

University of Wisconsin System

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Task or Process: Prompt Pay Interest Penalty		Revision Date: As needed
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Prompt Pay Interest Penalty (Ref. State Procurement Manual PRO-E-6)

1. The UW System must pay interest on its invoices not paid or disputed within 30 days (earlier if required for a specific commodity by statute or contract) after receipt of a properly completed invoice or receipt and acceptance of the property or service (whichever is later).
2. Interest must be computed and paid on invoices not paid within 30 days of receipt unless:
 - a. Payment is from federal funds (14x).
 - b. Another statute, law or contract language takes precedence.
 - c. The vendor is another state agency.
 - d. A timely notice of a good-faith dispute is sent to the vendor. "Timely" in this case means within 30 days, unless otherwise specified on an official purchase order or contract.

NOTE: Prompt pay good-faith dispute notices may be delivered by phone if the institution has a continuing working relationship with the vendor and the vendor agrees to this procedure. A record of the dispute should be attached to the vouchered transactions.

- e. A notice of an improperly completed invoice is sent to the vendor within 10 working days after receipt of the invoice.
3. Determining when the prompt pay clock starts:
 - a. For both **invoices applicable to purchase orders** and **direct charge invoices** (i.e. no purchase order), the prompt pay clock starts when the invoice is received in the office where the vendor has been instructed to send it. The invoice should be stamped with the date received. If the invoice is not date stamped, the clock starts at the invoice date.
 - b. If the vendor sends an invoice to the wrong campus address, the vendor shall be notified of this improperly completed invoice within 10 working days of the date that the invoice was received on campus. The starting date for interest calculation would then be the date the notification was mailed. If the vendor is not notified within 10 working days, the starting date would be the date the invoice was received on campus.

- c. If an invoice is received for an unauthorized purchase, the clock will not start until the purchase has been authorized by the Purchasing Authority.
- d. When invoices are being accumulated to clear an outstanding credit memo, the vendor should be notified of it if the invoices are expected to be held for more than 30 days. The prompt pay time period would start when the accumulated invoices equal or exceed the credit memo. If the balance due the vendor is paid late, the interest penalty would be calculated only on the net balance due.
- e. If a vendor submits invoices after individual purchases and also submits a monthly statement, the "invoice received" date would be the date the invoices were received unless the vendor has given approval to use the date the statement was received. The vendor's approval to use the statement received date should be documented on the voucher.
- f. For leases, licensed software, subscriptions, maintenance agreements, etc., which cover a time period, such as a year, the goods or services received date is considered to be the beginning of the period unless the vendor has agreed to other terms.
- g. Subscription/Membership Renewals:
 - 1. For **automatic** subscription/membership renewals where the vendor continues to send new issues or continues membership privileges while awaiting payment, the prompt pay clock starts at the beginning of the renewal period.
 - 2. For **conditional** subscription/membership renewals where the subscription/membership is cancelled if payment is not received by the vendor by a certain date, prompt pay does not apply. Refer to State Procurement Manual PRO-E-6, VII.D
- 4. Finance, interest and other late payment penalties noted on vendor's invoices which are not applicable to a contract law, or rule should be ignored. The interest penalties prescribed in Wis. Stats. 16.528, take precedence.

NOTE: Utility companies are authorized by the State Public Service Commission (PSC) to apply late payment charges if there is a clear indication on the bill of the amount of the late payment charge and the date after which it applies. They may charge either a monthly charge of no more than 1 1/2% per month compounded or a one time 3% charge. This charge cannot be applied sooner than 20 days after the bill was issued.

- 5. Payment is considered complete on the date the check is issued.
- 6. Prompt pay interest penalties under \$5.00 per transaction may be disregarded unless the vendor requests payment. The vendor may make the request either specifically or generally and either before the potential occurrence or subsequent to its accrual.

(b) Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies, insurance associations, and other persons carrying on a banking or insurance business.

(c) Personal representatives, guardians, trustees, and other fiduciaries.

(10) MORAL OBLIGATION PLEDGE. Recognizing its moral obligation to do so, the legislature expresses its expectation and aspiration that it shall make timely appropriations from moneys in the general fund that are sufficient to pay the principal and interest due with respect to any appropriation obligations in any year, to make payments of the state under agreements and ancillary arrangements entered into under sub. (4) (e), to make deposits into reserve funds created under sub. (3) (b) 3., and to pay related issuance or administrative expenses.

