

**VOLUME 10, CHAPTER 7: “PROMPT PAYMENT ACT”****SUMMARY OF MAJOR CHANGES (Cont.)**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an \* symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated December 2009 is archived.

<b>PARA</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
070201	Updated wording to include payment terms as being ordinarily imposed by the contract.	Update
070202.B.4	Added exemption of emergencies and contingency operation payments from Federal Acquisition Regulation (FAR) Subpart 32.9 Prompt Payment.	Add
070203.A	Moved the original subparagraph 070203.A down in section to align it with actual process flow, it is now positioned as 070203.D.	Move
070203.A	Added guidance that emphasizes contract corrections will be requested from contracting office, and will require formal modification if terms of the contract are changed.	Add
070203.C	Clarified guidance for a proper invoice and improper invoice return information.	Update
070203.F	Added FAR clause reference distinguishing when a contractor must pay interest to the Government for unearned progress payments.	Add
070203.G	Added clause to define contractors as being entitled to payment for accepted partial deliveries.	Add
070204	Addressed invoice received date definition for electronically submitted invoices.	Add
070205.A & B.	Clarified payment due date and 7 day constructive acceptance period.	Add
070206.B	Added FAR clause reference for purposes of computing late payment interest penalties that may apply for interim payments on cost-reimbursement contracts for services.	Add
070206.C	Clarified Electronic Funds Transfer settlement date.	Add
070206.F	Addressed authorized accelerated payments for small business invoices.	Add
0703	Added Department of Defense (DoD) Component Head	Add

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<b>PARA</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
	<b>qualifier to specify those officials responsible for entitling contract and vendor payments.</b>	
070302	<b>Reworded sentence to clarify responsibility for informing DoD contractors of the proper processes for tracking their payment status.</b>	Update

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**CHAPTER 7****PROMPT PAYMENT ACT**

## 0701 OVERVIEW

## 070101. Purpose

This chapter prescribes the Prompt Payment Act (PPA) policy for payments to vendors and contractors as mandated by [Title 5, Code of Federal Regulations \(CFR\), Part 1315](#). The chapter focuses on timely payment, determination of appropriate due dates, the penalty for late payment, required documentation, receipt and acceptance dates, and [payment discounts](#).

## 070102. General

PPA, found at [Title 31, United States Code \(USC\) Chapter 39](#), requires Department of Defense (DoD) Components to pay their bills on time and pay interest penalties when payments are made late. [Regulations promulgated under PPA state that federal agencies](#) should take discounts only when payments are made by the discount date and the discount is economically justified. Guidance for implementing PPA is found in [5 CFR 1315](#), the [Federal Acquisition Regulation \(FAR\) Subpart 32.9](#), and the [Defense Federal Acquisition Regulation Supplement \(DFARS\) Subpart 232.9](#). For definitions that apply in the implementation of PPA, refer to [5 CFR 1315.2](#) and [FAR 32.902](#).

## 0702 PROMPT PAYMENT ACT POLICY

## \*070201. Application

PPA requires federal agencies to pay their bills on a timely basis, to pay interest penalties when payments are made late and to take economically justified discounts only when payments are made by the discount date. For the purposes of this chapter, days refer to calendar days unless stated differently. The payment terms ordinarily imposed by the contract or PPA and its implementing regulations may be replaced by the payment terms imposed by another governmental authority, such as utility tariffs. PPA applies to the following:

A. [Procurement Contracts](#). PPA applies to payments for contracts for the procurement of goods or services awarded by Executive branch agencies, unless the payments are exempt as identified in paragraph [070202](#) below.

B. [Vendor Payments](#). All vendor payments and payments to persons (not employees), organizations, or business concerns engaged in a profession, trade, or business and any not-for-profit entity operating as a vendor, unless exempt, are subject to PPA. Refer to paragraph [070202](#) for exemptions.

