

DORMITORY AUTHORITY OF THE STATE OF NEW YORK
AMENDED STATEMENT OF PROMPT PAYMENT POLICY

1. Authorization - This Amended Statement of Prompt Payment Policy is adopted by the Members of the Board of the Dormitory Authority pursuant to the provisions of Section 2880 of the Public Authorities Law.
2. Purpose - It is the purpose of this Amended Statement of Prompt Payment Policy of the Dormitory Authority to set forth the standards for the payment of bills within specific periods of time and to prescribe interest penalties in situations where payments do not conform to these standards, as provided by section 2880 of the Public Authorities Law.
3. Prompt Payment Policy - It shall be the policy of the Dormitory Authority to process contract payments efficiently and expeditiously so as to assure payment in a timely manner to firms and organizations which do business with the Authority and to avoid, to the greatest extent practicable, the payment of interest in cases where prompt payment does not occur as provided herein.
4. Rules and Regulations – Pursuant to Section 2880 of the Public Authorities Law, the Dormitory Authority promulgated Prompt Payment Policy Rules and Regulations, effective January 3, 1989. The Rules and Regulations may be amended from time to time as needed to comply with the Public Authorities Law.
5. Definitions - The following terms shall have the following meanings unless the context shall indicate another of different meaning or intent:
 - (a) “Authority” means the Dormitory Authority of the State of New York.
 - (b) “Designated Payment Office” means the office designated by the Authority to which a proper invoice is to be submitted by a contractor.
 - (c) “Prompt Payment” means payment of a debt due and owing by the Authority before interest accrues thereon pursuant to this Statement of Prompt Payment Policy.
 - (d) “Proper Invoice” means a written request for a contract payment that is submitted by a contractor setting forth the description, price and quantity of goods, property, or services delivered or rendered, in such form and supported by such other substantiating documentation as the Authority may reasonably require.
 - (e) “Receipt of an Invoice” means (i) the date on which a Proper Invoice is actually received in the Designated Payment Office, or (ii) the date on which the Authority, or other entity on whose behalf the Authority is acting, received the purchased goods, property, or services covered by the Proper Invoice, whichever is later.
 - (f) “Set-off” means 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.
6. Scope - This Statement of Prompt Payment Policy shall be applicable to all contract payments. A contract payment is a payment to a contractor pursuant to a written contract, or an amendment thereto, signed by an Authorized Officer of the Authority and of the contractor, a fully executed change order or an executed purchase order. A contractor is a person, partnership, private corporation, limited liability company, or association:
 - (a) selling materials, equipment, or supplies or leasing property, or equipment to the Authority;
 - (b) constructing, reconstructing, rehabilitating or repairing facilities or other improvements for or on behalf of the Authority; or
 - (c) rendering or providing services to the Authority pursuant to a contract.

7. Prompt Payment Procedure - Each contractor requesting payment shall submit a Proper Invoice and adequate documentation to support the work, services or goods provided to the Designated Payment Office.
- (a) In the case of invoices submitted by architects, engineers, contractors and other consultants pursuant to contracts awarded by the Authority for the construction, reconstruction, rehabilitation or other improvements or facilities comprising all or part of a project, the office of the project manager assigned to the project is the Designated Payment Office. Proper Invoices submitted to the office of project manager by the fifth day of the month will be transmitted to the Finance Office of the Authority, after approval by the project manager. If received by the Finance Office by the tenth day of the month, a Proper Invoice will be paid by the last day of the month. Payment will be made no later than 30 days, except under the circumstances specified in subdivision (d) of this section, after receipt of such proper invoice at the designated payment office.
 - (b) For all other invoices for contract payments not covered by paragraph (a), the Finance Office of the Authority in Albany, New York is the Designated Payment Office. Proper Invoices submitted by the tenth of the month will be paid by the last day of the month, but in any event payment will be made no later than 30 days after receipt of such Proper Invoice.
 - (c) If a proper invoice is not paid within the periods described in (a) or (b) above, such payment will be subject to interest at the overpayment rate set by the Commissioner of Taxation and Finance pursuant to subsection (e) of section 1096 of the Tax Law.
 - (d) In accordance with subparagraph (v) of paragraph (A) of subdivision 3 of Section 2880 of the Public Authorities Law, when the following facts and circumstances exist, the Authority may, to the extent necessary, extend the payment date of a proper invoice to 45 days after receipt. The facts and circumstances may include, but shall not be limited to:
 - (1) a contract for which a prior overpayment has been made;
 - (2) a contract which is subject to a mechanics' lien;
 - (3) a contract which is subject to a notice of prevailing wage withholding;
 - (4) when the Authority has been notified that an entity contracting with the Authority or the principals thereof are the subject of criminal investigation or indictment relating to the business activities of the entity;
 - (5) those instances when the Authority has reason to believe that the entity contracting with the Authority has provided a false statement or material misstatement in connection with the contract.
 - (6) when the Authority must rely on tests by a third party reported directly to the Authority as a prerequisite for payment.
8. Sources of Funds Available for Payment of Interest - The Authority holds or has control of moneys which represent the proceeds of the issuance of its obligations or are on deposit in operating funds of the Authority derived primarily from its fees and charges, from which it may pay interest on Proper Invoices with respect to which Prompt Payment is not made.
9. Extension of Prompt Payment Date - The date by which a contract payment may be made without the payment of interest may be extended when any of the following facts or conditions exists:
- (a) in accordance with specific statutory or contractual provision, payment must be preceded by an inspection period, the receipt of a signed receiving report in the case of the purchase of goods for an entity other than the Authority itself, or by an audit to determine the resources applied or used by a contractor in fulfilling the terms of the contract;
 - (b) the necessary state government appropriation required to authorize payment has yet to be enacted;

