

**THE NELSON A. ROCKEFELLER
EMPIRE STATE PLAZA PERFORMING ARTS CENTER CORPORATION
PROMPT PAYMENT POLICY**

BACKGROUND

Under the Public Authorities Law, Section 2880, Prompt Payment, it is required that an organization defined as a public authority must establish its own prompt payment policy covering the rules and regulations for the payment of debt and the liability of interest penalties on late payments. The Nelson A. Rockefeller Empire State Plaza Performing Arts Center Corporation (herein after referred to as the "Corporation"), is a public authority and must meet the requirements established under the Public Authorities Law. Therefore, the following are the rules and regulations detailing our prompt payment policy:

POLICY STATEMENT

According to section 2880, subsection 3, the types of contracts maintained by the Corporation are for personal services. The categories involved are as follows:

- 1) Artistic
- 2) Technical
- 3) Administrative

Full payment is issued at the time services are completed unless a mutually agreed upon payment schedule is in the contract. In the case of payment for an invoice, the Corporation considers that payment within 30 days of receipt of invoice will be considered timely, as long as all work/services have been completed to the satisfaction of the Corporation. As required in subsection 10, interest penalties will be applied when prompt payment is not made according to the agreed upon schedule and will be computed at the rate equal to the rate set by the state tax commission for corporate taxes as in accordance with section 2880, subsection 7, paragraph (c) of the Public Authorities Law and paragraph one of subsection (e) of section one-thousand ninety-six of the tax law. However, the Corporation shall not be liable for payment of interest when such interest as computed per the provisions of paragraph (c) of the Public Authorities law is less than ten (10) dollars.

If a definite payment schedule is not noted in the contract, a proper invoice must be supplied by the contractor in order to initiate payment. After July 1, 1989, the computation of interest penalties for late payments will be thirty days after the receipt of such invoice as required by subsection 7, paragraph (a). Interest shall not continue after the point judicial procedures are filed against the Corporation or failure to honor payment specified in a contract unless directed to do so by official court decision.

In accordance with subsection 3, article (v), the following is a list of conditions determined by the Corporation that shall serve as reasonable justification for extending the payment date after which time the Corporation would be liable for interest payments:

- 1) Defects or disapproval of services or merchandise supplies in which the Corporation shall have fifteen days to notify the contractor of such defects or disapproval according to subsection 8;
- 2) Any such contractual provisions that provide payment must be preceded by an inspection to determine materials used, and therefore, the cost of the services provided; and
- 3) Any other conditions the Corporation feels should be included.

The Corporation has the power to amend this policy as needed according to subsection 4 of section 2880 of the Public Authorities Law.

This statement shall be filed with the state comptroller, the state budget director, the chairman of the senate finance committee and the chairman of the assembly ways and means committee thirty days after its adoption by the Corporation Board of Directors as required in subsection 6.

ANNUAL REPORT

As required by subsection 11 of section 2880 of the Public Authorities Law, the Corporation must annually prepare and file a report on the prompt payment policy consisting of the following:

- 1) A listing of the categories of contracts entered into by the Corporation during the period covered by the report denoting those subject to the prompt payment policy and explaining those that were not;
- 2) The number and amount of any interest payments on contracts – these should be arranged by category;
- 3) The number of days that interest was charged and the total number of days taken to process any late payments during the fiscal year covered in the report; and
- 4) The reasons for any late payments.

Ninety days after the Corporation year-end, this report must be filed with the state comptroller, the state budget director, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. This report will be made available to the public and a copy should be given to any contractor doing business with the Corporation as required in subsection 12.