History: 2003 a. 33, 84, 326; 2007 a. 20, 226; 2009 a. 180.

16.528 Interest on late payments. **(1) DEFINITIONS.** In this section:

(a) “Agency” means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 237, 238, or 279.

(b) “Subcontractor” has the meaning given in s. 66.0901 (1) (d).

(2) INTEREST PAYABLE. (a) Except as provided in sub. (3) or as otherwise specifically provided, an agency which does not pay timely the amount due on an order or contract shall pay interest on the balance due from the 31st day after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later, or, if the agency does not comply with s. 16.53 (2), from the 31st day after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later, at the rate specified in s. 71.82 (1) (a) compounded monthly.

(b) For the purposes of par. (a), a payment is timely if the payment is mailed, delivered or transferred by the later of the following:

1. The date specified on a properly completed invoice for the amount specified in the order or contract.

2. Except as provided in subd. 3., within 45 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, or, if the agency does not comply with s. 16.53 (2), within 45 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later.

3. For orders or contracts entered into on and after the first day of the 3rd 12-month period beginning after February 1, 1987, within 30 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, or, if the agency does not comply with s. 16.53 (2), within 30 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later.

(2m) INTEREST PAYABLE TO SUBCONTRACTORS. (a) Except as provided in sub. (3) (e) or as otherwise specifically provided, principal contractors that engage subcontractors to perform part of the work on an order or contract from an agency shall pay subcontractors for satisfactory work in a timely fashion. A payment is timely if it is mailed, delivered or transferred to the subcontractor no later than 7 days after the principal contractor’s receipt of any payment from the agency.

(b) If a subcontractor is not paid in a timely fashion, the principal contractor shall pay interest on the balance due from the 8th day after the principal contractor’s receipt of any payment from

the agency, at the rate specified in s. 71.82 (1) (a) compounded monthly.

(c) Subcontractors receiving payment under this subsection shall pay lower-tier subcontractors, and be liable for interest on late payments, in the same manner as principal contractors are required to pay subcontractors in pars. (a) and (b).

(3) EXCEPTIONS. Subsection (2) does not apply to the following:

(a) Any portion of an order or contract under which the payment is made from federal moneys.

(b) An order or contract that is subject to late payment interest or another late payment charge required by another law or rule specifically authorized by law.

(c) An order or contract between 2 or more agencies except if the order or contract involves prison industries.

(d) An order or contract for services which provides for the time of payment and the consequences of nontimely payment.

(e) An order or contract under which the amount due is subject to a good faith dispute if, before the date payment is not timely, notice of the dispute is sent by 1st class mail, personally delivered or sent in accordance with the procedure specified in the order or contract. In this paragraph, “good faith dispute” means a contention by an agency that goods delivered or services rendered were of a lesser quantity or quality than ordered or specified by contract, were faulty or were installed improperly; or any other reason giving cause for the withholding of payment by the agency until the dispute is settled.

(4) APPROPRIATION FROM WHICH PAID. An agency which pays interest under this section shall pay the interest from the appropriation for administration of the program under which the order or contract was made or entered into unless payment from that appropriation is prohibited. Notwithstanding ss. 20.115 to 20.765, if payment from the appropriation for administration of the program is prohibited, the interest payment shall be made from a general program operations appropriation of the agency determined by the agency. If the program is administered from more than one appropriation, the interest payment shall be made from the appropriation or appropriations for program administration determined by the agency.

(5) REPORTS OF INTEREST PAID. Annually before October 1, each agency shall report to the department the number of times in the previous fiscal year the agency paid interest under this section, the total amount of interest paid and the reasons why interest payments were not avoided by making timely payment.

(6) ATTORNEY FEES. Notwithstanding s. 814.04 (1), in an action to recover interest due under this section, the court shall award the prevailing party reasonable attorney fees.

History: 1985 a. 300; 1987 s. 312 s. 17; 1987 a. 399; 1989 a. 233; 1991 a. 39; 1995 a. 27, 241; 1999 a. 150 s. 672; 2001 a. 16; 2001 a. 30 s. 108; 2005 a. 74, 335; 2007 a. 20, 97; 2009 a. 28; 2011 a. 7, 10.

16.529 Lapses and fund transfers relating to unfunded retirement liability debt service. **(1)** The definitions in s. 20.001 are applicable in this section.

