



Illinois Department of Transportation

Division of Highways / Bureau of Construction
2300 South Dirksen Parkway, Springfield, Illinois 62764

Subject:
Interest for Late Payment

CONSTRUCTION MEMORANDUM 12-80

Effective: **January 1, 2012**

Expires: **Indefinite**

The purpose of this memorandum is to establish guidelines for the payment of interest penalties when the Department fails to make progress payments to contractors within the time frames established by the contract. Highway construction contracts have always been considered exempt from the Prompt Pay Act (Act). The Department has elected to mimic certain parts of the Act, and associated Administrative Rules, through the development of this policy and the resulting procedures.

Article 109.07 of the Standard Specifications for Road and Bridge Construction states: *At least once each month, the Engineer will make a written estimate of the amount of work performed in accordance with the contract, and the value thereof at the contract unit prices. The amount of the estimate approved as due for payment will be vouchered by the Department and presented to the State Comptroller for payment.*

For the purposes of calculating interest the proper bill date will be the date a proper estimate was received into the Bureau of Construction (BOC).

For all pay estimates processed within the normal two day processing period the log date will be used as the proper bill date. When an invoice is not processed within the normal two day processing period, the proper bill date will be changed from the log date to the actual date the estimate was received into the BOC.

In order to establish a proper bill date, the District will be responsible for submitting a pay estimate to the BOC at least every 30 days when the contractor has performed work. Exceptions would include:

1. The work has a value less than \$1000.
2. Bills for Force Account work have not been submitted by the contractor.
3. The work is not paid for separately.
4. The job has been suspended.
5. The work is not acceptable.
6. The contractor is in liquidated damages.

The Department of Transportation will calculate and pay interest on all Construction Contract invoices, based on estimated quantities of work performed, that payment was not made within 90 days of the proper bill date.

Any bill approved for payment must be paid within 90 days of receipt of an estimate. If payment is not issued to the payee within this 90 day period, an interest penalty of 1.0% per month shall be paid for each month or fraction thereof after the end of this 90 day period, until the payment is made. For the purpose of this policy, a month is defined as 30 days.

1. Interest is calculated at the rate of 1% per month. This results in a daily interest factor of .00033 (01/30).
2. For each day payment is late, the amount late shall be multiplied by the daily interest factor to determine the late payment charge.
3. The interest penalty shall be simple interest and not compound interest, meaning that the interest penalty is computed on the amount of the bill only and shall not include previously accrued interest.
4. Interest shall begin accruing on the 91st day after receipt of an estimate and shall continue to accrue until the bill is paid by the Comptroller's Office.
5. Interest shall not accrue on the Date of Payment. In the event the Date of Payment is the same date that interest begins to accrue, there shall be no interest payable by the State for purposes of efficiency to the State.

Interest will not be paid to the contractor from the contract obligation. Therefore no contract change authorizations will need to be completed to cover these additional costs.

Interest payments will be calculated and paid using the Department's FOA system, based on the proper bill date as supplied by BCM, and the warrant/electronic transfer date as supplied by SAMS. When the difference between the warrant date and the proper bill date is greater than 90 days, an interest payment will be made on the days in excess of 90.

Invoices are normally posted into the BCM system within 24 work hours of receipt unless the previous payment has not cleared the system or at the end of the Fiscal year when the system does not allow payments to be logged until the appropriation data has been rolled to reflect new fiscal year.

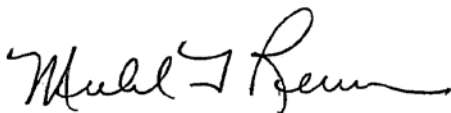
The Central Bureau of Construction will determine the number of days a payment is past due by implementing the following procedures:

1. All pay estimates will be time stamped the day they are received at BOC.
2. The e-mail date will be the date received for all electronically submitted estimates.
3. Estimates submitted by mail will be manually time stamped on the signature page of the pay estimate.
4. Pay estimates shall be logged the day they are received.
5. The BCM system will be modified to include a proper bill date that will be uploaded into FOA at the time the approved invoice is loaded into FOA.

6. Anytime an estimate can't be processed for reasons stated in this Construction Memorandum, the proper bill date will be modified to reflect the date the issue was resolved.
7. Prior to any interest payments being paid, a review will be performed to assure interest is actually due.

Interest payments will not be made in certain circumstances or when a progress payment is delayed due to the contractor failing to perform any requirement, obligation, or term of the contract. These include but are not limited to instances when:

1. Liens have been filed pursuant to Section 23(c) of the Mechanics Lien Act, 770 ILCS 60/23(c).
2. Payments are being held due to railroad insurance issues.
3. Interest payments are less than \$100.
4. Progress payments with a calculated value of less than \$100.
5. Interest will not be paid on an interest payment.
6. Final Payments.



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