

32.907 Interest penalties.

(a) *Late payment.* The *designated payment office* will pay an interest penalty automatically, without request from the contractor, when all of the following conditions, if applicable, have been met:

(1) The *designated billing office* received a *proper invoice*.

(2) The Government processed a *receiving report* or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or contractor compliance with any contract requirement.

(3) In the case of a final *invoice*, the payment amount is not subject to further contract settlement actions between the Government and the contractor.

(4) The *designated payment office* paid the contractor after the *due date*.

(5) In the case of interim payments on cost-reimbursement contracts for services, when payment is made more than 30 days after the *designated billing office* receives a *proper invoice*.

(b) *Improperly taken discount.* The *designated payment office* will pay an interest penalty automatically, without request from the contractor, if the Government takes a *discount for prompt payment* improperly. The interest penalty is calculated on the amount of discount taken for the period beginning with the firstday after the end of the discount period through the date when the contractor is paid.

(c) Failure to pay interest.

(1) The *designated payment office* will pay a penalty amount, in addition to the interest penalty amount, only if-

(i) The Government owes an interest penalty of \$1 or more;

(ii) The *designated payment office* does not pay the interest penalty within 10 days after the date the *invoice* amount is paid; and

(iii) The contractor makes a written demand to the *designated payment office* for additional penalty payment in accordance with paragraph (c)(2) of this section, postmarked not later than 40 days after the date the *invoice* amount is paid.

(2)

(i) Contractors *must* support written demands for additional penalty payments with the following data. The Government *must* not request additional data. Contractors *must*-

(A) Specifically assert that late payment interest is due under a specific *invoice*, and request payment of all overdue late payment interest penalty and such additional penalty as *may* be required;

(B) Attach a copy of the *invoice* on which the unpaid late payment interest is due; and

(C) State that payment of the principal has been received, including the date of receipt.

(3) If there is no postmark or the postmark is illegible-

(i) The *designated payment office* that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40 thday after payment was made; or

(ii) If the *designated payment office* fails to make the required annotation, the Government will determine the demand's validity based on the date the contractor has placed on the demand; provided such date is no later than the 40 thday after payment was made.

(d) Disagreements.

(1) The payment office will not pay interest penalties if payment delays are due to disagreement between the Government and contractor concerning-

(i) The payment amount;

(ii) Contract compliance; or

(iii) Amounts temporarily withheld or retained in accordance with the terms of the contract.

(2) The Government and the contractor *must* resolve *claims* involving disputes, and any interest that *may* be payable in accordance with the Disputes clause.

(e) *Computation of interest penalties.* The Government will compute interest penalties in accordance with OMB prompt payment regulations at 5 CFR Part 1315.

(f) *Unavailability of funds.* The temporary unavailability of funds to make a timely payment does not relieve an agency from the obligation to pay interest penalties.

Parent topic: Subpart 32.9 - Prompt Payment