

**NEW YORK STATE BRIDGE AUTHORITY**

**PROMPT PAYMENT GUIDELINES**

## **I. PROMPT PAYMENT GUIDELINES**

Attached please find the prompt payment guidelines as written and implemented in 1989, in accordance with Section 2880 of the Public Authorities Law. These same guidelines also comprise Part 207 of the Authority's General Rules and Regulations.

## **21, NYCRR, Part 207**

### **PROMPT PAYMENT POLICY**

#### **SECTION 207.1, STATEMENT OF PURPOSE**

This Policy Statement is adopted pursuant to Section 2880 of the Public Authorities Law.

#### **SECTION 207.2, DEFINITION OF TERMS**

Definitions. For the purpose of this policy statement, the following terms shall have the following meanings unless the context shall clearly indicate otherwise:

- (a) “Authority” shall mean the New York State Bridge Authority.
- (b) “Contract” shall mean an enforceable agreement entered into by the Authority and a Contractor, including Purchase Orders.
- (c) “Contractor” shall mean any persons or organizations providing goods, property or services to the Authority pursuant to a contract.
- (d) “Designated Payment Department” shall mean that department within the Authority to which Proper Invoice is to be submitted by a Contractor.
- (e) “Prompt Payment” shall mean any payment of a debt due and owing to the Authority before interest accrues thereon pursuant to the specifications herein.
- (f) “Proper Invoice” shall mean a written request for contract payment setting forth the description, price and quantity of goods, property or services provided by a Contractor in such form, and supported by such other substantiating documentation, as the Authority may reasonably require.
- (g) “Receipt of an Invoice” shall mean either (1) the date on which a Proper Invoice is received by the Designated Payment Department, or (2) the date on which the Authority receives the purchased goods, property or services covered by the Proper Invoice, whichever is later.
- (h) “Set-off” shall mean the reduction by the Authority of a payment due to a Contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the Contractor to the Authority.

### **SECTION 207.3, RULES AND REGULATIONS**

- (a) **Payment Request Procedure.** A Proper Invoice shall be sent to the attention of the Director of Administration, and the Designated Payment Department of the Authority. The Director of Administration will enter or cause to be entered the date on which a Proper Invoice is received by the Designated Payment Department.
- (b) **Schedule for Prompt Payment.** Except as set forth in subdivisions 3 (e) and 3 (f) herein, the Authority will make payment in accordance with the following schedule:
  - (1) For Proper Invoices received between the date of adoption of this Policy and December 31, 1989, payment will be made within 45 calendar days after receipt.
  - (2) For Proper Invoices received on or after January 1, 1990, payment will be made within 30 calendar days, excluding legal holidays, after receipt.
  - (3) Where payment date(s) are specified by the term of a Contract, payment will be made on such predetermined payment date(s).
- (c) **Date of Payment.** Payment of a Proper Invoice by the Authority shall be deemed to have been made on the second business day after the date of the Authority's check issued in payment of such Proper Invoice.
- (d) **Interest Penalty.** If the Authority fails to make payment in accordance with the prompt payment schedule set forth herein, the Authority shall be liable for the payment of interest at a rate equal to that set by the State Tax Commission for corporate taxes pursuant to paragraph one of subsection (e) of section one thousand ninety-six of the tax law. Interest shall be computed on the basis of a 365-day year, including the first day and excluding the last day of the period for which the computation is made.

If the Authority must process payments through some other entity not under the Authority's control, the Authority shall not be liable for interest due to the process time taken by such entity.
- (e) **Funds Available to Pay Interest Penalties.** The Authority will pay penalties with monies from (1) proceeds received by or on behalf of the Authority under the terms of bond resolutions of the Authority, which proceeds are not otherwise pledged to secure the payment of bonds and (2) proceeds received by or on behalf of the Authority under the terms of Public Authorities Law Section 2425 et seq., which proceeds are not otherwise restricted by the provisions of such statute.

- (f) Situations which Justify Extension of Payment Time for Proper Invoices. The following circumstances constitute exceptions to the prompt payment schedule set forth in Section 3 (b):
  - (1) Statutory or contract provisions requiring an inspection or an audit prior to payment;
  - (2) A requirement for state appropriation to authorize payment;
  - (3) A requirement for federal government examination of a Proper Invoice prior to payment.
  
- (g) Reasons which Justify the Tolling of Payment Time for Proper Invoices. The following circumstances shall toll the prompt payment schedule set forth in Section 3 (b):
  - (1) The existence of defects in the goods, property or services delivered;
  - (2) The existence of defects in the invoice;
  - (3) Suspected improprieties of any kind;
  - (4) Failure by a Contractor to submit such documents as may be reasonably required by the Authority, or
  - (5) A dispute concerning whether a Proper Invoice is due and owing.
  
- (h) Tolling Regulations. In order to toll the prompt payment schedule without penalty, the Authority must notify a Contractor of any circumstances set forth in Section 3 (f) (1)-(5) herein, within fifteen days after receipt of an invoice. If the Authority fails to give notice within fifteen days, the payment period of such corrected Proper Invoice shall be reduced by the number of days between the fifteenth day and the date of notification. If the Authority fails to provide reasonable grounds for its contentions, the date by which contract payment shall be made is calculated from the date of receipt of an invoice.

#### **SECTION 207.4, REPORTS**

- (a) Statement Filing. Within thirty days of the adoption of this Statement, and of any amendments hereto, the Authority shall file copies with the State Comptroller, the State Director of the Budget, the Chairman of the Senate Finance Committee, and the Chairman of the Assembly Ways and Means Committee.

- (b) Annual Report. Within ninety days after the end of each fiscal year, commencing with the current fiscal year the Authority shall prepare an annual report on the scope and implementation of this prompt payment policy, including, but not limited to :
- (1) A listing of the type or categories which the Authority entered into during the twelve-month period of the report with an indication whether each such contract was subject to the prompt payment requirements, and if not, why not;
  - (2) The number and amount of interest payments made for contracts, arranged according to each such type or category;
  - (3) The number of interest chargeable days, and the total number of days taken to process each late contract payment; and
  - (4) A summary of the principal reasons why such late payments had to be made.

Copies of this report shall be filed with the State Comptroller, the State Director of the Budget, the Chairman of the Senate Finance Committee and the Chairman of the Assembly Ways and Means Committee.

#### **SECTION 207.5, MISCELLANEOUS PROVISIONS**

- (a) Statement Amendment. The Authority shall have the power to amend this Policy Statement by promulgating amended rules and regulations at any time.
- (b) Contract Incorporation. The Policy Statement in effect at the time of the creation of a Contract is hereby incorporated into and made a part of that Contract.
- (c) Public Access. The Authority shall make copies of this Policy Statement, as well as the annual report, available to the public upon reasonable request at the Authority's main office. In addition, the Authority shall make a copy of this Policy Statement available to each Contractor.
- (d) Inapplicability of Statute. The statute authorizing this statement is not applicable to the Authority's contracts with other governmental agencies, to interest on judgements rendered by a court against the Authority pursuant to any other statute, or in situations where the Authority exercises a legally authorized set-off against all or part of a payment due a Contractor.

- (e) Legal Processes. The Authority is under no liability to pay interest pursuant to the statute after a Contractor has filed a claim or given notice of an intention to file a claim or commenced legal action for payment of interest.