

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

REVOCATION NOTICE

NUMBER: 203-31

DATE: May 01, 2019

SUBJECT: Revocation Notice for NAO 203-31, Payment of Invoices

1. THIS TRANSMITS:

Revocation Notice of NOAA Administrative Order (NAO) 203-31, Payment of Invoices, effective April 24, 1990.

2. PURPOSE:

This notice revokes NAO 203-31 Payment of Invoices. The NAO references financial systems that are no longer in existence, and describes outdated financial procedures that have been superseded. The NOAA Office of the Chief Financial Officer (OCFO), Finance Office is currently following the policies and procedures prescribed by 5 CFR Part 1315 Prompt Payment Act and Department of Commerce (DOC), Department Administrative Order (DAO) 203-31 Commerce Business Systems (CBS) for payment of invoices.

There is no known NOAA Delegation of Authority applicable to NAO 203-31.

3. NOAA POINT OF CONTACT:

For further information contact Sandra Ann Smoak, NOAA, Director, Financial Policy and Compliance Division, Office of the Chief Financial Officer (OCFO), (301) 444-2123.

4. ACTIONS:

The above referenced Order dated May 01, 2019, is hereby revoked. An electronic copy of this Revocation Notice will be posted in place of the current Order on the NOAA Office of the Chief Administrative Officer Website. <http://www.corporateservices.noaa.gov/~ocao/index.html>



Assistant Secretary of Commerce for
Environmental Observation and Prediction
Performing the Duties of
Under Secretary of Commerce
for Oceans and Atmosphere



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NAO 203-31: PAYMENT OF INVOICES

Issued 05/22/90; Effective 04/24/90; Reviewed Last: 11/—/2018 Pending Revocation

SECTION 1. PURPOSE.

.01 This Order establishes the policies, responsibilities and procedures for the payment of goods and services acquired from contractors under Federal contracts, purchase orders, and other purchase agreements.

.02 This Order has been revised to implement changes made by the Prompt Payment Act Amendments of 1988, Public Law 100-496.

SECTION 2. SCOPE.

.01 **General.** The provisions of this Order apply to all organizational units of NOAA ordering, receiving, accepting, and paying for goods and services from contractors.

.02 **Payment Systems.** NOAA uses two primary systems for processing administrative payments, the Department-wide Administrative Payments System (APS) and the NOAA Payment System.

a. **Administrative Payments System (APS).** The APS processes payments in a highly automated manner with minimal review by paying office personnel. The Administrative Support Centers (ASCs) or Management Service Center enter key data elements into the APS from purchase agreements, receiving reports and invoices. Based on this information, the APS automatically calculates payment due dates, late payment interest penalties, discounts (and whether they should be taken) and generates a payment request to the U.S. Treasury.

1. The APS is used to process the following types of administrative payments: purchase order-one time contractor payment (type 40); purchase order-advance payment (type 41); purchase order-automatic cyclic payment (type 42); purchase order-anticipated recurring contractor payment (type 43); domestic and foreign travel and transportation (types 20, 23, 24, 25, 26, 27 and 28); Federal Standard Requisitioning and Issuing Procedures (FEDSTRIP) (type 13); imprest fund (type 30), and General Services Administration Customer Supply Center (type 34).

2. The ASCs are **not** responsible for the functions and calculations performed automatically by the APS. They are, however, responsible for the accuracy and control of the data they enter into the APS. The paying office procedures contained in Section 7 of this Order do not apply to payments made using the APS.

b. **Financial Management (FIMA) System.** A subsidiary payment system of FIMA, operated decentrally by each ASC, is used for all other administrative payments. ASCs enter data into the NOAA payment system from purchase agreements, receiving reports, and invoices. The NOAA payment system automatically calculates late payment interest penalties, discounts, payment due dates, and generates payment requests to the U.S. Treasury. The paying office procedures in Section 7 of this Order apply to administrative payments made using the NOAA payment system.

SECTION 3. POLICY.

01. **General.** When determining propriety for making payments, contracts, purchase orders, receiving reports, invoices, and other payment supporting documents will be processed and approved in accordance with this Order.

Attachments

[Exhibit 1](#)
[Exhibit 2](#)
[Exhibit 3](#)
[Exhibit 4](#)
[Exhibit 5](#)

.02 Timely Payments. Payments shall be timely and in accordance with contractual terms and conditions, consistent with Treasury regulations (1 TFM 6-8040.20) or other applicable regulations. Payments shall be made no more than seven (7) calendar days before the payment due date. If no payment due date is specified in the purchase agreement, the due date will be the thirtieth (30th) calendar day from the time the invoice is first received, as defined in Section 3.03 of this Order below. Payments will be made as close as possible to the payment due date, or if appropriate, the discount date. Payments are considered to be made on the date a check is issued or a wire transfer is made.

