

Erie County Fiscal Stability Authority

Resolution No. 10-12

APPROVAL OF PROMPT PAYMENT POLICY

WHEREAS, Chapter 182 of the New York Laws of 2005 created the Erie County Fiscal Stability Authority (“ECFSA”), to serve as a corporate governmental agency and instrumentality of the State of New York, and as a public benefit corporation to “oversee [Erie] County’s budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings and to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability;” and

WHEREAS, the ECFSA is a public authority of the State of New York and, as such, is governed by certain state laws that require the adoption of a prompt payment policy; and

WHEREAS, in order to comply with state law, it is necessary for the ECFSA to adopt a prompt payment policy, as required by section 2880 of the New York Public Authorities Law (“Public Authorities Law”);

WHEREAS, upon review of its current prompt payment policy finds that amendments are not needed at this time,

NOW, THEREFORE, BE IT RESOLVED, that the ECFSA hereby adopts the Prompt Payment Policy attached to this resolution; and

This resolution shall take effect immediately.

Stanley J. Keysa
Secretary

Date: March 19, 2010

Erie County Fiscal Stability Authority Prompt Payment Policy

(Adopted Pursuant to Section 2880 of the New York Public Authorities Law)

It is the policy of the Erie County Fiscal Stability Authority (the “Authority”) to pay promptly any valid outstanding obligation as soon as is practicable, within prescribed time frames. It is further the policy of the Authority to seek and utilize discounts offered by vendors as incentives for each payment.

I. Procedure for Requesting Payment

Any vendor seeking payment from the Authority for goods or services must submit to the Authority a proper invoice, as defined by Public Authorities Law section 2880(1)(f), which the Office Manager will process. The Authority’s Director of Administration will verify the validity of the invoice.

II. Schedule for Prompt Payment

The Authority will make payment on a contract designating a date for payment on or before such date. Otherwise, the Authority will make payment on a proper invoice within thirty (30) calendar days, excluding legal holidays, after the later of: (i) the date on which the Authority receives a proper invoice, or (ii) the date on which the Authority receives the purchased goods, property or services covered by the proper invoice.

Notwithstanding these provisions, the Authority’s duty to make prompt payment may be delayed or tolled for reasons identified below in Part V.

III. Rate of Interest When the Authority Fails to Make Prompt Payment

If the Authority fails to satisfy the Schedule for Prompt Payment described above in Part II, the Authority will pay interest at a rate equal to the overpayment rate set by the New York State Commissioner of Taxation and Finance pursuant to New York Tax Law section 1096.

IV. Funding Source for Payment of Interest

The Authority will pay interest with funds drawn from the Authority’s general fund, which funds most contracts entered into by the Authority.

V. Circumstances Justifying Extension of the Date for Prompt Payment

The following circumstances justify extension of the date by which the Authority must satisfy its duty to make prompt payment, in order to avoid liability for interest payments under section 2880(7) of the Public Authorities Law and Part III above:

- a. Pursuant to contract or statute, 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 underlying contract.
- b. The State of New York has failed to enact the appropriation necessary to authorize payment by the Authority.
- c. Pursuant to contract or statute, the federal government must examine a proper invoice prior to payment by the Authority.
- d. The date for prompt payment has been changed or tolled by operation of section 2880(8) of the Public Authorities Law.
- e. The contractor anticipating payment has failed to submit to the Authority any documents that the contractor has agreed to provide prior to payment.

VI. Amendment and Annual Reporting

The Authority may amend this Prompt Payment Policy from time to time. Annually, as required by section 2880(11) of the Public Authorities Law, the Authority will report on the scope and implementation of this Prompt Payment Policy.

VII. Governing Law

Any matters concerning prompt payment not otherwise addressed by this policy shall be interpreted consistently with section 2880 of Public Authorities Law.