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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

OSC No. 30

MEMORANDUM
RE
AN ACT

to amend the state finance law, in relation to the determination of eligibility for the payment of interest on amounts owed to contractors

PURPOSE: To meet the intent of the prompt contracting law by allowing the accrual of interest for a period of time a payment is delayed due to the fund or sub-fund from which the payment is to be made having insufficient cash.

SUMMARY OF PROVISIONS: Section 1 of this bill amends subdivision 2 of Section 179-f of the State Finance Law.

Section 2 sets forth an immediate effective date and clarifies that the act applies to invoices submitted on and after such date.

PRIOR LEGISLATIVE HISTORY: New bill.

JUSTIFICATION: New York's Prompt Payment Law (Article 11-A of the State Finance Law) was enacted in 1984. The intent of the law was to encourage the timely payment of obligations of the state. As stated in the Legislative Intent for such Law: "Firms and organizations that do business with the state of New York expect and deserve to be paid in a prompt and timely manner. Unjustified delays in paying vendors, construction contractors, and providers of service may discourage such firms and organizations from doing business with the state of New York and may ultimately increase the costs to the state government of purchasing materials, equipment, and supplies; undertaking construction and reconstruction projects; and obtaining a wide variety of professional and other specialized services including those that are provided to persons in need. Consequently, this legislation sets standards for the payment of bills incurred by state agencies within specified periods of time and requires interest payments in situations where contract payments do not conform to these standards. Consistent with accepted business practices and with sound principles of fiscal management, it is the intent of this legislation to encourage state agencies in all three branches of state government to make payments at least as expeditiously as they currently do and further to reduce existing payment processing times whenever feasible, while at the same time permitting the state agencies to perform proper and reasonable financial oversight activities designed to ensure that the state government receives the quality of goods and services to which it is entitled and to ensure that public funds are spent in a prudent and responsible manner."

Paragraph d of subdivision 2 of Section 179-f of the State Finance law extended the normal timeframes for making payments by the number of days a fund or sub-fund had insufficient cash to make the payment. It is believed that this section was included in the original legislation because of limitations within the Central Accounting System program in existence at the time of enactment rather than an intentional exclusion on the part of the Legislature. The recent upgrade to the Statewide Financial System (SFS) allows for the calculation of interest even if a fund or sub-fund has insufficient cash to make a payment. By deleting this outdated paragraph, the law and the operation of SFS would match the intent of the law.

The State Comptroller urges the passage of this proposed legislation.

<u>FISCAL IMPLICATIONS FOR STATE</u>: Based on estimates from fiscal year 2012-13 and 2013-14, the state would incur approximately $110,000 in interest annually by eliminating this exception.

<u>EFFECTIVE DATE</u>: This act shall take effect immediately.