C. [Utility Payments](#). All utility payments, including payments for telephone service, are subject to the PPA, except those under [5 CFR 1315.1\(b\)\(2\)](#). Where state, local, or

foreign authorities impose generally applicable late payment rates for utility payments, those rates shall take precedence, and thus, PPA rates will not apply.

070202. Exemptions

A. The following payments are exempt from PPA (refer to [5 CFR 1315.1\(a\)\(1\)\(ii\) and \(b\)\(1\)](#)):

1. Payments covered under [31 USC 3901\(a\)\(1\)](#) because they are not being made by an “agency” within the meaning of [5 USC 551\(1\)\(G\)](#), and

2. Contract financing payments, as defined in [5 CFR 1315.2\(h\)](#) and [FAR 32.001](#).

B. The following payments may be exempted from PPA (refer to [5 CFR 1315.1\(b\)\(2\)](#)):

1. Payments related to certain declared state of emergencies directing any Federal agency to utilize its resources in support of State and local disaster assistance efforts, as defined in the [Disaster Relief Act of 1974 \(Public Law \(P.L.\) 93-288\) as amended \(42 U.S.C. 5121 et seq.\)](#)

2. Payments related to the release or threatened release of hazardous substances, as defined in [42 USC 9601](#), and

3. Certain payments related to military contingency operations, as defined in [10 USC 101\(a\)\(13\)](#).

\* 4. While payments identified in 070202.B.1, B.2, and B.3 are normally exempted per 5 CFR 1315.1, the head of the contracting activity (HCA) (when authorized), in consultation with the cognizant comptroller, will make the determination of whether a contract and related payment will be subject to the requirements of [FAR Subpart 32.9 "Prompt Payment"](#). [DFARS 232.901](#) defines conditions where emergencies or contingency operations affecting normal business processes will dictate a determination to exempt payments from [FAR Subpart 32.9](#). This determination and all subsequent determinations will be clarified by the specific clause in the individual contract. Refer to Annex 1 of Chapter 8 “Commercial Payment Vouchers and Supporting Documents” of this volume for additional detailed policy.

070203. Required Documentation Type, Function, and Purpose

Before making a payment, DoD Components must ensure that appropriate payment documentation is established to support payment of invoices and interest penalties. This documentation normally includes the contract, receipt/acceptance report, and a proper invoice. Refer to [5 CFR 1315.9](#) and section 0804 of Chapter 8 “Commercial Payment Vouchers and Supporting Documents” of this volume for additional information on required documentation.

\* **A. Contract.** The contract is the enforceable agreement between the agency and the contractor or vendor that provides much of the information to support payment of invoices and interest penalties. Contracts must contain the data elements required under [5 CFR 1315.9\(a\)](#). If errors exist in a contractual document, the entitlement office should **notify the contracting office to request corrective action.** The entitlement office may not change contract terms. Contract terms may only be changed through a formal modification.

**B. Receipt and Acceptance Report**

1. A receiving report performs two functions. It provides evidence of the date goods are received, and it provides evidence of the date goods or services are accepted. Receiving reports are written or electronic evidence of the receipt of goods or services by a government official. Receiving reports must meet the requirements of [5 CFR 1315.9\(c\)](#). Receipt of goods ordinarily does not provide a basis for payment. Payments must be based upon acceptance of the goods or services as authenticated by the signature of the government official. Acceptance must occur as a condition of payment except in the following instances:

a. Interim payments on cost-reimbursement contracts for services. Refer to [DFARS 232.906](#) for information concerning interim payments on cost-reimbursement contracts for services. [Subparagraph 070206.B](#) below defines the standard due date and condition where interest penalties may apply.

b. The fast payment procedure. In limited situations, payment offices may use the contractor's submission of an invoice as certification of the delivery of supplies and as the basis for authorizing payment; and payment may be made within 15 days after the receipt of the invoice. Follow-up is required to ensure receipt of documentation. Conditions that must exist to use these payment methods are outlined in [5 CFR 1315.6\(a\)](#), [FAR Subpart 13.4](#), [DFARS Subpart 213.4](#), and section 1005 of Chapter 10 "Payment Vouchers – Special Applications" of this volume.

