$0.42 \times 15 = \$6.30$  (interest charge)

- (d) If payment is made more than thirty but less than sixty days after the required payment date, the state agency shall calculate the interest charge for the first thirty days in accordance with paragraph (C)(1)(c) of this rule. This interest charge shall be added to the amount of the invoice. The sum is the amount upon which additional interest shall be calculated. The state agency shall multiply this sum by the interest rate per annum and divide the product by three hundred sixty. The quotient shall be multiplied by the number of days past thirty days that payment was made. The product shall be added to the interest charge for the first thirty days. The sum is the total interest charge.

Example: An invoice for five thousand dollars was paid forty days after the required payment date.

Step 1:  $\$5000 \times 3\%$  (rate per annum for calendar year 2015) = \$150.00

Step 2:  $\$150/360 = \$0.42$

Step 3:  $\$0.42 \times 30 \text{ days} = \$12.60$

Step 4:  $\$5000 + \$12.60 = \$5012.60$

Step 5:  $\$5012.60 \times 3\% = \$150.38$

Step 6:  $\$150.38 / 360 = \$0.42$

Step 7:  $\$0.42 \times 10 \text{ days} = \$4.20$

Step 8:  $\$4.20 + \$12.60 = \$16.80$  (interest charge)

- (e) Until such time as the state agency pays the principal amount of the debt, the state agency shall follow the steps outlined above at the end of each thirty-day period after the required payment date to calculate the amount of interest charge on that debt. The amount of interest charge that remains unpaid at the end of any thirty-day period after the required payment date shall be added to the unpaid principal amount of the debt, and thereafter the interest charge shall accrue on the principal amount of the debt plus the added interest charge.
- (2) Only interest charges calculated in accordance with paragraph (C) of this rule to be ten dollars or more shall be paid by a state agency. A state agency shall pay all such interest charges within thirty days after paying the principal amount of the debt.

- (3) In order to initiate an interest payment by state warrant, a state agency shall submit to state accounting, office of budget and management, a copy of the invoice, documentation showing when the invoice was paid, and the state agency's calculation of the interest charge owed. These three items shall be attached to a completed voucher.
- (4) With the specific written permission of the office of budget and management, a state agency may utilize its petty cash fund to pay interest charges.
- (5) A state agency shall pay all interest charges from moneys available for the administration of the agency's programs. No appropriations shall be made for the payment of any interest charges.
- (6) A vendor's receipt of an interest payment and the vendor's subsequent deposit or cashing of such payment shall constitute the vendor's acceptance and full accord and satisfaction with such amount, whether interest was calculated correctly or not. A vendor's acceptance of such amount will not prevent a state agency from later correcting any error at the state agency's discretion, whether in the vendor's or the state agency's favor.
- (7) If a state agency pays interest charges but determines that all or part of the interest charges should have been paid by another state agency, the state agency which paid the interest charges may request the attorney general to determine the amount of interest charges that each state agency should have paid.
  - (a) If the attorney general determines that the state agency which paid the interest charges should have paid none or only a part of the interest charges, the attorney general shall notify the state agency that paid the interest charges, any state agency that should have paid all or part of the interest charges, and the office of budget and management of its decision and the amount of interest charges that each state agency should have paid.
  - (b) The director of the office of budget and management shall transfer from the appropriate funds of any other state agency that should have paid all or part of the interest charges to the appropriate funds of the state agency that paid the interest charges an amount necessary to implement the attorney general's decision. This transfer shall be made by intrastate transfer voucher ("ISTV").

(D) Reporting requirements

- (1) On or before the thirty-first day of July of each year, the office of budget and management shall provide each state agency with a detailed report concerning the interest charges the state agency paid under the provisions of this rule during the previous year. The report shall include the number, amounts, and frequency of interest charges the state agency incurred during the previous fiscal year. On or before the thirty-first day of August of each year, each state agency shall provide the office of budget and management with the reasons why the interest charges were not avoided by payment prior to the required payment date.
- (2) The director of the office of budget and management shall compile a summary of the report prepared by the office of budget and management pursuant to paragraph (D)(1) of this rule and shall submit a copy of the summary to the president and minority leader of the senate, the speaker and minority leader of the house of representatives, and the legislative service commission no later than the thirtieth day of September of each year.

Effective: 2/5/2021  
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CERTIFIED ELECTRONICALLY

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Certification

01/22/2021

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Date

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