ligated to pay a late payment interest penalty (other than under construction contracts), that the Federal Government has accepted property or services by the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is delivered or final performance of the services is completed, unless the solicitation specifies a longer period which is 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.

''(4) The limitation that the Federal Government may take a discount offered by a contractor for early payment by the Federal Government only in accordance with the time limits specified by the contractor, determined in accordance with the second sentence of section 3904 of title 31, United States Code.

''(5) The requirements of section 3902(c) of title 31, United States Code.

''(6) The requirements of section 3903(a)(6) of title 31, United States Code.

''(7) The requirements of section 3905 of title 31, United States Code.

''(c) The regulations required by subsection (a) of this section shall be published as proposed regulations for public comment as provided in section 22 of the Office of Federal Procurement Policy Act ([former] 41 U.S.C. 418b) [now 41 U.S.C. 1707] within 120 days after the date of the enactment of this Act [Oct. 17, 1988].''

EDIBLE FRESH OR FROZEN POULTRY MEAT, PERISHABLE POULTRY MEAT FOOD PRODUCTS, FRESH EGGS, AND PERISHABLE EGG PRODUCTS

Pub. L. 98–181, title II, § 2002, Nov. 30, 1983, 97 Stat. 1297, to the extent that it provided that the terms ''meat'' and ''meat food products'' as used in 31 U.S.C. 3903(2) also included edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products, was stricken by Pub. L. 100–496, § 13(b), Oct. 17, 1988, 102 Stat. 2465, applicable to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after Oct. 17, 1988.

§ 3904. Limitations on discount payments

The head of an agency offered a discount by a business concern from an amount due under a contract for property or service in exchange for payment within a specified time may pay the discounted amount only if payment is made within the specified time. For the purpose of the preceding sentence, the specified time shall be determined from the date of the invoice. The head of the agency shall pay an interest penalty on an amount remaining unpaid in violation of this section. The penalty accrues as provided under sections 3902 and 3903 of this title, except that the required payment date for the unpaid amount is the last day specified in the contract that the discounted amount may be paid.

(Added Pub. L. 97–452, § 1(18)(A), Jan. 12, 1983, 96 Stat. 2476; amended Pub. L. 100–496, § 8, Oct. 17, 1988, 102 Stat. 2460.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3904	31 App.:1802.	May 21, 1982, Pub. L. 97–177, § 3, 96 Stat. 86.

The word ''otherwise'' is omitted as surplus. The words ''may pay the discounted amount'' are substituted for ''may make payment in an amount equal to the discounted price'' to eliminate unnecessary words. The words ''on such unpaid amount'' and ''the

regulations prescribed pursuant to'' are omitted as surplus. The words ''specified in the contract that the discounted amount may be paid'' are substituted for ''of the specified period of time described in subsection (a)'' for clarity.

Editorial Notes

AMENDMENTS

1988—Pub. L. 100–496 inserted after first sentence ''For the purpose of the preceding sentence, the specified time shall be determined from the date of the invoice.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–496 applicable to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after Oct. 17, 1988, see section 14(a) of Pub. L. 100–496, set out as a note under section 3902 of this title.

§ 3905. Payment provisions relating to construction contracts

(a) In the event that a contractor, after making a certified payment request to an agency pursuant to section 3903(b) of this title, discovers that a portion or all of such payment request constitutes a payment for performance by such contractor that fails to conform to the specifications, terms, and conditions of its contract (hereafter in this subsection referred to as the ''unearned amount''), then the contractor shall—

(1) notify the agency of such performance deficiency; and

(2) be obligated to pay the Government an amount equal to interest on the unearned amount (computed in the manner provided in section 3903(c) of this title), from the date of the contractor's receipt of such unearned amount until—

(A) the date the contractor notifies the agency that the performance deficiency has been corrected; or

(B) the date the contractor reduces the amount of any subsequent certified application for payment to such agency by an amount equal to the unearned amount.

(b) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract—

(1) a payment clause which obligates the prime contractor to pay the subcontractor for satisfactory performance under its subcontract within 7 days out of such amounts as are paid to the prime contractor by the agency under such contract; and

(2) an interest penalty clause which obligates the prime contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (1) of this subsection—

(A) for the period beginning on the day after the required payment date and ending