.03 Determining the Receipt Date of Invoices.

a. An invoice for delivered goods or services is considered to be received on the later of the following:

1. the date a **proper** invoice is actually **received** in the office designated in the purchase agreement to receive the invoice; (See Section 3.03.b. of this Order.) or
2. the **seventh (7th) calendar day** after the date the goods or services are actually **delivered**; or
3. the date the goods or services are actually **accepted** if acceptance occurs within seven (7) calendar days of delivery; or
4. the actual date of **acceptance** if a longer acceptance period is specified in the purchase agreement and acceptance occurs within the allowed period.

b. If the office designated in the purchase agreement to receive the invoice fails to annotate the invoice with the date of its receipt, the invoice receipt date becomes the date placed on the invoice by the contractor.

c. The receipt date of invoices without deliverables (e.g., cost reimbursement invoices, progress or advance payment requests, etc.) is the date a **proper** invoice is received in the office designated in the purchase agreement to receive such invoices.

.04 Late Payments.

a. When payments for delivered and accepted goods or services are made late, interest and penalties shall be paid as required by the Prompt Payment Act.

b. Late payment interest and additional penalties will be paid **automatically** without the need for requests by contractors.

c. Late payment interest and additional penalties shall be paid out of funds made available for the administration or operation of the program for which the penalty was incurred, and recorded as an obligation and expense under object class 4301 or 4303, "Prompt Payment Act Penalty Payments (Non-APS Document Types)," or object class 4310 or 4311, "Prompt Payment Act Penalty Payments (Paid through APS)" in the NOAA Financial Management (FIMA) system. Obligations for late payment interest and additional penalties will be added to the obligations of the related purchase agreement without an amendment or modification to the purchase agreement.

d. Payment of an **interest penalty** is required when all the following conditions are met:

1. there is a valid contract, purchase order, or other purchase agreement with a contractor to furnish goods or services including the transportation of persons or property and it is covered by the Prompt Payment Act or other interest penalty terms in the purchase agreement;
2. a proper invoice has been received (except where no invoice is required, e.g., some periodic lease payments) or notification is not given to the contractor within seven (7) calendar days that the invoice is not proper (three (3) calendar days for meat products and five (5) calendar days for perishable agricultural commodities, dairy products, and edible fats and oils);
3. acceptance of goods or services has occurred and there is no disagreement over quantity, quality, or compliance with contractual provisions, and
4. the date payment is made to the contractor is after the due date.

e. An interest penalty payment is also required if a discount is taken after the discount period has expired.

f. Payment of an **additional penalty** is required when the contractor:

1. is owed a late payment interest penalty;
2. receives a payment after the payment due date which does not include the interest penalty due;
3. is not paid the interest penalty within ten (10) calendar days after the date on which a late payment is made, and
4. makes a written demand for a late payment interest penalty, not later than forty (40) calendar days after the date on which a late payment is made.

g. The additional penalty shall be equal to one hundred (100) percent of the original late payment interest penalty effective January 22, 1990.

.05 Late payment interest and additional penalties are not applicable and shall not be paid under the Prompt Payment Act for the following:

- a. when payment is delayed because of a disagreement over the amount of the payment or contractual compliance;
- b. for the time that amounts are temporarily withheld under the terms of the purchase agreement;
- c. advance payments for such things as rent, tuition, insurance premiums, subscriptions, etc., unless late payment terms are specified in the purchase agreement;
- d. payments made solely for contract financing purposes (such as advance payments, interim payments on cost reimbursement contracts, progress payments based on costs, or progress payments based on a percentage or stage of completion) other than payments of fixed-price construction or architect-engineer contracts paid under, respectively, FAR clauses 52.232-5 and 52.232-10; (Contract financing does not include payments for partial deliveries accepted by NOAA or partial payments for contract termination which may be subject to late payment interest and additional penalties.)
- e. contracts for utilities or informal contracts for the purchase of utilities that include provisions for late payment charges established through the rate setting process;
- f. interest and penalties will not be computed until proper invoices are received in the designated billing office;
- g. interest and penalty amounts totaling less than one dollar per invoice;
- h. purchase agreements awarded before October 1, 1982 unless they have been amended to incorporate Prompt Payment Act provisions;
- i. payments made to recipients of grants, loans or other Federal assistance, and
- j. payments made for utility services acquired under terms required by other governmental authorities not subject to the Prompt Payment Act (e.g., tariffs).

