

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
EXTENSION OF TIME AND INCREASED COSTS FOR INCENTIVE PROJECTS

CFS:BED

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APPR:MB:JJG 06-06-17
FHWA:APPR:06-08-17

a. Description. For incentivized work as noted by the Progress Clause, subsection 108.08 and subsection 108.09.C of the Standard Specifications for Construction do not apply. Extensions of Time and/or increased costs will be as described in this special provision.

b. Non-Excusable Delays. Non-excusable delays are non-compensable and will not be considered for any cost increases, acceleration costs, or extensions of time. Non-excusable delays include, but are not limited to:

1. Delays due to weather.
2. Delays due to the Contractor's, subcontractor's, or supplier's insolvency or mismanagement.
3. Delays due to delivery of materials.
4. Delays caused by plant and equipment failure or delays due to the Contractor's failure to provide and maintain equipment in good mechanical condition or to provide for immediate emergency repairs.
5. Delays caused by conditions on the project site, including traffic, accessibility, or environmental conditions that could have been foreseen or anticipated.
6. Delays due to the Contractor's failure to provide sufficient forces and equipment to maintain satisfactory progress in completing controlling operations.

Adjust labor and equipment resources and/or work schedules to recover from any non-excusable delays.

c. Excusable Delays.

1. Non-Compensable Delays. An extension of time may be issued for the duration of a delay to the controlling operation(s) due to unforeseen causes beyond the control and without the fault or negligence of the Contractor or Department, including, but not limited to the following:

- A. Acts of God;
- B. Acts of the public enemy;
- C. Acts of Government;

D. Acts of State or any political subdivision;

E. Fires, floods, and epidemics;

F. Labor disputes; or

G. Delayed delivery of the materials specified and approved for the project when the Contractor identifies and the Department verifies that the delay is an industry-wide shortage of materials.

Non-compensable delays may extend the contract completion, interim completion, open-to-traffic, and/or incentive dates but are not eligible for compensation under subsection 109.05.E of the Standard Specifications for Construction.

2. Compensable Delays. Compensable delays are addressed in subsection 108.09.B of the Standard Specifications for Construction. Compensable delays may extend the contract completion, interim completion, open-to-traffic, and/or incentive dates.

No extensions of time or cost adjustments will be allowed for increases in contract quantities, unless it can be shown that such increases affect the controlling operation(s) of work. Fully justify and document the impacts of the increased quantities to the controlling operation(s).

No extensions of time, work acceleration, or cost increases will be permitted without a current approved Critical Path Method (CPM) schedule. Fully justify and document the impacts of the excusable delays to the controlling operation(s).

The Engineer may pay for increased costs and/or directed acceleration rather than grant extensions of time in order to keep the project on schedule due to excusable delays. However, the Engineer may determine that it is in the best interest of the Department to grant an extension of time in lieu of paying additional costs and/or directing acceleration of the work. The decision to pay additional costs, accelerate the work, and/or approve extensions of time is at the sole discretion of the Engineer.

Compensation is to be agreed upon per subsection 109.05 of the Standard Specifications for Construction prior to commencement of the affected work.