- (c) a Proper Invoice must be examined by the federal government or other governmental entities prior to payment; and,
- (d) such date by which contract payment must be made is modified in accordance with section 11 below.

10. Interest Eligibility and Computation - In order for the Authority not to be liable for the payment of interest, contract payment must be made within the periods described in section 7 after the receipt of an invoice for the amount of the contract payment due; except when the contract payment is of the type where the facts and conditions are as defined pursuant to section 9 above. Any time taken to satisfy or rectify any of the facts or conditions described in section 9 above shall extend the date by which contract payment must be made in order for the Authority not to become liable for interest payments by an equal period of time. The Authority shall not be liable for the payment of interest when such interest is less than ten dollars.Notification of Defects - The Authority shall have 15 calendar days after receipt of an invoice by the Designated Payment Office to notify the contractor of (a) defects in the delivered goods, property, or services, (b) defects in the invoice, or (c) suspected improprieties of any kind; and the existence of such defects or improprieties shall prevent the commencement of the time period specified in section 7 of this Statement. When the Authority fails to notify a contractor of such defects or suspected improprieties within 15 calendar days of receiving the invoice, the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days between the fifteenth day and the day that notification was transmitted to the contractor. If the Authority, in such situations, fails to provide reasonable grounds for its contention that a defect or impropriety exists, the date by which contract payment must be made in order for the Authority not to become liable for interest payments shall be calculated from the date of receipt of an invoice.
11. Predetermined Interval Payments - A Proper Invoice submitted by the contractor shall be required to initiate any payment, except where the contract provides that the contractor will be paid at predetermined intervals without having to submit an invoice for each such scheduled payment and, for the purposes of determining eligibility for payment of interest and subject to the exception and time-to-rectify provisions of sections 9 and 10 above, the date by which contract payment must be made in order for the Authority not to become liable for interest payments shall be the payment due date specified in accordance with the contract.
12. Inapplicability of Statement - The provisions of this Statement shall not apply to payments due and owing by the Authority:
- (a) under the eminent domain procedure law;
 - (b) as interest allowed on judgments rendered by a court pursuant to any provision of law other than Section 2880 of the Public Authorities Law;
 - (c) to the federal government; to any state agency or its instrumentalities; to any duly constituted unit of local government including, but not limited to, counties, cities, towns, villages, school districts, special districts, or any of their related instrumentalists; to any other public authority or public benefit corporation; or to its employees when acting in, or incidental to, their public employment capacity;
 - (d) in a situation where the Authority exercises a Set-off against all or part of the payment due the contractor; or,
 - (e) for reasonable cause, determines not to release or reduce retainage upon completion or substantial completion of a construction contract.
14. Statement Filing - The Authority shall, within 30 days after the adoption of this statement, file a copy of such statement, and amendments thereto, 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.

15. Contract Incorporation - The statement in effect at the time of creation of a contract is hereby deemed to be incorporated into and made a part of that contract.

16. Annual Report

(a) The Authority shall annually prepare a report on the scope and implementation of its Prompt Payment Policy which shall include, but not be limited to:

- (1) a listing of the types of categories of contracts which the Authority entered into during the 12-month period covered by the report together with a brief indication of whether each type of category of contract was subject to the prompt payment requirements promulgated by the Authority and, if not, why not;
- (2) the number and amounts of interest payments made for contracts arranged according to each such number 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 that such late payments occurred.

(b) Within 90 days after the completion of its fiscal year, the Authority shall file copies of the report required by paragraph (a) of the section 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.

17. Public Access - The Authority shall make available to the public, upon a reasonable request therefore, copies of its statement and annual report. Each contractor doing business with the Authority shall be given a copy of the Authority's statement.

18. Effective Date - This Amended Statement of Prompt Payment Policy shall take effect on March 14, 2001 and shall apply to contracts or purchase orders initially entered into on and after such date.