.06 Discounts shall not be taken unless payment is made by the end of the discount period and the discount is cost beneficial to the Government. (See Sections 7.05.c. and 7.06.d. of this Order.)

.07 Notice of an error, defect, or impropriety in an invoice or written request for payment shall be given to a contractor orally, but suitably documented, or in writing within seven (7) calendar days of its receipt (three (3) calendar days for meat or meat food products and five (5) calendar days for perishable agricultural commodities, dairy products, and edible fats and oils). The requirements for a proper invoice are explained in Section 7.02.b. of this Order.

.08 Interest penalties shall not continue to accrue:

- a. after the filing of a claim for such penalties under the Contract Disputes Act of 1978; or
- b. for more than one (1) year.

SECTION 4. REFERENCES.

- .01 Department of Commerce Department Administrative Order (DAO) 203-31 establishes the policies and procedures for payment of bills on time and payment of interest penalties when payments are made late.
- .02 Treasury Financial Manual (TFM), Parts 4 and 6, Volume I, provides disbursement guidelines and cash management principles for Federal agencies.
- .03 Federal Acquisition Regulation (FAR), Subparts 32.9, 52.232, and 52.237 concerning payment policies, payment clauses, advance payments, progress payments, and partial payments.
- .04 General Accounting Office (GAO) Manual for Guidance of Federal Agencies, Title 7, provides guidelines and principles for fiscal operations of Federal agencies.
- .05 Office of Management and Budget (OMB) Circular A-125, "Prompt Payment," prescribes policies and procedures to be followed by executive departments and agencies in paying for goods and services acquired from contractors.
- .06 Prompt Payment Act, as amended by Public Law 100-496, requires Federal agencies to pay their bills on time, to pay interest and penalties when certain payments are made late, and to take discounts only when payments are made within the discount periods.
- .07 Packers and Stockyards Act of 1921, Section 2(a)(3) [7 U.S.C. 182(3)] specifies that payment for meat or meat food products will be made as close as possible to, but not later than, the seventh (7th) day after the date of product delivery. This was further defined by Public Law 98-181 to include poultry, poultry products, eggs and egg products.
- .08 Perishable Agricultural Commodities Act of 1930, Section 1(4) [7 U.S.C. 499a(4)] specifies that payment for perishable agriculture commodities will be made as close as possible to, but not later than, the tenth (10th) day after the date of product delivery, unless another day is specified in the contract.
- .09 Dairy Production Stabilization Act of 1983 [7 U.S.C. 4502(e)] requires payment for dairy products, fats, oils, and related food products to be made not later than ten (10) days after the date on which a proper invoice is received.
- .10 Contracts Disputes Act of 1978, Section 12 [41 U.S.C. 611] requires the Secretary of the Treasury to publish the Renegotiation Board Interest Rate.
- .11 Federal Property Management Regulations, Subpart 101-41.4, "Standards for the Payment of Charges for Transportation Services Furnished for the Account of the United States," sets forth standards for the payment of charges for the transportation of persons or property for or on behalf of the United States.
- .12 Department of Commerce Administrative Payments Manual outlines the procedures and documents required for payments processed through the Department of Commerce Administrative Payments System.
- .13 Small Business Act [15 U.S.C. 644(k)] requires the Department of Commerce Office of Small and Disadvantaged Business Utilization to provide assistance to small contractors in obtaining payments due them including late payment interest and additional penalties.

SECTION 5. DEFINITIONS.

- .01 **Acceptance.** The acknowledgement by the Government that goods and services received conform with the requirements of the purchase agreement.
- .02 **Applicable Interest Rate.** The interest rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 [41 U.S.C. 611]. This rate is called the "Renegotiation Board Interest Rate," the "Contract Disputes Act Interest Rate," and the "Prompt Payment Act Interest Rate" and is published semiannually on or about January 1 and July 1 of each year. The latest rate can be obtained from Treasury by calling Area Code (202) 566-5651.
- .03 **Contract Financing Payment.** Payments made prior to the acceptance of supplies or services including

contracts or architect-engine er contracts) based on a percentage or stage of completion, and interim payments on cost-type contracts. These do not include invoice payments or payments for partial deliveries.

.04 Contractor. Any person or organization engaged in a profession, trade, or business; and not-for-profit entities (including educational institutions and State and local governments, but excluding Federal entities) operating as contractors.