(2) Notwithstanding ss. 20.001 (3) (a) to (c) and 25.40 (3), beginning in the 2007–09 fiscal biennium, during each fiscal biennium the secretary shall lapse to the general fund or transfer to the general fund from each state agency appropriation specified in sub. (3) an amount equal to that portion of the total amount of principal and interest to be paid on obligations issued under s. 16.527 during the fiscal biennium that is allocable to the appropriation, as determined under sub. (3).

(3) The secretary shall determine the amounts of the allocations required under sub. (2) as follows:

(a) The secretary shall first determine the total amount of Wisconsin Retirement System contributions that are to be paid by the state under s. 40.05 during the fiscal biennium.

(b) The secretary shall then determine the percentage of the total amount determined under par. (a) that is allocable to each

state agency appropriation from which Wisconsin Retirement System contributions under s. 40.05 are paid. The secretary shall exclude from this determination any appropriation from which a lapse or transfer to pay any principal or interest amount on obligations issued under s. 16.527 would violate a condition imposed by the federal government on the expenditure of the moneys or if the lapse or transfer would violate the federal or state constitution.

(c) For each appropriation identified under par. (b), the secretary shall then apply the percentage calculated under par. (b) to the total amount of principal and interest to be paid during the fiscal biennium on obligations issued under s. 16.527. This amount is the portion of the total amount of principal and interest paid on the obligations during that fiscal biennium that is allocable to each appropriation.

History: 2003 a. 33; 2005 a. 25; 2007 a. 5.

16.53 Preaudit procedure. The department of administration shall preaudit claims in accordance with the following procedures:

(1) **CLAIMS AGAINST STATE.** (a) *Audit.* The secretary is responsible for auditing claims against the state, when payment thereof out of the state treasury is authorized by law, except as provided in ss. 16.77 (1) and 20.920. The audit may be on a sample basis in accordance with generally accepted auditing standards. The secretary may delegate in writing the audit function to the head of any agency under terms and standards established by the secretary. The delegation shall be by mutual agreement and notice of the agreement shall be reported to the state auditor. If the secretary finds, through sample auditing, review of procedures, controls and any other audit techniques the secretary deems necessary, that the delegated function is not being performed according to the established auditing standards, the secretary shall in writing withdraw the delegated authority. In this subsection, “agency” has the meaning given under s. 16.52 (7).

(b) *Payrolls.* Payrolls, to be entitled to audit, shall be certified by the proper officers who shall set forth the nature of the services rendered by each person named therein.

(c) *Other claims.* Unless otherwise provided by law, all other claims to be entitled to audit shall:

1. Specify the nature and particulars thereof on an official or original invoice.

2. Conform with statutory provisions and be necessarily incurred in the performance of duties required by the state service.

4. Include the claimant’s affidavit, or statement under the penalties of perjury, setting forth that all items of traveling expenses were incurred in the performance of duties required by the public service, and that the amount charged for transportation or for other expenses incident to travel was actually paid out and that no part of such transportation was had upon a free pass or otherwise free of charge. The blank form of such travel voucher shall be prescribed by the secretary.

6. Exclude items of expenditure incurred while traveling outside the state by any officer or employee of any state department or institution thereof unless in the discharge of duties required by the public service.

7. Exclude out-of-state expenses of an officer or employee of any state department or institution except upon the order of the head of that department or institution. The department or institution head may determine whether such requests shall be made individually or periodically. The governor may require periodic reports on out-of-state travel made by the personnel of each state agency with such detail as the governor may desire. The governor, by executive order, may require the governor’s prior approval for out-of-state travel by members of any state department or institution of the executive branch.

9. Be approved by the proper state officer.

10. Exclude items of expenditure incurred by an employee of any state department while permanently located outside the state

unless prior approval of the department of administration has been obtained.

(ca) *Supervision of expenditures.* All departments shall diligently review and supervise the travel expenditures of their employees and may promulgate reasonable rules governing such expenditures. Such rules shall be consistent with the uniform guidelines established under s. 20.916 (8). Each claim shall be approved by the employee’s appointing authority, as defined in s. 230.03 (4), or the appointing authority’s authorized representative. The approval shall represent the concurrence with the accuracy, necessity and reasonableness of each expense. Claims so approved shall be audited by the department of administration in accordance with par. (a).

(cm) *Advancement of travel expenses.* The head of a state agency may advance money for travel expenses to employees. Any travel advance shall not exceed 80% of the estimated expense.

