

## **SPECIAL PROVISION**

**008---069**

### **Prosecution and Progress**

For this project, Item 008, "Prosecution and Progress," of the Standard Specifications, is hereby amended with respect to the clauses cited below, and no other clauses or requirements of this Item are waived or changed hereby.

This Item is supplemented by the following:

**8.11. No Excuse Incentive Using Road-User Cost or Contract Administration Liquidated Damage Values and Disincentive Using Road-User Cost.** This special provision is for the application of incentives and disincentives as follows:

- no excuse incentives for early Contract completion using contract administration liquidated damage or substantial completion of work ahead of time using road-user cost values as basis and
- disincentives for late substantial completion of work using daily road-user costs.

Incentive provisions, based on contract administrative liquidated damages, will apply when shown on the plans. Incentive provisions, based on road-user cost, will apply when shown on the plans. Disincentive provisions, based on road-user cost, will apply when road-user cost incentive provisions are shown on the plans. The disincentive provisions, based on road-user cost, will also apply when shown separately on the plans (without an associated road-user cost incentive). Definitions are as follows:

- **Contract Completion** - The final acceptance date (day) unless performance, establishment and maintenance periods occur. In the case of performance, establishment and maintenance periods, completion shall be considered when all work is complete and accepted except for performance, establishment and maintenance periods, with time computed to the suspension of time charges for the acceptance process.
- **Substantial Completion of Work** - The date (day) when all project work (or the work for a specified milestone or phase) requiring lane or shoulder closures or obstructions is completed, and traffic is following the lane arrangement as shown on the plans for the finished roadway (or the specified milestone or phase of work); all pavement construction and resurfacing are complete; and traffic control devices and pavement markings are in their final position (or as called for on the plans for the specified milestone of work). The Engineer may make an exception for permanent pavement markings provided the lack of markings does not cause a disruption to traffic flow or an unsafe condition for the traveling public, and work zone pavement markings are in place.

When A + B Bidding provisions are included in the Contract, the B working days bid will be considered as the time allowed for completion, contract or substantial as applicable. In addition, the plans will show either the number of working days or a specific date for the purposes of computing substantial completion incentives or disincentives.

Time change adjustments will be made in accordance with the schedule required to meet Article 8.1, "Prosecution of Work" and Article 8.2, "Progress Schedules," the proposal, and the plans. For Contracts with milestone dates, time charges for the completion incentive will not be adjusted for weather, weekends, holidays, suspension of contract time; utility, right of way, or railroad issues; catastrophic events; or any other unforeseeable event not under the control of the Department.

Time charges for completion disincentives may be adjusted by the Engineer when;

- work, under the control of the Department, such as extension of limits or changes in scope, change the actual duration of completion,
- delays occur due to unadjusted utilities or unclear right-of-way when clearance is the responsibility of the Department, or
- catastrophic events occur, such as a declared state of emergency or natural disaster, if the event directly affects the Contractor's prosecution.

**A. No Excuse Incentives.** When shown on the plans and in accordance with the Contract, the Department will pay a no excuse incentive for the early Contract completion or substantial completion of work under the number of working days stipulated in the Contract. The maximum number of working days used in computing the credit will be 30 days for each milestone and Contract completion incentive unless otherwise shown in the Contract. The amount of the credit will be added to money due or to become due to the Contractor.

**1. Early Contract Completion Incentive.** The incentive will be based on the difference between the actual early Contract completion days and the Contract completion days in the Contract. The difference will then be multiplied by the daily contract administration liquidated damage value shown in the proposal.

**2. Early Substantial Completion of Work Incentive.** The incentive will be based on the differences between the actual early substantial completion of work and the Contract days allowed to substantially complete the work (or the specified milestone or phase of work). The difference will then be multiplied by the daily road-user cost values specified for substantial Contract completion (or road-user cost specified for the corresponding milestone or phase of work).

**B. Disincentives for Failure to Substantially Complete Work on Time.** When shown on the plans and in accordance with the Contract, failure to substantially complete the work (or specified milestone or phase of work) within the established number of working days

will result in the assessment of disincentives using the daily road-user cost shown

on the plans for each working day in excess of those allowed. The road-user cost disincentive deductions will be in addition to any Contract administration liquidated damages, in accordance with Article 8.5, "Failure to Complete Work on Time." The amount of the disincentive will be deducted from money due or to become due to the Contractor. The road-user cost disincentives will be assessed not as a penalty, but for added expense incurred by the traveling public.