2. The agency receiving official should forward the receiving report, or other government documentation, to the designated payment office by the 5th working day after government acceptance or approval, unless other arrangements have been made.

3. Government acceptance is normally deemed to occur constructively on the 7<sup>th</sup> day after the contractor delivers supplies or performs services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract requirement. A longer acceptance period can be specified in the contract, in which case the date of the actual acceptance or the date on which such acceptance period ends shall substitute for the normally applied 7<sup>th</sup> day after the delivery date (refer to [DFARS 232.904](#)). The date on which the designated acceptance period ends is referred to as the constructive acceptance date. Constructive acceptance is used simply for the purposes of calculating PPA interest and applies to both destination acceptance and source acceptance contract terms.

a. In the event that actual acceptance occurs within the constructive acceptance period, the determination of a due date shall be based on the actual date of acceptance.

b. In the event that actual acceptance occurs after the constructive acceptance period, the determination of a due date will be based on the constructive acceptance date. Refer to [FAR 32.904\(b\)\(1\)\(ii\)\(B\)](#) for additional policy.

\* **C. Proper Invoice.** Payment will be based on the receipt of a proper invoice and satisfactory contract performance. Unless otherwise stated in the contract, vendors/contractors will submit a proper invoice to request payment. For details on information required for a proper invoice, refer to [5 CFR 1315.9\(b\)](#) and [FAR 32.905\(b\)](#). **The required information cited in the CFR must be included on an invoice to enable payment to occur.** As stated in FAR 32.905.b.2, an interim payment request under a cost-reimbursement contract for services constitutes a proper invoice if it includes all of the information required by the contract. Note that payment requests under cost-reimbursement service contracts are deemed proper when they conform to the contract. The office designated by the purchase order, agreement, or contract to first receive and review invoices, hereafter referred as the designated activity, will immediately annotate the receipt date and review invoices within 7 days after receipt. If an invoice is improper, then the designated activity will return the invoice to the vendor/contractor.

1. **Notice of an Improper Invoice.** When the designated activity returns an invoice as improper, they will provide details on why the invoice is being returned and why it is improper. The designated activity's request to the vendor/contractor for a corrected invoice will be clearly marked as such. Notification will be within 7 days of receipt of the invoice (5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats and oils; and 3 days for meat, meat food, fish, and seafood products). **Note that if a DoD Component fails to provide notification of an improper invoice within the prescribed timeframes, the computation of the payment due date will be affected, in that the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days delayed beyond the allowable invoice return requirements described above.** For example, a typical invoice payable in 30 days is returned as improper on the 11th day after receipt, minus 7 days allowed, equals a 4 day delay thus reducing due date by 4 days. As a result of the 4 day delay, the corrected invoice is now payable in 26 days upon receipt. Refer to [5 CFR 1315.4\(g\)\(5\)](#) for additional policy if improper invoices are not returned within 7 days. If a designated activity erroneously rejects a proper invoice, then the original invoice receipt date will be used to compute the payment due date and any interest penalties due. Refer to [FAR 32.906\(b\)\(4\)](#) for additional policy. In cases where the returned invoice offers a cost effective discount, request the contractor change the date on the existing corrected invoice, if resubmitted, or issue a new invoice with the current date on it.

2. **Delivery Ticket as an Invoice.** A delivery ticket may be used as an invoice. When used as an invoice, the delivery ticket must contain information required by the CFR for an invoice. Refer to [5 CFR 1315.9 \(b\), \(c\), and \(d\)](#) for additional policy.

D. Follow-up for Required Documents. If payments cannot be made due to the non-receipt of receiving reports, copies of contracts, contract modifications, or other required documentation, the entitlement office will follow-up with the contracting or receiving office to ensure that these documents are forwarded in a timely manner. These follow-up requests should be made in time to prevent the possible loss of economically justified discounts (if possible) and to avoid the unnecessary payment of late payment interest penalties.

