

CHAPTER 39—PROMPT PAYMENT

Sec.	
3901.	Definitions and application.
3902.	Interest penalties.
3903.	Regulations.
3904.	Limitations on discount payments.
3905.	Payment provisions relating to construction contracts.
[3906.]	Repealed.]
3907.	Relationship to other laws.

AMENDMENTS

1998—Pub. L. 105-362, title XIII, §1301(c)(2)(C), Nov. 10, 1998, 112 Stat. 3293, struck out item 3906 “Reports”.

1988—Pub. L. 100-496, §9(b), Oct. 17, 1988, 102 Stat. 2463, added item 3905 and redesignated former items 3905 and 3906 as 3906 and 3907, respectively.

§ 3901. Definitions and application

(a) In this chapter—

(1) “agency” has the same meaning given that term in section 551(1) of title 5 and includes an entity being operated, and the head of the agency identifies the entity as being operated, only as an instrumentality of the agency to carry out a program of the agency.

(2) “business concern” means—

(A) a person carrying on a trade or business; and

(B) a nonprofit entity operating as a contractor.

(3) “proper invoice” is an invoice containing or accompanied by substantiating documentation the Director of the Office of Management and Budget may require by regulation and the head of the appropriate agency may require by regulation or contract.

(4) for the purposes of determining a payment due date and the date upon which any late payment interest penalty shall begin to accrue, the head of the agency is deemed to receive an invoice—

(A) on the later of—

(i) the date on which the place or person designated by the agency to first receive such invoice actually receives a proper invoice; or

(ii) on the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or performance of the services is actually completed, as the case may be, unless—

(I) the agency has actually accepted such property or services before such 7th day; or

(II) the contract (except in the case of a contract for the procurement of a brand-name commercial item for authorized resale) specifies a longer acceptance period, as determined by the contracting officer to be required to afford the agency a practicable opportunity to inspect and test the property furnished or evaluate the services performed; or

(B) on the date of the invoice, if the agency has failed to annotate the invoice with the date of receipt at the time of actual receipt by the place or person designated by the agency to first receive such invoice.

(5) a payment is deemed to be made on the date a check for payment is dated or an electronic fund transfer is made.

(6) a contract to rent property is deemed to be a contract to acquire the property.

(b) This chapter applies to the Tennessee Valley Authority. However, regulations prescribed under this chapter do not apply to the Authority, and the Authority alone is responsible for carrying out this chapter as it applies to contracts of the Authority.

(c) This chapter applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service.

(d)(1) Notwithstanding subsection (a)(1) of this section, this chapter, except section 3907 of this title, applies to the District of Columbia Courts.

(2) A claim for an interest penalty not paid under this chapter may be filed in the same manner as claims are filed with respect to contracts to provide property or services for the District of Columbia Courts.

(3)(A) Except as provided in subparagraph (B), an interest penalty under this chapter does not continue to accrue for more than one year or after a claim for an interest penalty is filed in the manner described in paragraph (2), whichever is earlier.

(B) If a claim for an interest penalty is filed in the manner described in paragraph (2) and interest is not available for such claims under the laws and regulations governing claims under contracts to provide property or services for the District of Columbia Courts, interest will accrue under this chapter as provided in paragraph (A) and from the date the claim is filed until the date the claim is paid.

(4) Paragraph (3) of this subsection does not prevent an interest penalty from accruing on a claim if such interest is available for such claim under the laws and regulations governing claims under contracts to provide property or services for the District of Columbia Courts. Such interest may accrue on an unpaid contract payment and on the unpaid penalty under this chapter.

(5) Except as provided in section 3904 of this title, this chapter 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 business concern over the amount of payment or compliance with the contract. A claim related to the dispute, and any interest payable for the period during which the dispute is being resolved, is subject to the laws and regulations governing claims under contracts to provide property or services for the District of Columbia Courts.

(Added Pub. L. 97-452, §1(18)(A), Jan. 12, 1983, 96 Stat. 2474; amended Pub. L. 100-496, §2(a)-(c)(1), Oct. 17, 1988, 102 Stat. 2455; Pub. L. 105-277, div. A, §101(c) [title I, §162(a)], Oct. 21, 1998, 112 Stat. 2681-121, 2681-148; Pub. L. 105-362, title XIII, §1301(c)(2)(A), Nov. 10, 1998, 112 Stat. 3293.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3901(a)	31 App.:1805.	May 21, 1982, Pub. L. 97-177, §§6, 7(c), 96 Stat. 87, 88.
3901(b)	31 App.:1806.	