§ 2880. Prompt payment. 1. Definitions. As used in this section, the following terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Corporation" means every public authority and public benefit corporation a majority of the governing board members of which are either appointed by the governor or serve as members by virtue of their service as an officer of a state department, division, agency, board or bureau, or combination thereof.

(b) "Contract" means an enforceable agreement entered into between a corporation and a contractor.

(c) "Contractor" means any person, partnership, private corporation or association:

(i) selling materials, equipment, or supplies or leasing property or equipment to a corporation;

(ii) constructing, reconstructing, rehabilitating or repairing buildings, highways or other improvements for or on behalf of a corporation; or

(iii) rendering or providing services to a corporation pursuant to a contract.

(d) "Designated payment office" means the office designated by the corporation to which a proper invoice is to be submitted by a contractor.

(e) "Prompt payment" means payment of a debt due and owing by a corporation before interest accrues thereon pursuant to a statement adopted in accordance with this section.

(f) "Proper invoice" means a written request for a contract payment that is submitted by a contractor setting forth the description, price and quantity of goods, property, or services delivered or rendered, in such form and supported by such other substantiating documentation as the corporation may reasonably require.

(g) "Receipt of an invoice" means (i) the date on which a proper invoice is actually received in the designated payment office, or (ii) the date on which the corporation receives the purchased goods, property, or services covered by the proper invoice, whichever is later.

(h) "Set-off" means the reduction by the corporation of a payment due to a contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the contractor to the corporation.

(i) "Statement" means the rules and regulations adopted by a corporation pursuant to subdivision two of this section and any amendments thereto.

2. Statement adoption. Within one hundred twenty days after either the effective date of this section or the beginning of the existence of the respective corporation, whichever is later, each corporation shall promulgate rules and regulations detailing its prompt payment policy.

3. Statement contents. (a) The statement shall include, but not be limited to, a reference to this section and the following for each type or category of contract as determined by the corporation:

(i) a description of the procedure to be followed by a contractor in requesting payment under a contract;

(ii) a schedule setting forth the time in which the corporation will make prompt payment under a contract;

(iii) a declaration that interest will be paid when prompt payment is not made and a statement of the rate at which such interest will accrue;

(iv) a list of the sources of funds available to the corporation to pay an interest penalty on each type or category of contract; and

(v) a list of facts and conditions which in the opinion of the corporation's governing body reasonably justify extension of the date by which contract payment must be made in order for the corporation not to become liable for interest payments in accordance with subdivision seven of this section.

(b) Such facts and conditions may include, but shall not be limited to, the following when:

(i) in accordance with specific statutory or contractual provisions, payment must be preceded by an inspection period or by an audit to determine the resources applied or used by a contractor in fulfilling the terms of the contract;

(ii) the necessary state government appropriation required to authorize payment has yet to be enacted;

(iii) a proper invoice must be examined by the federal government prior to payment; and

(iv) such date by which contract payment must be made is modified in accordance with subdivision eight of this section.

4. Statement amendment. Each corporation shall have the power to amend its statement by promulgating amended rules and regulations.

5. Statement filing. Each corporation shall, within thirty days after the statement's adoption, file a copy of such statement, and amendments thereto, with the state comptroller, the state director of the budget, the chairman of the senate finance committee, and the chairman of the assembly ways and means committee.

6. Contract incorporation. The statement in effect at the time of creation of a contract is hereby incorporated into and made a part of that contract.

7. Interest eligibility and computation. (a) In order for the corporation not to be liable for the payment of interest, contract payment must be made within thirty calendar days, excluding legal holidays, after the receipt of an invoice for the amount of the contract payment due; except when the contract payment is of the type where the facts and conditions are as defined pursuant to subparagraph (v) of paragraph (a) of subdivision three of this section. Any time taken to satisfy or rectify any of the facts or conditions described in subdivision three (except for subparagraph (iv) of paragraph (b) of subdivision three) of this section shall extend the date by which contract payment must be made in order for the corporation not to become liable for interest payments by an equal period of time.

(b) A corporation, which must process payments through the state department of audit and control, the department of taxation and finance, or some other entity not under the corporation's control, shall not be liable for interest due to the process time taken by such entity.

