

### § 1315.15

to afford the Government a practicable opportunity to adequately inspect the work and to determine the adequacy of the vendor's performance under the contract;

(ii) Any amounts that the agency has retained pursuant to a prime contract clause providing for retaining a percentage of progress payments otherwise due to a vendor and that are approved for release to the vendor, if such retained amounts are not paid to the vendor by a date specified in the contract, or, in the absence of such a specified date, by the 30th day after final acceptance;

(iii) Final payments, based on completion and acceptance of all work (including any retained amounts), and payments for partial performances that have been accepted by the agency, if such payments are made after the later of:

(A) The 30th day after the date on which the designated agency office receives a proper invoice; or

(B) The 30th day after agency acceptance of the completed work or services. Acceptance shall be deemed to have occurred on the effective date of contract settlement on a final invoice where the payment amount is subject to contract settlement actions.

(2) For the purpose of computing interest penalties, acceptance shall be deemed to have occurred on the seventh day after work or services have been completed in accordance with the terms of the contract.

### § 1315.15 Grant recipients.

Recipients of Federal assistance may pay interest penalties if so specified in their contracts with contractors. However, obligations to pay such interest penalties will not be obligations of the United States. Federal funds may not be used for this purpose, nor may interest penalties be used to meet matching requirements of federally assisted programs.

### § 1315.16 Relationship to other laws.

(a) *Contract Disputes Act of 1978 (41 U.S.C. 605)*. (1) A claim for an interest penalty (including the additional penalty for non-payment of interest if the vendor has complied with the requirements of §1315.9) not paid under this

### 5 CFR Ch. III (1–1–10 Edition)

part may be filed under Section 6 of the Contract Disputes Act.

(2) An interest penalty under this part does not continue to accrue after a claim for a penalty is filed under the Contract Disputes Act or for more than one year. Once a claim is filed under the Contract Disputes Act interest penalties under this part will never accrue on the amounts of the claim, for any period after the date the claim was filed. This does not prevent an interest penalty from accruing under Section 13 of the Contract Disputes Act after a penalty stops accruing under this part. Such penalty may accrue on an unpaid contract payment and on the unpaid penalty under this part.

(3) This part does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a vendor over the amount of payment or compliance with the contract. A claim related to such a dispute and interest payable for the period during which the dispute is being resolved is subject to the Contract Disputes Act.

(b) *Small Business Act (15 U.S.C. 644(k))*. This Act has been amended to require that any agency with an Office of Small and Disadvantaged Business Utilization must assist small business concerns to obtain payments, late payment interest penalties, additional penalties, or information due to the concerns.

### § 1315.17 Formulas.

(a) *Rebate formula*. (1) Agencies shall determine credit card payment dates based on an analysis of the total benefits to the Federal government as a whole. Specifically, agencies should compare daily basis points offered by the card issuer with the corresponding daily basis points of the government's Current Value of Funds (CVF) rate. If the basis points offered by the card issuer are greater than the daily basis points of the government's funds, the government will maximize savings by paying on the earliest possible date. If the basis points offered by the card issuer are less than the daily basis points of the government's funds, the government will minimize costs by paying on the Prompt Payment due

date or the date specified in the contract.

(2) Agencies may use a rebate spreadsheet which automatically calculates the net savings to the government and whether the agency should pay early or late. The only variables required for input to this spreadsheet are the CVF rate, the Maximum Discount Rate, that is, the rate from which daily basis points offered by the card issuer are derived, and the amount of debt. This spreadsheet is available for use on the prompt payment website at [www.fms.treas.gov/prompt/index/html](http://www.fms.treas.gov/prompt/index/html).

(3) If agencies chose not to use the spreadsheet, the following may be used to determine whether to pay early or late. To calculate whether to pay early or late, agencies must first determine the respective basis points. To obtain Daily Basis Points offered by card issuer, refer to the agency's contract with the card issuer. Use the following formula to calculate the average daily basis points of the CVF rate:

$$(CVF/360) * 100$$

(4) For example: The daily basis points offered to agency X by card issuer Y are 1.5 basis points. That is, for every day the agency delays paying the card issuer the agency loses 1.5 basis points in savings. At a CVF of 5 percent, the daily basis points of the Current Value of Funds Rate are 1.4 basis points. That is, every day the agency delays paying, the government earns 1.4 basis points. The basis points were calculated using the formula:

$$(CVF/360) * 100 \\ (5/360) * 100 = 1.4$$

(5) Because 1.5 is greater than 1.4, the agency should pay as early as possible. If the basis points offered by the card issuer are less than the daily basis points of the government's funds (if for instance the rebate equaled 1.3 basis points and the CVF was still 1.4 basis points or if the rebate equaled 1.5 but the CVF equaled 1.6), the government will minimize costs by paying as late as possible, but by the payment due date.

(b) *Daily simple interest formula.* (1) To calculate daily simple interest the following formula may be used:

$$P(r/360*d)$$

Where:

*P* is the amount of principle or invoice amount;

*r* equals the Prompt Payment interest rate; and

*d* equals the numbers of days for which interest is being calculated.

(2) For example, if a payment is due on April 1 and the payment is not made until April 11, a simple interest calculation will determine the amount of interest owed the vendor for the late payment. Using the formula above, at an invoice amount of \$1,500 paid 10 days late and an interest rate of 6.5%, the amount of interest owed is calculated as follows:

$$\$1,500 (.065/360*10) = \$2.71$$

(c) *Monthly compounding interest formula.* (1) To calculate interest as required in §1315.10(a)(3), the following formula may be used:

$$P(1+r/12)^n*(1+(r/360*d)) - P$$

Where:

*P* equals the principle or invoice amount;

*r* equals the interest rate;

*n* equals the number of months; and

*d* equals the number of days for which interest is being calculated.

(2) The first part of the equation calculates compounded monthly interest. The second part of the equation calculates simple interest on any additional days beyond a monthly increment.

(3) For example, if the amount owed is \$1,500, the payment due date is April 1, the agency does not pay until June 15 and the applicable interest rate is 6 percent, interest is calculated as follows:

$$\$ 1,500(1+.06/12)^2 * (1+(0.06/360*15)) - \$1,500 = \$18.83$$

#### § 1315.18 Inquiries.

(a) *Regulation.* Inquiries concerning this part may be directed in writing to the Department of the Treasury, Financial Management Service (FMS), Cash Management Policy and Planning Division, 401 14th Street, SW, Washington, DC 20227, (202) 874-6590, or by calling the Prompt Payment help line at 1-800-266-9667, by emailing questions to [FMS at prompt.inquiries@fms.sprint.com](mailto:FMS@prompt.inquiries@fms.sprint.com), or by completing a Prompt Payment inquiry