.05 Day. Represents calendar day(s), including weekends and holidays, unless otherwise indicated.

.06 Designated Billing Office. The office or employee named in the purchase agreement to first receive invoices.

.07 Designated Payment Office. The finance office named in the purchase agreement for payment of invoices.

.08 Due Date. The date on which Federal payment must be made. If the due date falls on a nonworking day (e.g., Saturday, Sunday, Federal holiday), then due date means the next working day. Determination of such dates is discussed in Section 7.05 of this Order.

.09 Discount Date. The date by which, if payment is made, a specified discount can be taken.

.10 Payment Date. The date of the check issued in payment or the date a wire transfer is made.

.11 Proper Invoice. A bill or written request for payment provided by a contractor for goods or services rendered. A proper invoice must be prepared in accordance with contractually specified provisions and meet the requirements outlined in Section 7.02.b. of this Order.

.12 Purchase Agreement. Any enforceable agreement including rental and lease agreements, purchase orders, contracts, SF-44s, training requests, delivery agreements, blanket purchase agreements and other agreements between NOAA and a contractor for the acquisition of goods or services.

.13 Receipt of Invoice. See Section 3.03 of this Order.

.14 Receiving Report. The written evidence of acceptance of goods or services by a Government official. Receiving reports must meet the requirements outlined in Section 7.04.d. of this Order.

SECTION 6. RESPONSIBILITIES.

.01 Director, Office of Administration shall:

a. establish and maintain procedures covering the payment process to assure that invoices are reviewed, processed, and paid in accordance with applicable regulations and the terms and conditions of the purchase agreement; (These procedures must include provisions for routinely responding to contractor inquiries and complaints, determining the causes of any late payment interest and penalties paid, and for taking necessary corrective or disciplinary action to ensure compliance with the Prompt Payment Act and OMB Circular A-125.)

b. submit consolidated quarterly and annual prompt payment reports specified in Section 7.10 of this Order to the Department of Commerce, Office of Finance and Federal Assistance, and the Office of the Comptroller, Financial Management Division, by the due dates;

c. sign the annual prompt payment report, and

d. assure that timely bill payment is established as a rating criterion in ASC finance employees performance plans.

.02 Heads of Contracting Offices (HCOs), through designated Contracting Officers, shall:

a. assure that payment provisions, as outlined in Section 7 of this Order, are included in purchase agreements and that copies of all purchase agreements and modifications are furnished to the designated payment office

immediately upon award; (Purchase agreements covered by the Prompt Payment Act or other interest penalty terms must be clearly identified for the designated payment office.)

- b. review and approve invoices for payment or delegate such authority to other officials;
- c. determine the acceptability of goods and services delivered or delegate such authority to other officials;
- d. provide copies of delegations of authority to approve invoices to the designated payment office; (In most instances this information should be in the purchase agreement.)
- e. settle disputes between contractors and designated payment offices concerning late payment interest and additional penalties in accordance with contractual terms and conditions;
- f. assist designated billing and payment office personnel, as needed, to effect prompt and proper payments;
- g. ensure, as appropriate, that purchase agreements specify an acceptance period following delivery beginning with the date of delivery and ending on a precisely determinable date on which the goods or services are to be accepted or rejected, and
- h. ensure, whenever practical, that purchase agreements provide for payment of multiple invoices for multiple deliveries during the same performance period with one payment.

.03 ASC Finance Chiefs or designees shall:

- a. certify schedules for payment of invoices processed outside of the APS;
- b. approve invoices for payment when delegated authority to do so;
- c. date stamp or otherwise annotate receiving reports and invoices with the date received in the payment office;
- d. determine payment due dates of invoices, if applicable;
- e. compute discounts, late payment interest and additional penalties, if applicable;
- f. assure that payments are scheduled so that check issuance or wire transfer occurs as close as possible to the due date after receiving all of the documents needed to effect payment (thirty (30) days if not specified) or the discount date;
- g. determine on a case-by-case basis for specific invoices that payment should be made more than seven (7) days prior to the due date; (Written justification must be prepared in each case to provide an auditable record of the reasons.)
- h. ensure that invoices are proper and provide the contractor with oral but documented, or written notification of an improper invoice if notification was not given previously by the designated billing office or the Contracting Officer;
- i. assure that local procedures and practices result in prompt and proper payments and conform with the policies and procedures contained in this Order;
- j. prepare and submit reports required by Section 7.10 of this Order, and
- k. establish a quality control (QC) program to assess performance of payment systems and provide a reliable way to estimate performance. QC programs must fulfill the following requirements:
 - 1. QC must be a systematic performance measurement system in place throughout NOAA which provides managers information about problems and assists in targeting corrective action. QC data must be accurate to within established tolerances and should be used to fulfill the annual reporting requirements in Section 7.10 of this Order.