(d) *Salaries and benefits; when payable.* 1. The secretary, with the approval of the joint committee on employment relations, shall fix the time and frequency for payment of salaries due elective and appointive officers and employees of the state. As determined under this subdivision, the salaries shall be paid either monthly, semimonthly or for each 2-week period.

2. Costs for benefits under ch. 108 which are paid on an actual basis may be charged to and collected from agencies by the secretary on an estimated or premium basis, credited to appropriate appropriations, and paid from the appropriations on an actual basis. If a billing submitted by the department of workforce development for payment of a specific claim for benefits under s. 108.15 (7) remains unpaid by the agency to whom the billing is submitted for more than 60 days after the billing is transmitted to the agency by the secretary, the secretary may charge the cost of payment of the billing to the proper appropriation of the agency to whom the billing is submitted without authorization of the agency and notwithstanding any pending dispute concerning agency liability. If it is finally determined that an agency is not liable in whole or in part for payment of a billing previously submitted and paid, the secretary shall credit any refund received to the appropriation from which the billing was paid, if it is available for expenditure, or otherwise to the fund from which the billing was paid. Any credit to a sum sufficient appropriation shall be made only to the fund from which the appropriation is made. In addition, the secretary may charge agencies for the department’s costs of estimation, collection and payment of benefits under ch. 108 on a prorated basis in accordance with the percentage of costs attributable to each agency. Service charges shall be paid into the appropriation made under s. 20.505 (1) (ka).

3. In order to utilize modern accounting methods in processing payrolls, the department may convert and adjust salaries of all state officers and employees so that they are payable in equal payments throughout the year. To this end the secretary may promulgate rules necessary to administer this subdivision.

4. The secretary may promulgate rules pertaining to the administration of earnings garnishment actions under s. 812.42 whenever the state is the garnishee in such actions. In any earnings garnishment action where the judgment debtor is employed by the University of Wisconsin System, the secretary may require the appropriate payroll processing center for the University of Wisconsin System to directly process necessary forms, papers, deductions and checks, share drafts or other drafts in connection with such action.

(2) **IMPROPER INVOICES** If an agency receives an improperly completed invoice, the agency shall notify the sender of the invoice within 10 working days after it receives the invoice of the reason it is improperly completed. In this subsection, “agency” means an office, department, independent agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, that is entitled to expend moneys appropriated by law,

including the legislature and the courts, but not including an authority created in subch. II of ch. 114 or subch. III of ch. 149 or in ch. 231, 233, 234, 237, 238, or 279.

(3) **EXAMINATION OF CLAIMANTS.** The secretary may examine under oath the claimant or any other person relative to any claim presented against the state, and may require oral or written answers as to any facts relating to the justness of the claim, or as to the liability of the state.

(4) **AUDIT ORDER ENDORSED ON CLAIM; RECORD.** The order of the secretary auditing any claim shall be endorsed on or annexed to such claim, shall specify the amount allowed, the fund from which the same is payable, and the law that authorizes payment of such claim out of the treasury; and said order with the claim and all evidence relative thereto shall be filed and preserved in the secretary's office. The secretary may develop procedures to permit electronic compliance with any requirement under this subsection.

(5) **WARRANTS; WHAT TO SPECIFY.** The secretary shall draw a warrant on the state treasury payable to the claimant for the amount allowed by the secretary upon every claim audited under sub. (1), except as authorized in s. 16.52 (7), 20.920, or 20.929, specifying from what fund to be paid, the particular law that authorizes the claim to be paid out of the state treasury, and at the secretary's discretion the post-office address of the payee. No moneys may be paid out of the state treasury under this section otherwise than upon such warrants.

(6) **WARRANTS; SIGNATURES.** Whenever it is impracticable for the secretary to personally sign warrants issued on the state treasury, the secretary's name may be signed thereto by one or more persons in the secretary's department designated by the secretary or by the use of a mechanical device adopted by the secretary for affixing a facsimile signature; and the state treasurer, when written authority and reasons therefor are filed in the office of the state treasurer, shall honor warrants so signed, the same as if signed in person by the secretary, until such authority is revoked in writing.

(7) **CERTIFICATION OF BOARDS, EVIDENCE OF CORRECTNESS OF ACCOUNT.** The certificate of the proper officers of the board of regents of the University of Wisconsin System, the department of health services, or the proper officers of any other board or commission organized or established by the state, shall in all cases be evidence of the correctness of any account which may be certified by them.