E. Emergency and Contingency Operations. When authorized, the HCA of an operational area, in consultation with the cognizant comptroller, will make the determination of whether a contract and related payment will be subject to the requirements of [FAR Subpart 32.9](#), “Prompt Payment”, and include the applicable payment clause in the contract accordingly.

1. For payments that have been determined to be exempt from [FAR Subpart 32.9](#), certifying officers involved in supporting contingency operations will need the documents and information listed in Annex 1 of Chapter 8 “Commercial Payment Vouchers and Supporting Documents” of this volume to ensure the entitlement to payment is valid to certify and make a contract or vendor payment. Certification guidelines for these payments are contained in paragraph 080807 of Chapter 8 “Commercial Payment Vouchers and Supporting Documents” of this volume.

2. For payments that are subject to the requirements of [FAR Subpart 32.9](#), PPA interest payments originating or being processed within the operational area will be made only as specified in the contract clause.

\* F. Progress Payments. A request for a progress payment may be approved if it meets the requirements specified in [5 CFR 1315.14\(b\)](#) and the terms of the contract. DoD Components may make progress payments under construction contracts at intervals determined by the contract. Requests for progress payments will conform to [FAR 52.232-5\(b\)\(1\)](#). If a contractor fails to conform to the specifications, terms, and conditions of the contract (hereinafter referred to as the ‘unearned amount’), then a contractor is obligated to pay the government interest on any unearned amount from the 8th day after the date of receipt of the unearned amount until:

1. The date the contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

2. The date the contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount, per [FAR 52.232-5\(d\)\(2\)](#).

\* G. Payment for Partial Deliveries. These payments are contingent upon submission of a proper invoice if required by the contract. DoD Components will pay for partial delivery of supplies or partial performance of services after acceptance. Unless specifically prohibited by the contract, the payment clause at [FAR 52.232-1](#) provides that the contractor is entitled to payment for accepted partial deliveries of supplies or partial performance of services



that comply with all applicable contract requirements and for which prices can be calculated from the contract terms. Refer to [5 CFR 1315.4\(k\)](#) and [FAR 32.906\(c\)](#) for additional guidance.

\*070204. Determining the Invoice Receipt Date

The invoice receipt date must be recorded on the invoice by the activity designated in the contract to receive the invoice immediately upon receipt. This annotation should clearly be identifiable to the designated activity. The invoice receipt date is an integral part of determining the payment due date, the date by which an improper invoice must be returned, and the date on which interest will begin to accrue if a payment is late. Note the requirement to annotate the invoice with the date received. If the designated activity fails to annotate the receipt date, then the invoice receipt date is the date placed on the invoice by the contractor. For invoices electronically transmitted, the invoice received date is the date a readable transmission is received by the designated activity or the next business day if received after normal working hours. Refer to [5 CFR 1315.4\(b\)](#) for guidance on determining the invoice receipt date.

070205. Determining the Payment Due Date

For payments subject to the requirements of [FAR Subpart 32.9 "Prompt Payment"](#), the payment due date is the date on which payment should be made to avoid paying PPA interest. The payment will be made according to the terms of the contract, if specified.

\* A. If the payment due date is not specified in the contract, the date by which a proper invoice must be paid is the later of:

1. Thirty days after the date on which the designated activity receives the proper invoice; or
2. Thirty days after government acceptance of supplies delivered, services performed, or the applicable date of constructive acceptance, whichever is earlier.

As an example, for determining the payment due date, supplies are received on April 20<sup>th</sup> and accepted on April 29<sup>th</sup>, and a proper invoice is received on May 1<sup>st</sup>. The payment period will begin by using the later date of when proper invoice is received (May 1<sup>st</sup>), or the constructive acceptance date (April 27<sup>th</sup> which is the 7<sup>th</sup> day after receipt). In this example the payment period begins on May 1<sup>st</sup> and ends 30 days later on May 31<sup>st</sup>. The interest penalty begins accruing on June 1<sup>st</sup>. Refer to [5 CFR 1315.4\(g\)](#) and [FAR 32.904](#) for additional policy on determining the payment due date.