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2. Data should be gathered as frequently as needed by the ASC Finance Divisions to identify and correct errors. Rapidly changing situations may require frequent data collection.
3. Information must be collected through a process at least as thorough as the original payment decision process. QC reviewers must use original documents and repeat the original calculations.
4. Where the number of payment actions is too numerous to permit a total review, data should be gathered on the basis of a statistically valid sample sufficient to assure the reliability of QC reviews conducted, without unduly burdening ASC Finance Division resources.
5. Data must be collected by individuals who are independent from the original payment decision. Thus, first-line supervisory reviews, while an excellent way to improve processing, are not QC reviews.
6. Analysis of QC data will result in remedial action targeted to correct objectively determined error causes.

.04 Line Office/Staff Office (LO/SO) employees shall:

- a. monitor contractor performance and advise procurement and payment office officials when circumstances prevent invoice payment;
- b. approve invoices for payment in accordance with Section 7.04 of this Order when delegated the authority to be the designated billing office so that approved invoices or receiving reports are received by the designated payment office within five (5) working days after acceptance or notify the contractor within seven (7) days in accordance with Section 3.07 of this Order when invoices can not be approved; (If part of a delivery is acceptable and can be used independently of the defective goods or services, complete and forward a partial receiving report to the designated payment office. When the defect is corrected, a final receiving report or approved invoice must be promptly submitted to the payment office.)
- c. ensure that a longer acceptance period is specified in the procurement request (e.g., Form CD-435) if goods or services are being ordered which cannot be properly inspected and accepted within seven (7) days of receipt, (The acceptance period will be cited in the purchase agreement resulting from the procurement request.) and
- d. assure that acceptability of deliverables is determined within the contractually specified inspection period (or within five (5) working days of delivery where no inspection period is specified) and prepare the proper acceptance/rejection document indicating the date(s) of acceptance or nonacceptance when a purchase agreement provides for deliverables. (Receiving reports must be forwarded to and received by the designated payment office within five (5) working days after acceptance.)

.05 Comptroller, through the Chief, Financial Management Division (BF2), shall establish and maintain policies and procedures for the payment of invoices.

SECTION 7. PROCEDURES.

.01 General. Three documents are required to assure that payments are properly authorized and correct. There must be:

- a. a valid contract, purchase order, or similar purchase agreement;
- b. a proper invoice from the contractor, or in the absence of an invoice, specific contract authority, and
- c. a receiving report or comparable evidence stating that the goods or services ordered have been received, inspected, and accepted. (In the case where there is no product [e.g., progress payments, long-term research, cost-reimbursement, etc.], the contracting officer or designee must approve the request for payment.)

.02 Preparation of Invoices.

a. Invoices are to be prepared in accordance with the terms and conditions of the purchase agreement. The invoice should include the required contract identification numbers, specific listings of tasks or phases, as

b. A proper invoice must include:

1. the name of the contractor and the address where payment is to be sent;
2. the contract number or other Government authorization number for delivery of the goods or services (including order number and contract line item number);
3. the description, quantity, unit of measure, unit price, and extended price of goods and services delivered or rendered;
4. the shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms) and such other substantiating documentation required by the purchase agreement; (Bill of lading number and weight of shipment must be shown for shipments on Government bills of lading.)
5. the invoice date, and
6. the name (where practical), title, phone number, and mailing address of person to be notified in event of a defective invoice.

.03 Payment Provisions. Purchase agreements shall include, at a minimum, the following payment provisions:

- a. the payment due date(s) (thirty (30) days if not otherwise specified) and other payment terms as appropriate;
- b. if applicable, a statement that the special payment provisions of the Packers and Stockyards Act of 1921 [7 U.S.C. 182 (3)], the Perishable Agricultural Commodities Act of 1930 [7 U.S.C. 499a(4)], or the Dairy Production Stabilization Act of 1983 [7 U.S.C. 4502(e)] applies;
- c. a stated inspection period following delivery, where necessary, for Government acceptance of goods or services;
- d. the names, phone numbers, and complete mailing addresses of: the responsible official of the contractor; the office designated in the purchase agreement to receive invoices; the designated payment office; and the office responsible for responding to contractor payment inquiries and complaints if different than the designated payment office;
- e. the cash or trade discount, if any, and
- f. where appropriate, such as in blanket purchase agreements, purchase agreements should provide for payment of multiple invoices for multiple deliveries during the same performance period with one payment.

