

CHAPTER 10. PROMPT PAYMENT TO VENDORS AND EMPLOYEES OF THE STATE OF OKLAHOMA THROUGH THE PAYMENT OF INTEREST ON LATE PAYMENTS

[Authority: 75 O.S., §§ 250 et seq.; 62 O.S., §§ 41.4(a) et seq.]

[Source: Codified 12-27-91]

SUBCHAPTER 1. GENERAL PROVISIONS

260:10-1-1. Purpose

(a) It is the policy of the State of Oklahoma to promptly pay for the goods and services purchased by and delivered to the various agencies, boards, commissions, and institutions of this State, and travel expenses incurred by employees of this State upon good faith presentation of sufficient claims for the sums due and owing. To this end, the Director of the Office of Management and Enterprise Services is directed to establish procedures to expedite payment of proper invoices and travel claims and to provide for the payment of interest on proper invoices and claims for reimbursement for cost of travel incurred by state employees which are not paid by an agency, board, commission, or institution within forty-five (45) days of receipt by the appropriate office of such State entity. [62 O.S. §§34.71, 34.72; 74 O.S. §500.16A]

(b) The procedure to expedite payment has been determined by the Director to involve only internal procedures of the Office of Management and Enterprise Services, or of the agencies subject to the statutes, and thereby not appropriate for rulemaking under Title 75 of the Oklahoma Statutes, Section 250 et seq. Payment of interest to a vendor and employee of the state who is aggrieved by delay in payment beyond the forty-five (45) day limit does not affect a private right of citizens of Oklahoma who do business with the State and is quite appropriately the subject of rulemaking. The rules of this chapter set forth the limitations, time frames and guidelines for vendor and employee claims for payment of interest on late payment.

[Source: Amended at 30 Ok Reg 1112, eff 7-1-13]

260:10-1-2. Definitions

The following words and terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Agency" means any department, office, board, commission or institution of the State.

"Director" means the Director of the Office of Management and Enterprise Services.

"Employee" means any individual whose reimbursement for travel expense is computed and subject to the State Travel Reimbursement Act, except:

(A) Those individuals due compensation for travel or other services subject to the Central Purchasing Act.

(B) Individuals providing services to the state for which compensation is not paid on a payroll including volunteers and/or recipients of public assistance programs.

"Make payment" means to mail, transmit, or deliver settlement to a vendor.

"Proper claims" means any individual whose reimbursement for incurred expenses for travel supported by all requisite documentation and complete in all respects for processing for

payment, in accordance with the State Travel Reimbursement Act, and covers periods of travel beginning November 1, 1986, or later.

"Proper invoice" means any invoice which is complete in all requirements for processing for payment in accordance with the terms of appropriate contracts or purchase orders and applicable State or Federal statutes, including but not limited to such documentation as may be required. This definition shall include properly documented, standard, notarized claim forms, commonly known as "Form 3 Claims."

"Receipt of a proper claim" means actual receipt of the proper claim by the first office or official in an agency where the employee is required to submit the claim, by agency procedures, to obtain reimbursement for travel expenses.

"Receipt of a proper invoice" means actual receipt of the proper invoice by the payment office designated by the agency in appropriate contracts or purchase orders.

"Vendor" means any supplier of goods or services to the State, except:

- (A) employees of the State for payroll, travel, or other reimbursement purposes;
- (B) recipients of entitlement or benefit payments;
- (C) recipients of grant funds from agencies who are acting as the administrative vehicle by which the grant funds are passed through to the grantee; and
- (D) vendors providing goods or services in conjunction with public construction are specifically excluded from these procedures.

[Source: Amended at 30 Ok Reg 1112, eff 7-1-13]

260:10-1-3. Scope

(a) The laws of Oklahoma, at 61 O.S. 1981, Section 101 et seq., the "Public Competitive Bidding Act of 1974," as amended, provide specific legislative direction when interest is appropriate on claims under public construction contracts. Contracts executed prior to November 1, 1983, may contain express "interest," provisions which are at variance with the procedures developed pursuant to 62 O.S. Section 34.71 et seq. (See for example, Attorney General Opinion No. 83-120). Accordingly, only payments under contracts bid and awarded after November 1, 1983, are encompassed by the procedures promulgated under the authority conferred by 62 O.S., Section 34.71 et seq.

(b) This chapter is not intended to supersede or replace other Federal or State statutes regarding interest, nor statutes prohibiting interest on late payments, nor judgments or settlements that provide for payment of interest.

