

# BUDGET LETTER

	NUMBER: 09-28
SUBJECT: LATE PAYMENT PENALTY RATES	DATE ISSUED: August 25, 2009
REFERENCES: GOVERNMENT CODE SECTIONS 926.19 AND 927 ET SEQ.; STATE ADMINISTRATIVE MANUAL (SAM) SECTION 8474 ET SEQ.	SUPERSEDES: BL 08-12

TO: Agency Secretaries  
Department Directors  
Departmental Budget Officers  
Departmental Accounting Officers  
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

This Budget Letter (BL) advises state departments of the current penalty rates and the daily penalty rates for late payment penalties. In addition, this BL announces recent changes to Government Code (GC) Section 927 et seq. which further clarifies that late payment penalties shall be paid if payment by a warrant or a registered warrant by the Controller or revolving fund check by agency is not issued within 45 calendar days from state departments' receipt of an undisputed invoice. *Late payment penalties shall not be paid when payees elect to return registered warrants to the state.*

The GC requires different penalty rates for late payments of:

- A. Invoices from small businesses or nonprofit organizations for goods/services, and invoices/claims from nongovernmental agency grantees, for those grants as defined in State Administrative Manual (SAM) Section 8474.4 (d).
- B. Invoices from other businesses for goods/services, and invoices/claims from governmental agency grantees, for those grants as defined in SAM Section 8474.4 (d).
- C. Other amounts due.

The California Prompt Payment Act (Act), GC Section 927 et seq., requires state departments to automatically calculate and pay the appropriate late payment penalties if they fail to pay properly submitted, undisputed invoices or claims on the date required by the Act. The Act applies to invoices for goods and/or services acquired by state departments and specific grant claims. *Late payment penalties subject to this section accrue on amounts due during Budget impasse, with the exception of amounts due to nonprofit public benefit corporations.*

Chapter 23, Statutes of 2009 (SB16), fourth extraordinary session, amends GC 927 et seq. to require late payment penalties to be paid if payment is not issued within 45 calendar days from state departments' receipt of an undisputed invoice (receipt date). In addition, payment is defined as the issuance by a warrant or a registered warrant by the Controller, or the issuance of a revolving fund check by agency. Late payment penalties shall be paid in accordance with GC Sections 927.6 for state departments and 927.7 for the Controller, as follows:

- State departments shall pay penalties if a correct claim schedule is not submitted to the Controller within 30 calendar days (or within the specified date in a contract or grant) following the receipt date **and** payment is not issued within 45 calendar days from receipt date.

- The Controller shall pay penalties if payment is not issued within 15 calendar days of receipt of the correct claim schedule **and** payment is not issued within 45 calendar days from state departments' receipt date.

The GC Section 926.19 requires state departments to pay interest on other types of undisputed payments such as refunds, unless otherwise provided for in statute. Interest is due 31 days after the department notifies the person or the person notifies the department of the payment. *Late payment penalties subject to this section do not accrue during Budget impasse.*

Late payment penalties incurred during fiscal year 2009-10 are subject to the following rates:

<b>GC Section 927 et seq.</b>	<b>Penalty Rate</b>	<b>Daily Penalty Rate</b>
A. Small businesses and nonprofit organizations (This rate <i>does not</i> change annually, GC 927.6a)	91.25%	0.0025
B. Other businesses, including local governments that administer defined grants (This rate changes annually, GC 927.6b)	3.224%	0.0000883

<b>USE GC Sec. 927 B. TO CALCULATE CAL-CARD LATE FEES</b>
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<b>GC Section 926.19</b> (This rate changes annually)	1.224%	0.0000335
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Late payment penalties incurred during fiscal year 2008-09 are subject to the following rates:

<b>GC Section 927 et seq.</b>	<b>Penalty Rate</b>	<b>Daily Penalty Rate</b>
A. Small businesses and nonprofit organizations (This rate <i>does not</i> change annually, GC 927.6a)	91.25%	0.0025
B. Other businesses, including local governments that administer defined grants (This rate changes annually, GC 927.6b)	5.325%	0.0001459
<b>GC 926.19</b> (This rate changes annually)	3.325%	0.0000911

To arrive at the daily penalty, multiply the amount due by the applicable daily penalty rate, as shown. The daily penalty is then multiplied by the number of days the payment is late to calculate the total penalty amount.

For additional information, please refer to the SAM Section 8474 et seq. and the Department of Finance, Fiscal Systems and Consulting Unit (FSCU) website: <http://www.dof.ca.gov/accounting/fscu/>.

If you have questions regarding this BL or other fiscal year rates, please contact the FSCU Hotline at (916) 324-0385 or by e-mail at FSCUHotline@dof.ca.gov.

/s/ Veronica Chung-Ng

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