04. Designated Billing Office Payment Approval. The prepayment actions specified in this section must be performed with a minimum of delay to allow for timely payments.

- a. Upon receipt in the office designated in the purchase agreement to receive the invoice, the invoice shall be dated, stamped or otherwise annotated with the actual date received in that office.
- b. Invoices shall be identified for expedited action.
- c. Invoices shall be reviewed to make sure they are proper (see Section 7.02 of this Order) and then approved for payment if:
 1. the related deliverables have been received and accepted, or
 2. the Contracting Officer or his/her designee determines that the invoiced amount is payable under contractual terms and conditions when there is no specific deliverable (e.g., advance payments, progress payments, long-term research, or cost reimbursements, etc.). (In this case, provisional approval to make payment subject to final audit is acceptable.)

d. Receiving reports (or approved invoices used in place of receiving reports) must be forwarded in time to be received by the designated payment office by the fifth (5th) working day after acceptance of the goods or services. Receiving reports or approved invoices must include the following:

1. the contract or other Government authorization number;
2. a product or service description;
3. the quantities received and accepted, if applicable;
4. the date(s) goods or services were received;
5. the date(s) goods or services were accepted;
6. the signature (or electronic alternative when supported by appropriate internal controls), printed name, title, phone number, and mailing address of the authorized accepting/approving official, and
7. the proper accounting classification(s).

e. The payment offices shall pay invoices and presume the satisfactory delivery and acceptance of goods or services on the basis of the approval to make such payments from the Contracting Officer or his/her designee, the accepting/approving official.

f. The designated billing office has primary responsibility for notifying contractors of defective invoices within seven (7) days of invoice receipt unless earlier notification is required by the purchase agreement. (See Section 3.07 of this Order.) When submitting a corrected invoice to the payment office, a copy of the defective invoice annotated with the date it was returned to the contractor and a copy of the explanation provided to the contractor must be attached. The designated payment office and the Contracting Officer will notify contractors if defects in invoices are found during their reviews.

g. Requests for a progress payment under a construction contract must include:

1. the identification of the various elements of work required by the contract covered by the payment request;
2. a list of the amounts in the request included for each subcontractor;
3. the total amounts to be paid to those subcontractors under the contract;
4. the total payments previously made to each subcontractor;
5. additional supporting data in a form and detail required by the contracting officer, and
6. certification by the prime contractor that to the best of the prime contractor's knowledge and belief that:

(a) the amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(b) the payments to subcontractors and suppliers have been made from previous payments received under the contract and that timely payments will be made from the proceeds of the payment requested in accordance with their subcontract agreements and the requirements of Chapter 39, Title 31, U.S.C., and

(c) the request does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions set forth in their subcontract.

.05 Determining Payment Due Dates.

a. When a payment due date is specified in the purchase agreement, payment shall be made as close as possible to that date. A payment due date specified in the invoice will be ignored.

