

## PROMPT PAYMENT ACT

### Government Requirements and Consequences for False Certification

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#### INTRODUCTION

The Prompt Payment Act was enacted in 1982 and has been amended (1988). Its purpose is designed to ensure that Government organizations issue timely payment to vendors and suppliers and very specifically outlines those requirements. (<http://govwin.com/knowledge/prompt-payment-act>)

Contractors should be aware of the requirements to better protect themselves should a situation arise that involves a delayed payment or complete lack of payment that is not contractually allowed because the Government failed to provide written notice of the grounds for nonpayment.

#### REQUIREMENTS UNDER THE ACT

The Prompt Payment Act requires that payment be made to vendors or suppliers typically by "...the 30<sup>th</sup> day after the designated billing office receives a proper invoice from the contractor, or the 30<sup>th</sup> day after Government acceptance of supplies delivered or services performed." *Id.*

Proper invoices are outlined as follows and should minimally contain:

1. Name and address of the contractor;
2. Invoice date and invoice number;
3. Contract number or other authorization for supplies delivered or services performed;
4. Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed;
5. Shipping and payment terms;
6. Name and address of contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment);
7. Name (where practicable), title, phone number and mailing address of person to notify in the event of a defective invoice;
8. Taxpayer Identification Number (TIN). The contractor must include its TIN on the invoice only if required by agency procedures;
9. Electronic funds transfer banking information; *Id.*

If payment is not made within the set period of time as outlined in the Prompt Payment Act, the Government organization is then required to pay interest on the invoiced amount.

#### INTEREST PAID

The Government is required to pay interest on unpaid invoices or invoices that are not paid by the due date. The interest rate used to calculate the interest to be paid is determined by the Treasury Department. The Treasury Department has a website that reflects the interest rate for the Prompt Payment Act based on particular time periods. ([http://www.treasurydirect.gov/govt/rates/tcjr/tcjr\\_opdprmt2.htm](http://www.treasurydirect.gov/govt/rates/tcjr/tcjr_opdprmt2.htm)) If it is determined that interest should be paid, the following conditions should be 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;
6. Or 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 first day after the end of the discount period through the date when the contractor is paid.  
(<http://govwin.com/knowledge/prompt-payment-act>)

It is important to note that while the Prompt Payment Act can help protect contractors, any falsification of documents to obtain prompt payment can be cause for allegations of fraud. The Government has begun to enforce penalties anywhere between \$5,500 and \$11,000 **PLUS** three times the damages in cases of fraud or false claims. Contractors should be aware that the Government is enforcing the "...requirement that contractors and subcontractors deal honestly with the Government." ([Construction Connection](#))

## CONCLUSION

Prompt Payment Act rules can help to prevent late payments on a contractor's pay request(s), provided that the contractor is aware of, and in compliance with those requirements. Contractors should educate themselves about the terms and conditions included in Government contracts and any other rules or guidelines that are in place to assist contractors and ensure that they are treated fairly. There is a downside, however, and truth and transparency must prevail and a failure to do so can have serious consequences.

Thus, retaining the assistance of a professional consultant should be seriously considered to protect a contractor's interests properly and thoroughly. The experts at Excell Consulting International, Inc. have experience with the Prompt Payment Act and stand ready to assist and evaluate your company's position and provide valuable and cost-effective guidance for your business.

**In the end, you will be glad you made the call; by the way, it's a FREE CALL.**

***EXCELL CONSULTING: "HERE TODAY FOR YOUR TOMORROW."***

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