

CHAPTER 1. POLICY AND DEFINITIONS

- 1-1 PURPOSE. This policy is based on the revisions to the Office of Management and Budget (OMB) Circular A-125 "Prompt Payment." This policy delegates responsibility and prescribes guidance for paying property and services procured under HUD contracts.
- 1-2 AUTHORITY. Public Law 97-177 (the Prompt Payment Act), as amended, requires Federal agencies to pay bills on time, to pay interest penalties when bills are paid late, to take discounts only when payments are made within the discount period, and to avoid paying bills early except to realize a cash discount. The legislation directs OMB to prescribe regulations for agencies to use in developing internal policies and procedures.
- 1-3 APPLICABILITY. List of specific payments subject to the Prompt Payment act is shown on page 2-1.
- 1-4 DEFINITIONS. The definitions are consistent with those in Circular A-125. Where appropriate, terms have been adapted to customary HUD usage for purposes of clarity.

ACCOUNTING OFFICE - The HUD component organization responsible for the proper submissions to Treasury for preparation of checks, Schedule of Payments, wire transfers and for reconciling and controlling the distribution of the subsidiary ledger posting media. In Headquarters, the Office of Finance and Accounting (OFA) and the Government National Mortgage Association (GNMA) are responsible. In the Regional Offices, the Accounting Divisions are responsible. For those payments made by a HUD contractor, the contractor's payment processing office is the accounting office.

ACCEPTANCE - Acknowledgment that property and services received conform with the requirements of the contract.

ADVANCE PAYMENTS - Payments made prior to and in anticipation of contract performance as a means of providing financing to the contractor. They are the least preferred method of contract financing and their use at HUD may only be authorized by the Director, Office of Procurement and Contracts (OPC), with the concurrence of the Director, OFA or the President of GNMA, whichever is applicable. (NOTE: GNMA has its own contracting authority and may exercise this right whenever deemed appropriate.) Because they are not measured by contract performance, they differ from, and should not be confused with, provisional payments, partial payments or progress payments.

APPLICABLE INTEREST RATE - The interest rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 USC 611) except where the interest

penalty is prescribed by other Government authority (e.g., tariffs).

CERTIFYING OFFICER (FIELD OFFICE) - Employee authorized to certify payment vouchers to OFA.

CERTIFYING OFFICER (OFA/RAD) - Employee authorized to certify payment to the U. S. Treasury.

CONSTRUCTIVE ACCEPTANCE - The period of time HUD shall have to inspect and accept deliveries under a contract, if no acceptance period is specified in the contract or purchase order. For purposes of calculating interest payments, constructive acceptance shall occur 7 days after delivery unless a longer constructive acceptance period is specified in the contract/purchase order documents (e.g., those awarded by OPC, GNMA, and the Regional Contracting Officers generally specify a constructive acceptance period of 14 days).

CONTRACT - An enforceable agreement, including lease and rental agreements, purchase orders, delivery agreements, blanket purchase agreements, and confirming orders (verbally placed orders by an authorized official), between HUD and a business concern for the procurement of goods or services.

CONTRACTOR - A person or organization engaged in a profession, trade or business, and any non-profit entity (including state and local Governments, but excluding Federal entities) operating as contractors to HUD.

DAY - Calendar day(s), including weekends and holidays, unless otherwise indicated.

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DELIVERY DATE - The date on which HUD receives the goods or services.

DESIGNATED APPROVING OFFICE - The HUD component organization or employee responsible for reviewing and approving for payment invoices which require advance approval.

DESIGNATED BILLING OFFICE - The office or employee--Governmental or Nongovernmental--designated in the contract to first receive invoices.

DISCOUNT DATE - The date by which a specified discount can be properly taken (deducted) when payment is made.

DUE DATE - The date on which HUD must make payment for goods or services subject to the Prompt Payment Act in order to avoid the payment of interest penalties.

IMPROPER INVOICE - Any invoice that does not contain the essential

elements as prescribed in subparagraph 3-1 A.1.g.

INTEREST PENALTY - The amount of the prompt payment penalty, calculated in accordance with this policy, that is added to an invoice that is paid after the due date.

PARTIAL PAYMENTS - Payment made for partial delivery of accepted property or partial performance of accepted services.

PAYMENT DATE - The date on which a check for payment is dated or the date on which an Electronic Fund Transfer (EFT) payment is received by the contractor's financial institution (settlement date).

PROCURING OFFICE - The HUD component organization responsible for the award and administration of contracts to acquire goods and/or services for the Department's benefit. In Headquarters, these are: OPC; the Management Branch of the Office of Multifamily Housing Management (originator of national contracts in support of Housing's acquired property program); and GNMA. OPC and Housing Management Branch are responsible for establishing procedures to ensure their Field counterparts' compliance with this handbook.

PROGRESS PAYMENTS - Payments based on a percentage or stage of completion/delivery of goods/services. They are generally authorized in construction contracts and fixed-price supply contracts of a production (manufacturing) nature. As such, their use at HUD is rare.

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PROPER INVOICE - A bill or voucher or other written request for payment provided by a business concern for goods or services rendered. A proper invoice must meet the requirements of subparagraph 3-1 A.1.g.

PROVISIONAL PAYMENTS - Payments made under cost-reimbursement contracts on the basis of costs incurred by the contractor as work progresses. Generally, these costs are billed for and paid on a monthly basis and are subject to adjustments based on costs questioned by the contracting officer, GTR, or Government auditors.

RECEIPT OF INVOICE DATE - The later of:

- The date a proper invoice is actually received and date-stamped by the designated billing office.
- The date on which HUD accepts the property or services (or the 7th calendar day following delivery of the property or services, if acceptance is not specified in the contract).
- The date of the invoice if the date of receipt is not stamped on the invoice at the time it is received by the designated billing

office. The "30-calendar day clock" commences on the receipt of invoice date. The time required for HUD's internal approvals, examinations or processing is included in the 30-day period.

RECEIVING FACILITY - Office or place where delivered goods are received.

RECEIVING OFFICE - HUD office which received goods or services.

RECEIVING REPORT - Written evidence of acceptance of goods or services by a HUD official, including inspection reports if appropriate (e.g., the Form HUD-27045, Invoice Approval for Contract/Purchase Order and Training, is used with the invoice in Headquarters in lieu of a receiving report).

REFUND - Repayment for some service or property formally contracted for.

REIMBURSEMENT - Repayment of costs incurred by an individual or entity on behalf of the Department.

1-5 POLICY. It is the policy of the Department that:

- A. All component organizations, including the Office of the Controller of the Government National Mortgage Association,

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involved in requisitioning, contracting, purchasing, receiving, inspecting, approving, certifying, and making payment for goods and services under HUD contracts shall comply with the provisions of this handbook. The specific responsibilities of each component are listed in this handbook.

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