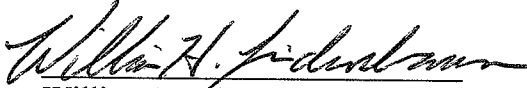


Approved:

Standard Procedure No. 510-012(SP)
Effective Date: June 1, 2009
Responsible Division: Division of
Construction Management



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TIME EXTENSIONS AND WAIVER OF LIQUIDATED DAMAGES

PURPOSE:

The purpose of this standard procedure is to establish uniform procedures and criteria for processing time extensions and waivers of liquidated damages on construction projects.

REFERENCES:

Sections 108.06, 108.07, 109.12 and 614.11 of the 2008 Construction and Material Specifications

Standard Procedure 510-010(SP) Standard Procedure for Processing Change Orders

DEFINITIONS:

- C&MS:** "Construction and Material Specifications"
- CMS:** Construction Management System, the Department-wide computer system for administration of construction projects.
- CPM Schedule:** The type of progress schedule outlined in Proposal Note 107 that delineates a critical path of work from the start of the project to the end of the project.
- Calendar Day:** Everyday shown on the calendar.

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Completion Date: The date, as shown in the Contract Documents, on which the work contemplated shall be completed.

Critical Path: The critical path is defined as the longest path of activities in the project that determines the project completion date. The activities that make-up the critical path of activities are the "Critical Activities."

Interim Completion Date: The date, as shown in the Contract Documents, on which a portion of the work contemplated shall be completed.

Time Extensions: Change in the contract provision that stipulates the date by which the work must be complete. (Previously known as Postponement of Contract Completion Dates)

Workday: A calendar day that the Contractor normally works.

PROCEDURE STATEMENT:

The following procedures are to be used in the preparation and approval of a time extension:

I. Evaluation of a Contractor's Request for Time Extension

The District shall evaluate and process all requests for postponement of an interim completion date or a contract completion date within 30 days of receipt of the Contractor's written request. Perform the evaluation consistent with contract progress schedule requirements for the project using appropriate analysis principles and techniques. If the request is approved, immediately process a change order in accordance with this procedure and Standard Procedure 510-010(SP) Standard Procedure for Processing Change Orders. If the request is denied, immediately notify the contractor in accordance with Section III of this procedure.

II. Processing of an Approved Contractor's Request for Time Extension

- A. Prepare a Regular Work Change Order to postpone an interim completion date or a contract completion date. The "Explanation of Necessity" shall include one of the following statements:

1. *The contractor experienced an excusable, non-compensable delay due to weather as determined in accordance with C&MS 108.06.C. The revised (interim/contract) completion date is _____.*

2. *The contractor experienced an excusable, non-compensable delay due to (insert reason) as determined in accordance with C&MS 108.06.B. The revised (interim/contract) completion date is _____.*

3. *The contractor experienced an excusable, compensable delay due to (insert reason) as determined in accordance with C&MS 108.06.D. The revised (interim/contract) completion date is _____. The allowable delay costs will be calculated in accordance with C&MS 109.05.D and processed on a subsequent change order.*

4. *The contractor submitted and the Department has accepted an Early Completion Schedules in accordance with C&MS 108.02.B. The revised contract completion date is _____.*

Attach to the change order copies of analysis and progress schedules with support documentation or other justification substantiating the duration of the revision to the interim/contract completion date.

- C. Once the change order amending the interim/contract completion date has been approved, the District Construction Office shall enter the amendment into CMS on the "LIQID" screen.

III. Processing of a Denied Contractor's Request for Time Extension

The following procedure shall be followed when a requested time extension is not granted:

- A. The District will notify the Contractor in writing, stating reasons for denial.
- B. In the event a recovery schedule is warranted, the District will request that the Contractor submit a detailed plan to finish that will show completion by the current contract completion date.
- C. If the Contractor disagrees with the denial of its request for time extension, the Contractor may pursue a remedy through the Department's Dispute Resolution and Administrative Claim Process.

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IV. Waiver of Liquidated Damages

This standard procedure allows a waiver of all or portions of liquidated damages that accrued after the work is substantially complete and the conditions in CMS 108.07 apply.

- A. The District shall evaluate and process all requests for waiver of liquidated damages within 30 days of receipt of the Contractor's written request.
- B. Prepare a Form C-122a for a waiver of liquidated damages. The remarks section shall include the conditions in CMS 108.07 that apply.
- C. The District Construction Office shall enter the waiver into CMS on the "LIQID" screen.
- D. Provide the Contractor with a copy of the completed Form C-122a.

TRAINING:

The Division of Construction Management will provide management level training and consultation on the processing of time extensions and waivers of liquidated damages. District management shall provide training to their personnel assigned to the administration of time extensions and/or waiver of liquidated damages requests.

Reviews will be conducted by the Division of Construction Management as necessary to ensure compliance with this procedure.

FISCAL ANALYSIS:

This policy will not have any monetary impact.

**STATE OF OHIO
DEPARTMENT OF TRANSPORTATION**

WAIVER OF LIQUIDATED DAMAGES

Project/County	Contractor
Federal No.	Contract Completion Date
Route/Section	Previous Time Extension Date(s)

Liquidated Damages are waived in accordance with C&MS Section 108.07.

Project was open to safe and convenient use of the traveling public on _____

Remarks:

Waiver applies from _____ 20 ____ through _____ 20 ____ = _____ Total Calendar Days

Waiver Approved _____

Signature

Title

Date