(c) Notwithstanding any other provision of law to the contrary, interest shall be computed at the rate equal to the overpayment rate set by the commissioner of taxation and finance pursuant to subsection (e) of section one thousand ninety-six of the tax law.

(d) A corporation shall not be liable for payment of interest when such interest as computed pursuant to the provisions of paragraph (c) of this subdivision is less than ten dollars.

8. Each corporation shall have fifteen calendar days after receipt of an invoice by the corporation at its designated payment office to notify the contractor of (a) defects in the delivered goods, property, or services, (b) defects in the invoice, or (c) suspected improprieties of any kind; and the existence of such defects or improprieties shall prevent the commencement of the time period specified in subdivision seven of this section. When a corporation fails to notify a contractor of such defects or suspected improprieties within fifteen calendar days of receiving the invoice, the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days between the fifteenth day and the day that notification was transmitted to the contractor. If the corporation, in such situations, fails to provide reasonable grounds for its contention that a defect or impropriety exists, the date by which contract payment must be made in order for the corporation not to become liable for interest payments shall be calculated from the date of receipt of an invoice.

9. Notwithstanding any provision of the public service law or any tariffs promulgated pursuant to that law to the contrary, the provisions of this section shall provide the sole basis for determining and making interest payments on invoices submitted by public utilities to corporations.

10. A proper invoice submitted by the contractor shall be required to initiate any payment, except where the contract provides that the contractor will be paid at predetermined intervals without having to submit an invoice for each such scheduled payment and, for the purposes of determining eligibility for payment of interest and subject to the exception and time-to-rectify provisions of subdivisions three and seven of this section, the date by which contract payment must be made in order for the corporation not to become liable for interest payments shall be the payment due date specified in accordance with the contract.

11. Annual report. (a) Each corporation shall annually prepare a report on the scope and implementation of its prompt payment policy which shall include, but not be limited to:

(i) A listing of the types or categories of contracts which the corporation entered into during the twelve month period covered by the report, together with a brief indication of whether each such type or category of contract was subject to the prompt payment requirements promulgated by the corporation and, if not, why not;

(ii) The number and amounts of interest payments made for contracts arranged according to each such type or category;

(iii) The number of interest chargeable days and the total number of days taken to process each late contract payment; and

(iv) A summary of the principal reasons that such late payments occurred.

(b) Within ninety days after the completion of its fiscal year, each corporation shall file copies of the report required by paragraph (a) of this subdivision with the state comptroller, the state director of the budget, the chairman of the senate finance committee, and the chairman of the assembly ways and means committee.

12. Public access. (a) Each corporation shall make available to the public, upon a reasonable request therefor, copies of its statement and annual report.

(b) Each contractor doing business with a corporation shall be given a copy of that corporation's statement.

13. Inapplicability of section. The provisions of this section shall not apply to payments due and owing by a corporation:

(a) under the eminent domain procedure law;

(b) as interest allowed on judgments rendered by a court pursuant to any provision of law other than those contained in this section;

(c) to the federal government; to any state agency or its instrumentalities; to any duly constituted unit of local government including, but not limited to, counties, cities, towns, villages, school districts, special districts, or any of their related instrumentalities; to any other public authority or public benefit corporation; or to its employees when acting in, or incidental to, their public employment capacity;

(d) in situations where the corporation exercises a legally authorized set-off against all or part of the payment due the contractor.

14. The provisions of this section shall not apply to the facilities development corporation or the state university construction fund.

15. Judicial review. Any determination made by a corporation pursuant to this section which prevents the commencement of the time in which interest will be paid shall be subject to judicial review in a proceeding pursuant to article seventy-eight of the civil practice law and rules. Such proceedings shall only be commenced in the absence, or upon completion, of other review procedures specified in the contract or by regulation.

16. Court action or other legal processes. (a) Notwithstanding any other provisions of law to the contrary, the liability of a corporation, insofar as incurring an obligation to make an interest payment to a contractor pursuant to the terms of this section is concerned, shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

(b) With respect to the court action or other legal processes referred to in paragraph (a) of this subdivision, any interest obligation incurred by a corporation after the date specified therein pursuant to any provision of law other than this section shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.