\* B. A contract modification may be required to establish when a payment is to be made, e.g., award fee. If a payment cannot be entitled without a contract modification, the payment clock will start with the effective date of the modification.

C. If the contract does not require an invoice, then the due date is the date designated in the contract ([FAR 32.904\(b\)\(2\)](#)).

## 070206. Timely Payment

The PPA requires both timely and proper cash management of government resources. DoD will make payments no more than 7 days prior to the payment due date, but as close to the due date as possible, unless the Secretary of Defense or designee has determined, on a case-by-case basis for specific payments, that earlier payment is necessary. This authority must be used cautiously, weighing the benefits of making a payment early against good stewardship inherent in effective cash management practices ([5 CFR 1315.4\(j\)](#)).

A. When the conditions in [5 CFR 1315.5](#) are met, a DoD Component may use an accelerated payment method.

\* B. For interim payments under cost-reimbursement service contracts, DoD may make payments at the standard due date of 14 days after the receipt of a proper invoice ([DFARS 232.906\(a\)\(i\)](#)) when using the clause at FAR 52.232-25, Prompt Payment, with its Alternate I. For purposes of computing late payment interest penalties that may apply, the due date for payment is the 30th day after the designated billing office receives a proper invoice (refer to [FAR 52.232-25](#), Prompt Payment, Alternate I).

\* C. Payment is considered to be made on the date printed on the check itself, or on the Electronic Fund Transfer (EFT) settlement date. In order to avoid late interest fees, the EFT settlement date (the date funds are credited to the vendor's financial institution) must be no later than the calculated due date.

D. Checks will be mailed or transmitted on the same day for which the check is dated.

E. Payments due (including discount periods) on Saturday or Sunday may be paid on Monday or the next working day without interest. Payments due on legal holidays may be paid on the next working day without interest.

\* F. Small businesses, as defined in [FAR 19.001](#), shall be paid as quickly as possible, when all proper documentation, including acceptance, is received in the payment office and before the payment due date. Accelerating payments to small businesses will be accomplished in a phased approach as each DoD entitlement and payment system is modified to accommodate the electronically accelerated payment procedures. However, small businesses shall not be entitled to interest penalties if the Government fails to make early payment (refer to [5 CFR 1315.5\(b\)](#), and [DFARS 232.903 and 232.906\(a\)\(ii\)](#)).

## 070207. Discounts

If a DoD Component is offered a discount by a vendor, whether stipulated in the contract or offered on an invoice, an agency should take the discount if economically justified but only after acceptance has occurred.

A. When a discount is taken, payment will be made as close as possible to, but no later than, the discount date.

B. The [Department of the Treasury's website](#) contains a discount calculator to assist in determining whether the effective discount is economically justified.

C. If a DoD Component takes the discount after the deadline, an interest penalty on any amount remaining unpaid will be due. Refer to [5 CFR 1315.7](#) and [FAR 32.907\(b\)](#).

D. Refer to Chapter 2 "Discount Offers and Rebates/Refunds" of this volume for additional policy concerning discounts.

#### 070208. Interest Penalties

When Components fail to make payment by the payment due date, interest accrues from the day after the payment due date through the payment date and is automatically paid. If the vendor/contractor provides incorrect banking information, then interest does not begin to accrue until 7 days after the correct information is received (provided the 7 day timeframe for notice of an improper invoice was met). Refer to [5 CFR 1315.10](#) for additional regulatory coverage.

A. Late Payment. Interest will be accompanied with a notice stating the amount of the interest penalty, the number of days late, and the rate used ([5 CFR 1315.10\(b\)\(2\)](#)).

B. Interest Penalty Requirements. The specific interest rate will be applied to the total penalty period (maximum one year interest) regardless of whether the interest period carries over into different interest rate periods. No further interest shall accrue after 1 year beyond the original due date. Interest calculations are to be based on a 360-day year.