(9) **TRANSFER OF FUNDS APPROPRIATED.** Whenever an appropriation has been made from the general fund in the state treasury to any other fund therein, the secretary may withhold the transfer of such appropriation or any part thereof from the general fund until the moneys required to pay outstanding claims are duly audited and disbursed. Such authority is not limited to the fiscal year of the appropriation if the liability is properly recognized and recorded.

(10) **PRIORITY OF CLAIMS.** (a) If an emergency arises which requires the department to draw vouchers for payments which will be in excess of available moneys in any state fund, the secretary, after notifying the joint committee on finance under par. (b), may prorate and establish priority schedules for all payments within each fund, including those payments for which a specific payment date is provided by statute, except as otherwise provided in this paragraph. The secretary shall draw all vouchers according to the preference provided in this paragraph. All direct or indirect payments of principal or interest on state bonds and notes issued under subch. I of ch. 18 and payments due, if any, under an agreement or ancillary arrangement entered into under s. 18.06 (8) (a) relating to any public debt contracted under subchs. I and IV of ch. 18 have first priority. All direct or indirect payments of principal or interest on state notes issued under subch. III of ch. 18 have 2nd priority. No payment having a 1st or 2nd priority may be prorated or reduced under this subsection. All state employee payrolls have 3rd priority. The secretary shall draw all remaining vouchers

according to a priority determined by the secretary. The secretary shall maintain records of all claims prorated under this subsection.

(b) Before exercising authority under par. (a) the secretary shall notify the joint committee on finance as to the need for and the procedures under which proration or priority schedules under par. (a) shall occur. If the joint committee on finance has not, within 2 working days after the notification, scheduled a meeting to review the secretary's proposal, the secretary may proceed with the proposed action. If, within 2 working days after the notification, the committee schedules a meeting, the secretary may not proceed with the proposed action until after the meeting is held.

(c) If the secretary prorates or establishes priority schedules for payments which are to be made to local units of government, he or she shall establish a procedure whereby any local unit of government which can demonstrate that it would be adversely affected by such action of the secretary may appeal to the secretary for a waiver from having its payment prorated or delayed. In establishing this procedure, the secretary shall consider a local unit of government adversely affected if it can demonstrate that the proration or delay would cause a financial hardship because the scheduled payment had been budgeted as a revenue to be available at the scheduled time of payment and the local unit of government would otherwise have insufficient revenues to meet its immediate expenditure obligations.

(e) The authority granted by this subsection may be exercised only after all other possible procedures have been used and are found to be insufficient, including the temporary reallocation of surplus moneys as provided in s. 20.002 (11).

(11) **INTEREST ON DELAYED PAYMENTS.** Payments, other than payments subject to s. 16.528, prorated or delayed under sub. (10) which are payable to local units of government shall accrue interest on the payment delay at a rate equal to the state investment fund earnings rate during the period of the payment delay. Payments subject to s. 16.528 prorated or delayed under sub. (10) past the due date shall not accrue interest. In this subsection, "local unit of government" means a county, city, village, town, school district, technical college district or any other governmental entity which is entitled to receive aid payments from this state.

(12) **TRAVEL EXPENSES.** (a) In this subsection:

1. "Agency" has the meaning given under sub. (2).

2. "Employee" means any officer or employee of the state who is entitled to reimbursement for actual, reasonable and necessary expenses.

(b) Each voucher claim for travel expenses shall be approved by the head of the employee's agency or that person's designee. Such approval represents concurrence with the necessity and reasonableness of each expense. Such approval shall accompany the travel voucher. The expense voucher shall be audited by the agency financial office and then submitted to the department for final audit before payment.

(c) The department may not approve for payment any travel vouchers which exceed the maximum travel schedule amounts which are established under s. 20.916 (8), except in unusual circumstances when accompanied by a receipt and full explanation of the reasonableness of such expense.

(d) The department may not approve for payment any travel vouchers which exceed the auto mileage rates set under s. 20.916 (4) (a) and (e).

(13) **FINANCIAL SERVICES.** (a) In this subsection, "agency" has the meaning given in s. 16.70 (1e).

(b) The department may charge any agency for accounting, auditing, payroll and other financial services provided to the agency, whether the services are required by law or performed at the agency's request.

(14) **REVIEW OF PROPOSED INCORPORATIONS AND ANNEXATIONS.** The incorporation review board may prescribe and collect a fee for review of any petition for incorporation of a municipality