- b. In the absence of a contractually stipulated payment due date, payment shall be made as close as possible to the thirtieth (30th) day after receipt of the invoice. (See Section 3.03 of this Order.) A payment due date specified in the invoice will be ignored.
- c. When a time discount is taken, payment will be made as close as possible to the discount date. Discounts shall be taken from the date placed on the invoice by the contractor to the discount date. If a contractor did not place a date on the invoice and the designated billing office annotates the date of receipt, the discount period begins when a proper invoice is received by the designated billing office. Discounts will be taken whenever economically justified, consistent with Treasury regulations (1 TFM 6-8040.30). (See Exhibit 4 of this Order for criteria to be used in determining cost effective discounts.)
- d. Advance payments shall be made on the contractually stipulated payment days. If not stipulated, payment shall be timed with the contractor's actual immediate cash requirements for performing the contract work in accordance with Treasury regulations (1 TFM 6-2000). In the event that the Contracting Officer determines that an audit or other review of a specific payment request is necessary, the designated payment office is not compelled to make payment by the due date specified in the purchase agreement. Upon completion of the audit or review, any amounts authorized shall be paid by the original due date. If the original due date has passed, payment should be made as soon as possible.
- e. Progress payments and interim payments under cost reimbursement contracts (excluding construction contracts) shall be paid on the contractually stipulated due dates. If none are stipulated, payment shall be made as close as possible to the thirtieth (30th) day after receipt of the contractor's proper payment request. In the event that the Contracting Officer determines that an audit or other review of a specific payment request is necessary, the designated payment office is not compelled to make payment by the due date specified in the purchase agreement. Upon completion of the audit or review, any amounts authorized shall be paid by the original due date. If the original due date has passed, payment should be made as soon as possible.
- f. Progress payments under construction contracts (including monthly percentage-of-completion progress payments or milestone payments for completed phases, increments, or segments of any project) shall be made as close as possible to the fourteenth (14th) day after the date a proper payment request is received unless another date is specified in the construction contract.
- g. Section 322(a) of the Transportation Act of 1940 [49 U.S.C.66] provides that payment for the transportation of persons or property for, or on behalf of, the United States by a carrier or forwarder shall be made within thirty (30) days of presentation of such bills and before audit by the Administrator of the General Services Administration or his/her designee. The payment of these bills shall be contingent upon timely presentation as required by the statute of limitation set forth in 49 U.S.C. 66 and in accordance with guidance contained in the regulation referenced in Section 4.11 of this Order.
- h. Payment for meat and meat food products shall be made as close as possible to the seventh (7th) day after the date of product delivery unless another date is specified in the purchase agreement.
- i. Payment for perishable agriculture commodities shall be made as close as possible to the tenth (10th) day after the date of product delivery unless another date is specified in the purchase agreement.
- j. Payment for dairy products shall be made as close as possible to the tenth (10th) day after the date on which a proper invoice is received. Dairy products includes, at a minimum, liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, edible fats or oils, and food products prepared from edible fats or oils such as mayonnaise, salad dressings, and other similar products.
- k. On a final invoice where the payment amount is subject to contract settlement actions (e.g., audit of costs, disposition of government property, release documents, etc.), acceptance occurs on the effective date of the contract settlement by the Contracting Officer. Payment of a proper final invoice shall be made as close as possible to the thirtieth (30th) day after the date of contract settlement unless the contract specifies otherwise.
- l. Payment of a final invoice not subject to contract settlement actions shall be made as close as possible to the payment due date specified in the purchase agreement. If there is no contractually specified payment due

date, then payment shall be made as close as possible to the thirtieth (30th) day after receipt (see Section 3.03 of this Order) of a proper final invoice unless a time discount is taken.

m. Payment for partial deliveries of goods or partial performance of services which are accepted shall be made by the due date specified in the purchase agreement. Without a contractually specified due date, payment shall be made as close as possible to the thirtieth (30th) day after receipt of the invoice. (See Section 3.03 of this Order.) A payment due date specified in the invoice will be ignored.

n. When mixed invoices are received containing items with different due dates, payments may be split in order to meet the due date for each item. Interest must be paid if some items are paid for after their due date. Contractors should be encouraged, but not required, to submit separate invoices for items with different payment periods.

.06 Calculation of late payment interest and additional penalties on invoices subject to the Prompt Payment Act shall be determined using the following guidelines:

a. The applicable interest rate for calculating interest penalties is established by the Secretary of Treasury under Section 12 of the Contract Disputes Act of 1978 [41 U.S.C. 611] except where the interest rate is prescribed by other governmental authority (e.g., tariffs).

b. Whenever a proper invoice (or periodic payment where no invoice is required) is paid after the due date, interest will be included with the payment at the applicable interest rate in effect on the day after the payment due date. (See Exhibit 1 of this Order.)

c. Interest will be computed from the day after the due date through the expected payment date and the amount will be stated separately on the check or accompanying remittance advice. The late payment must be accompanied by a notice of the amount of the interest penalty included in the payment, the interest rate used to compute the penalty, and the number of days used to compute the penalty. The purchase agreement number should also be included in the notice to assist the contractor in reconciling the payment. Payments are considered to be made on the date of the check or wire transfer and calculation of interest penalties will be made on the best estimate of that date. Adjustments will be made for errors in estimating the date of the payment, if requested. When an interest penalty owed is not paid, interest will accrue on the unpaid amount for one (1) year or until paid whichever occurs first. Interest penalties remaining unpaid for any thirty (30) day period will be added to the principal, and interest penalties thereafter will accrue monthly on the total of principal and previously accrued interest.

d. Whenever a discount is taken after the discount date, an interest penalty will be calculated on the amount of the discount taken, for the period beginning the day after the end of the discount date through the payment date. (See Exhibit 2 of this Order.)

