

FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554 FCC DIRECTIVE	Title	
	Prompt Payment Procedures	
	Directive Number	Effective Date
	FCCINST 1040.4	April 2020

1. **PURPOSE:**

To supplement the Prompt Payment rules as implemented by 5 CFR Part 1315 by detailing the Federal Communications Commission's ("FCC" or "Commission") responsibilities.

2. **CANCELLATION:** This instruction supersedes and cancels FCCINST 1040.3 dated April 2016.

3. **SCOPE AND APPLICABILITY:** This directive applies to all FCC Bureaus and Offices.

4. **AUTHORITY:**

- a. The Prompt Payment Act 31 U.S.C. §§3901-3907, as implemented in 5 CFR Part 1315.
- b. The Contracts Disputes Act of 1978 (41 USC § 601).
- c. Federal Acquisition Regulation, 48 CFR 32.9
- d. Treasury Financial Manual (TFM) Volume 1 Part 4A Chapter 2000 (Overall Disbursing Rules for Federal Agencies).

5. **BACKGROUND:**

The Prompt Payment Act (Act) requires Federal agencies to pay bills on time, to pay interest and additional penalties when payments are late, and to take discounts only when payments are made within the discount period. Implementation of the Act is intended to result in timely payments, better business relationships with suppliers, improved competition for Government business, and reduce costs to the Government for goods and services. Implementation must be consistent with sound cash management practices and related Treasury regulations.

6. **POLICY:**

The Commission will comply with the requirements of 5 CFR Part 1315 and will make payments as close as possible to, but not later than, the due date. Payments will be based on the receipt of a proper invoice in the designated billing office and satisfactory performance of contract terms. Payments made after the required due date may be subject to interest penalties. Discounts taken after the applicable discount period has expired may be subject to interest penalties. Interest penalties paid without the vendor requesting them will be absorbed within the funds available to the Commission each fiscal year. Additional funds may not be requested to cover interest penalties incurred because of late payments.

7. RESPONSIBILITIES:

- a. Managing Director: The Managing Director is responsible for the administrative management of the Prompt Payment program at the Commission.

- b. Associate Managing Director — Financial Operations: The Associate Managing Director for Financial Operations, the Commission's Chief Financial Officer (CFO), under authority delegated by the Managing Director, is responsible for ensuring that all payment documents are processed in accordance with the Prompt Payment Act 5 CFR Part 1315, including the following:
 - (1) Issuing internal procedures. Ensuring that internal procedures will include provisions for monitoring the cause of late payments and any interest penalties incurred, taking necessary corrective action, and handling inquiries.

 - (2) Internal control systems. Ensuring that effective internal control systems are established and maintained as required by Office of Management and Budget (OMB) Circular A-123, "Management's Responsibility for Internal Control. "

 - (3) Financial management systems. Ensuring that financial management systems comply with OMB guidance.

 - (4) Timely payments and interest penalties. Ensuring timely payments and payment of interest penalties where required (accelerated payments are implemented subject to OMB guidance).

- c. Enterprise Acquisition Center (EAC):
 - (1) That sufficient information is contained on procurement documents to establish adequate documentation for prompt payment, to prevent late payment and associated interest and to take discounts where appropriate. Contracts shall contain the appropriate payment Federal Acquisition Regulation (FAR) Clauses and instructions to comply with the Prompt Payment FAR Part 32.9 regulations, policies and procedures.

 - (2) Periodically assessing operational programs.

d. Assistant Bureau Chiefs for Management ABCs :

- (1) Ensuring that all goods and services that are received by their staffs and for which they have responsibility are in good working order and/or meet the terms of the purchasing contract. All required invoice approval forms are to be forwarded to the appropriate office within three (3) work days after receipt unless separate arrangements are made. Invoices submitted via email/mail go directly to TOG to be processed and submitted to the Contract Officer Representative (COR) for approval prior to making a payment. Invoices submitted via IPP go directly to the COR for approval.
 - (a) The goods or services received must be inspected within five (5) business days of receipt and if found to be in error, with defect or other impropriety, the receiving report should **NOT** be signed. The B/O designated receiving official should **NOT** contact the vendor without notifying the EAC and advising them of any and all discrepancies. After notification has been given to the EAC, the receiving official should prepare a written notification to the vendor advising that payment may be delayed and that the 30-day or specific contract payment date may be canceled. Following resolution of the problem, forward form A-105 to TOG.
- (2) Designating, in writing, a specific staff member (designated receiving official) and alternate to coordinate and monitor the purchasing and receipt cycles within the B/O. This individual should be familiar with all outstanding purchase orders and contracts and be able to act as a contact person with the EAC and TOG within 15-days of receipt of this directive.
- (3) Ensuring that the performance standards, performance contracts and appraisals of affected responsible employees contain the necessary language to ensure that these requirements are met.
- (4) Working with TOG to correct areas of late processing of documents and taking necessary corrective or disciplinary action, as appropriate.

e. Financial Operations - Travel and Operations Group (TOG):

- (1) Establish procedures to ensure that:
 - (a) Payment documents are processed in a timely manner (5 CFR Part 1315).
 - (b) Discounts are taken only when payments are made within the discount period. Discounts taken after the applicable discount period has expired may be subject to an interest penalty (5 CFR §§1315.4(c)(2)).
 - (c) Interest penalty calculations, if applicable, are consistent with 5 CFR §1315.10.
- (2) Return an improper invoice to the vendor explaining the rejection reason(s).
 - (a) Taxpayer identification number.

- (b) Vendor name, invoice number, account number, and/or any other identifying number agreed to by contract.
 - (c) Banking information, unless agency procedures provide otherwise, or except in situations where electronic funds transfer (EFT) requirement is waived under 31 CFR §208.4.
- (3) Establish a program for monitoring the causes of interest penalties incurred and discounts lost, and take necessary action to improve the performance of personnel at fault including corrective or disciplinary action, as appropriate (5 CFR §1315.3(a)).
- (4) Research interest penalties that exceed \$25.00 and determine the reason(s) for the late payment(s). A letter will be sent to the designated Contracting Officer's Representative (COR) and COR supervisor notifying them of the penalty and the reason(s).
- f. Financial Operations - Financial Systems Operations Group (FSOG): The FSOG Chief is responsible for establishing financial management systems to provide complete, timely, reliable, useful and consistent financial management processes, information and reports as required by OMB guidance.
- g. Office of Inspector General: Office of The Inspector General responsibilities include ensuring that the Inspector General and his or her staff or contractors review payment performance and system accuracy, consistent with the Chief Financial Officers (CFO) Act requirements. (5 CFR §1315.3(d)).
8. EFFECTIVE DATE AND IMPLEMENTATION: This directive is effective immediately and shall be implemented promptly upon distribution.



Mark Stephens
Managing Director