

NFTA Prompt Payment Rules and Regulations

The following prompt payment rules and regulations set forth provisions which are intended to improve relationships between the NFTA and its contractors, vendors and all those providing services or supplies through contractual relationship with the NFTA. These rules and regulations are promulgated consistent with directives set forth in section 2880 of the Public Authorities Law.

1. Definitions. As used in these rules and regulations, the following terms shall have the following meanings unless the context shall indicate another or different meaning or intent:
 - (a) "NFTA" means the Niagara Frontier Transportation Authority and its subsidiary corporations.
 - (b) "Contract" means an enforceable agreement entered into between the NFTA 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 the NFTA;
 - (ii) constructing, reconstructing, rehabilitating or repairing buildings, highways or other improvements for or on behalf of the NFTA; or
 - (iii) rendering or providing services to the NFTA pursuant to a contract.
 - (d) "Designated payment office" means the office designated by the NFTA to which a proper invoice is to be submitted by a contractor.
 - (e) "Prompt payment" means payment of a debt due and owing by the NFTA before interest accrues thereon pursuant to these rules and regulations.
 - (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 NFTA 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 NFTA receives the purchased goods, property or services covered by the proper invoice, whichever is later.
 - (h) "Set-off" means the reduction by the NFTA 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 NFTA.
 - (i) "Statement" means these rules and regulations.
2. Payment Request Procedure. The contractor shall submit a proper invoice to the NFTA's designated payment office. Said invoice shall be date stamped with the date the invoice is received.
3. Interest Eligibility and Computation. In order for the NFTA 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 defined pursuant to sections 5 and 6 of these rules and regulations. Any time taken to satisfy or rectify any of the facts or conditions described in section 5 of these rules and regulations shall extend the date by which contract payment must be made in order for the NFTA not to become liable for interest payments by an equal period of time. 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. The NFTA will not be liable for payment of interest when such interest is less than ten dollars.

4. Sources of Funds. All interest due and payable to contractors under these regulations will be paid from available revenue sources including the NFTA general funds.
5. Extensions. The facts and conditions which will reasonably justify extension of the date by which contract payment must be made in order for the NFTA not to become liable for interest payments are as follows:
 - (a) In accordance with specific statutory or contractual provisions, if payment must be preceded by an inspection period and/or an audit to determine the resources applied or used by the contractor in fulfilling the terms of the contract.
 - (b) If the necessary state government appropriation required to authorize payment has not been enacted, or when statutory, contractual or grant agreement provisions provide for prior federal review before the use of federal funds for payment.
 - (c) If payments must be processed through the State Department of Audit and Control, the State Department of Taxation and Finance, or some other entity not under the NFTA's control.
 - (d) If the date by which contract payment must be made is modified in accordance with section 6 herein.
 - (e) if the contract provides that the contractor will be paid at predetermined intervals.
6. Defects or Improprieties. The NFTA shall have fifteen calendar days after receipt of an invoice by the NFTA 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.

The existence of such defects or improprieties shall prevent the commencement of the time period specified in section 3. When the NFTA 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 than notification was transmitted to the contractor. If the NFTA, 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 NFTA not to become liable for interest payments shall be calculated from the date of receipt of an invoice.

7. Public Service Law. 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.

8. Public Access. There shall be public access as follows:
 - (a) Copies of these rules and regulations and the annual report shall be available as public record.
 - (b) Each contractor doing business with the NFTA shall be given a copy of these rules and regulations.
9. Inapplicability of Rules and Regulations. These rules and regulations shall not apply to payment due and owing by the NFTA:
 - (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 section 2880 of the Public Authorities Law;
 - (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 the NFTA's employees when acting in, or incidental to, their public employment capacity;
 - (d) in situations where the NFTA exercises a legally authorized set-off against all or part of the payment due the contractor.
10. These rules and regulations shall be incorporated into and made a part of all contracts.