

project in the least amount of time.) The Contractor shall provide sufficient material, equipment, and labor to meet the completion times in this schedule.

d. The Contractor shall furnish four copies of the schedule to the Engineer.

e. Progress estimates, except for certain authorized materials which may be paid for as provided in Subsection 109.07, will not be made until the Contractor's original schedule is approved.

f. The Department will accept a progress schedule indicating an early completion but cannot guarantee the Department's resources will be available to meet the accelerated schedule. No additional compensation will be allowed if the Contractor is not able to meet his/her accelerated schedule due to the unavailability of the Department's resources.

2. a. If the Contractor's progress falls behind his/her schedule, the Engineer may put the Contractor on notice and direct the Contractor to take whatever action is necessary to expedite completion of the work.

b. Additionally, the Engineer may request that the Contractor submit, within seven days, a revised progress schedule that demonstrates how and when the Contractor intends to complete the work. The Engineer may suspend progress payments until the revised schedule is submitted if the Contractor fails to submit a revised progress schedule within seven days.

c. If the Contractor fails to make satisfactory arrangements to adjust his/her performance and schedule within seven days, his/her qualification for submitting bids at future lettings may be suspended until the Contractor's performance and schedule demonstrate that the contract will be completed by a time satisfactory to the Department. The Engineer will also issue a written decision as to whether to allow the Contractor to proceed or to stop work and terminate the contract.

3. When the Contractor desires to change the approved schedule, he/she must submit the proposed revised schedule to the Engineer for approval at least seven days before any significant deviation from the currently approved schedule.

### **108.08 -- Liquidated Damages**

1. Liquidated damages are intended to compensate for expenses incurred by the Department due to the Contractor's failure to complete the work within the authorized number of working days or calendar days. Such amounts are not to be considered as penalties.

2. The Department utilizes the following formula to calculate liquidated damages when a contract is not completed on time. The value of liquidated damages determined by this formula represents a portion of the Department's costs incurred because of delays in completing the contract.

## **LIQUIDATED DAMAGES FORMULA**

$$LD = \frac{R \times C}{T}$$

where: LD = Liquidated damages per working day or calendar day  
(rounded to the nearest dollar).  
C = Original contract amount (includes all work completed and unfinished).  
T = Original number of calendar days or working days, whichever is specified in the contract.  
R = 0.06 for working day contracts.  
R = 0.12 for calendar day contracts.

3. a. The Contractor agrees:

(1) To pay, according to the formula in Paragraph 2. of this Subsection, liquidated damages for each working day/calendar day beyond the number of working days/calendar days authorized for completion of the contract, and

(2) To authorize the Engineer to deduct liquidated damages from any money due or coming due the Contractor.

b. If no monies are due the Contractor, the Department shall have the right to recover liquidated damages from the Contractor, from the surety, or from both the Contractor and the surety.

4. Liquidated damages will not be assessed for any days covered by an approved time extension. Deductions or payment of liquidated damages will not release the Contractor from further obligations and liabilities to complete the entire contract.

### **108.09 -- Completion of Contracts in Default**

1. The Engineer shall give the Contractor and the Contractor's surety written notice of default, delay, and/or neglect, as appropriate, whenever the Contractor:

a. Fails to perform the work with sufficient employees, equipment, or materials to ensure the contract's prompt completion.

b. Does not perform work which meets the standards established in the plans and specifications.

c. Neglects or refuses to remove excess or unacceptable materials.

d. Fails to correct any work rejected as defective or unsuitable.

e. Discontinues the prosecution of the work without the Engineer's approved written authorization.