e. A contractor must be notified of an improper invoice within seven (7) days from the date the invoice is received (three (3) days for meat and meat food products, and five (5) days for perishable agricultural commodities, dairy products, and edible fats and oils). The number of days allowed for payment of the corrected proper invoice will be reduced by the number of days notification was delayed beyond the seven (7), three (3), or five (5) days, as applicable. Calculation of interest penalties, if any, shall be based on an adjusted due date reflecting the reduced number of days allowable for payment. (See Exhibit 3 of this Order.)

f. An **additional penalty (see Section 3.04.f. of this Order)** is required when the contractor is owed a late payment interest penalty and the payment office fails to pay the interest penalty within ten (10) days after making the late payment and the contractor makes a written request no later than forty (40) days after the date of the payment.

1. The additional penalty shall be equal to one hundred (100) percent of the original late payment interest penalty effective January 22, 1990.

2. The maximum additional penalty shall be \$2,500 for two (2) years from January 22, 1990 and then after January 22, 1992, the maximum shall be \$5,000. The minimum additional penalty shall be \$25 regardless of the amount of the late payment penalty. Maximum and minimum penalties shall be determined for each

separate payment made for each separate contract. The penalty shall not be based on individual invoices unless the invoices are paid by separate payment. Where penalties are consolidated for disbursing purposes, the penalty determination shall be made separately for each contract.

3. The contractor must specifically identify the invoice for which late payment interest is overdue and request payment of all late payment interest penalty and additional penalty. Attached to the contractor's request must be a copy of the invoice as well as certification that payment for the principal has been received and its date of receipt. The request must be postmarked by the fortieth (40th) day after payment was made. If there is no postmark, the request will be valid if it is received and annotated with the date of receipt by the billing office by the fortieth (40th) day. If the billing office fails to annotate the request, the request will be valid if the contractor placed the date of mailing on the request by the fortieth (40th) day.

4. The additional penalty does not cease to accrue at the end of one (1) year.

.07 Special Payment Office Procedures for Interest Penalties.

a. When an invoice is received in the designated payment office and it is determined that an interest penalty must be paid, the payment office will:

1. annotate the invoice with the interest penalty amount and the precise account to be charged, and
2. record an obligation and expense for the interest penalty in FIMA along with the proper reason code and object classification. The reason code explains the cause of the late payment interest penalty.

.08 Certification of Payment Schedules.

Payment office officials appointed as Certifying Officers shall verify the following items before schedule certification:

- a. the existence and correctness of the facts cited in the invoice and that the invoice is proper; (See Section 7.02 of this Order.)
- b. the legality of the proposed payment under the appropriation or fund involved;
- c. the correctness and accuracy of the payment due date and other computations involved such as late payment interest, additional penalties, and discounts, and
- d. the invoice has been approved for payment by the Contracting Officer or designee or the deliverable has been received and accepted.

.09 Designation of Invoice Approval to Other Agencies.

- a. In some instances, NOAA may designate another agency or cognizant audit agency to first receive invoices and may delegate to that agency the authority to approve invoices for payment.
- b. Agencies designated to receive invoices must date the invoices or payment requests to show when received. This represents constructive receipt by NOAA and the date to be used in timing payments.
- c. Agencies authorized to approve payments must forward the approved invoices to the designated payment office for payment processing.

.10 Reporting. a. In order to comply with the requirements of OMB Circular A-125, "Prompt Payment," the ASC directors shall submit three (3) quarterly reports and one (1) cumulative annual fiscal year-end report in the proper format to the Office of Administration, Procurement and Finance Division. (See Exhibit 5 of this Order.) The reports are due the twentieth (20th) of the month following the end of each fiscal quarter. The reports will include only the information for FIMA payments.

b. To lessen the cost of reporting, statistical sampling as illustrated in Appendix A of DAO 203-31 may be used to derive the information required except the data on interest and additional penalties paid. This data must

SECTION 8. EFFECT ON OTHER ISSUANCES.

This Order supersedes NOAA Administrative Order (NAO)203-31, issued October 17, 1989, in its entirety.

SIGNED,

Comptroller

Attachments:

Exhibit 1 - Proper Invoice Paid Late

Exhibit 2 - Improper Discount Taken

Exhibit 3 - Improper Invoice Returned to Contractor Late

Exhibit 4 - Determining Cost Effective Discounts

Exhibit 5 - Administrative Support Center Prompt Payment Report

Office of Primary Interest:
Office of the Comptroller
Financial Management Division (BF2)