C. Additional Penalties. Vendors/contractors may be entitled to an additional penalty payment when the vendor/contractor is owed a late payment interest penalty by DoD of \$1.00 or more. The vendor/contractor's entitlement to additional penalties is dependent upon, among other things, its timely submission of a claim for that additional penalty. For information on additional penalties, refer to [5 CFR 1315.11](#) and [FAR 32.907\(c\)](#).

D. Penalties Due Under Construction Contracts. Refer to [5 CFR 1315.14\(c\)](#).

E. Exceptions to Interest Penalties Due. Refer to [5 CFR 1315.10\(c\)](#) to determine when interest penalties are not due to include when interest penalties due are less than \$1.00.

F. Computation of Interest Penalties. The Government will compute interest penalties in accordance with the Office of Management and Budget (OMB) prompt pay regulations at [5 CFR 1315.10](#) and [FAR 32.907](#). The [Department of the Treasury's website](#) contains both a simple daily interest calculator and a monthly compounding interest calculator to assist in interest calculations.

## 070209. Interest Payment Funding

DoD will pay any late payment interest penalties from either the funds available for the administration of the program for which the penalty was incurred ([5 CFR 1315.10\(b\)\(5\)](#)) or from funds financing the operation of the military department or defense agency with which the invoice or contract payment is associated [P.L. 107-117, Div. A, Title VIII, Sec. 8084](#). All interest payments will be charged to the fiscal year(s) in which they accrue. If the interest is accrued at the end of the fiscal year, but not paid until the beginning of the next fiscal year, the prior year's funds will be cited. If interest is accrued at the end of the fiscal year, and additional interest is accrued in the new fiscal year, the total interest penalty will be funded citing each respective fiscal year's funds where the interest was accrued. This ensures that the interest fund cite represents the bona fide need of the year in which the obligation arises. If the appropriation to which the interest would otherwise be charged is cancelled, the appropriation current on the date of payment will be charged pursuant to [31 USC 1553 \(b\)\(1\)](#).

A. Entitlement offices are required to maintain detailed records in support of their determinations, and are to make these records available upon request of any activity determined to have caused a late payment.

B. Interest entitlement may be waived by a contractor by returning the amount of interest paid by separate check or by returning the government check and requesting payment only in the amount invoiced. A contractor may not waive the right to interest in advance of earning the interest (that is, a blanket authority letter stating that any interest penalty payment is not wanted is unacceptable). Interest retained or waived is collected as a refund to the appropriation originally cited for the payment of interest. All refunds of interest or penalties from contractors will be credited to the same line of accounting classification (including fiscal year) that was charged at the time interest was paid. If the appropriation is cancelled or closed, then refunds will be applied to Miscellaneous Receipts of the Treasury.

C. Late payment interest penalties pertaining to procurements financed by a Foreign Military Sales (FMS) contract will be funded by the FMS Trust Fund. For additional information, refer to Volume 15 Chapter 7 "Pricing" of this Regulation.

**\*0703 DoD COMPONENT HEAD RESPONSIBILITIES**

The responsibilities of the DoD Component Head [responsible for entitling contract and vendor payments](#) include:

## 070301. Issuing Internal Procedures

[Internal procedures need to be issued](#) that include provisions for monitoring the causes of late payments and any interest penalties incurred, taking necessary corrective action, handling inquiries, and, as necessary:

A. Adopting additional standards for establishing invoice payment due dates necessary to support DoD programs and foster prompt payment to contractors,

B. Adopting different payment procedures in order to accommodate unique circumstances, provided that such procedures are consistent with the policies in the PPA, and

C. Ensuring payments and payment of interest penalties, where required, are timely.

**\*070302. Informing DoD Contractors**

The internal procedures should include informing the DoD contractors of the proper processes for tracking payment status of their invoices and contacting their designated contract payment office.