(c) The Director, in concert with the State Treasurer, shall make continuing studies of policies and procedures of these central offices, make changes when necessary to modernize systems with emphasis in expediting procurement, claim settlement, and warrant issuing, and, when appropriate, recommend changes to existing laws or proper new laws to accomplish this end.

[Source: Amended at 30 Ok Reg 1112, eff 7-1-13]

SUBCHAPTER 3. VENDOR AND EMPLOYEE INTEREST CLAIM PROCEDURES

260:10-3-1. Agency Payments

Agencies shall implement internal procedures to insure that they will make payment to vendors or employees within forty-five (45) days of receipt of a proper invoice or proper claim. If an agency fails to make payment within the forty-five (45) days, the vendor or employee shall be entitled to claim interest.

[Source: Amended at 30 Ok Reg 1112, eff 7-1-13]

260:10-3-2. Calculation of 45-day payment period

The following apply in the calculation of a 45-day payment period:

(1) The clock shall begin to run thirty (30) days after the later of the date of proper invoice, the receipt of a proper invoice by the agency, or the receipt of the goods or services in an acceptable condition specified by the contract or purchase order, or in the case of employee travel claims, the clock shall begin to run thirty (30) days after the date of receipt of a proper claim by the authorized office or official of the agency.

(2) The clock shall end when the agency makes payment.

260:10-3-3. Calculation of interest

The rate of interest for failure of an agency to make payment as specified in 260:10-3-1 shall be based on the per annum, computed on a 360-day calendar, per \$100 per day. The rate of interest normally changes on July 1st of each year depending on the average interest rate for thirty day time deposits of State funds during the last calendar quarter of the last preceding fiscal year. The rate of interest shall be computed on a 360-day calendar. The State Treasurer shall report to the Director on July 1st of each year what the average interest rate was for the previous calendar quarter. The Director shall notify all agencies and publish on the OMES website what the interest rate shall be for the next fiscal year beginning July 1st.

[Source: Amended at 30 Ok Reg 1112, eff 7-1-13]

260:10-3-4. Deadline for employee or vendor claims

A vendor or employee shall claim interest within ninety (90) days of receiving a late payment by transmitting a proper invoice to the agency which shall itemize all calculations for interest claimed. The agency shall make payment to the vendor or employee within forty-five (45) days.

260:10-3-5. Vendor claims and attachment orders

The number of days vendor claims are held by the Director in conjunction with attachment orders issued by the Oklahoma Tax Commission shall be excluded from any delinquency periods or interest calculations.

260:10-3-6. Change Orders

Amendments to purchase contracts, commonly known as Change Orders, for overshipments of goods accepted by an agency, shall be considered independent from the original contract for purposes of interest entitlement as provided by this chapter except that the clock shall begin with the date the amendment (Change Order) is approved for that portion of the contract only. This section does not preclude a vendor from submitting a proper invoice for goods and services provided in conjunction with the terms of the original contract. It also does not preclude an agency from "marking down" an otherwise proper invoice which includes such

overshipment to the amount specified in the original contract, in order to expedite payment to the vendor for the original contract quantity.

260:10-3-7. Invoices

An agency shall have ten (10) working days to notify or return to a vendor or employee an improper invoice or improper claim; otherwise, the clock will start to run as provided in 260:10-3-2(1), as if the agency had received a proper invoice or proper claim. This also applies to invoices for interest claimed by a vendor or employee as provided in 260:10-3-4.

[Source: Amended at 30 Ok Reg 1112, eff 7-1-13]

260:10-3-8. Discrepancies in interest calculations

If an agency and a vendor or employee are in disagreement over interest claimed by the vendor or employee, the vendor or employee may file a grievance as follows:

- (1) A statement of the grievance along with a copy of the invoice for interest claimed that was submitted to the agency shall be transmitted to the Office of the Governor, 212 State Capitol, Oklahoma City, Oklahoma 73105.
- (2) The Office of the Governor shall transmit the grievance to the Director.
- (3) The Director shall have fifteen (15) days from his receipt of the grievance to notify the aggrieved vendor or employee and the agency and to conduct a hearing in accordance with Title 75, Section 309 of the Oklahoma Statutes.
- (4) The Director may appoint a hearing officer to conduct the hearing. The hearing officer shall make a recommendation to the Director on or before the 12th day after receipt of the grievance. The Director, after review of the record, shall issue an order on or before the 15th day and notify the parties.
- (5) If the Director finds in favor of the vendor or employee, the agency shall prepare and submit a claim within 24 hours to be processed for payment. If the Director finds in favor of the agency, no claim need be processed.
- (6) A copy of the final order will be transmitted to the vendor or employee, the agency, and the Office of the Governor.