02/02/2023

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| Add the following to all contracts unless there is a compelling reason not to do so, or if the partner agency requires more restrictive non-work schedules. If applicable, list interim completion dates, liquidated damages, and incentives in Subsection 108.04 and add a reference to Subsection 108.04 in Subsection 108.01, but **DO NOT** duplicate interim completion dates in Subsection 108.01. |

## Section 108. — PROSECUTION AND PROGRESS

**108.01 Commencement, Prosecution, and Completion of Work.** Add the following:

Limit operationsaccording toSubsection 107.10(e) and Section 156.

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| Add any general work restrictions that limit the contractor’s site availability (winter shutdown, holidays, etc).  **DO NOT** duplicate information in multiple sections.  Examples for this section:  Do not perform onsite work from October 1 through April 30.  Complete underground utility work before constructing the subgrade. |

Limit operations as follows:

**(a)** (describe limitations)

**(b)** (describe limitations)

**(c)** (describe limitations)

**(d)** (describe limitations)

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| Use on all projects. **Adjust Table 108-2** based on project-specific requirements – add / delete as appropriate for the project. Discuss with PM and COE. Alsoinquire with local and owner agency for local holidays/celebrations/events that might require work restrictions. |

During the listed Federal holidays and surrounding days as shown in Table 108-2, perform no work except to maintain traffic control devices, erosion control devices, the roadway driving surface, and to control dust.

|  |  |  |
| --- | --- | --- |
| Table 108-2  **Federal Holidays and Surrounding Days** | | |
| **Federal Holiday** | **Time** | **Remarks** |
| Birthday of Martin Luther King, Jr. | 12:00 Noon Friday to 6:00 am Tuesday | - |
| Washington’s Birthday | 12:00 Noon Friday to 6:00 am Tuesday | - |
| Memorial Day | 12:00 Noon Friday to 6:00 am Tuesday | - |
| Juneteenth National Independence Day | 12:00 Noon June 18 to 6:00 am June 20 | - |
| Independence Day | 12:00 Noon July 3 to 6:00 am July 5 | If July 4 falls on a weekend, Friday, or Monday, do not work the weekend. |
| Labor Day | 12:00 Noon Friday to 6:00 am Tuesday | - |
| Columbus Day | 12:00 Noon Friday to 6:00 am Tuesday | - |
| Veterans Day | 12:00 Noon November 10 to 6:00 am November 12 | - |
| Thanksgiving | 12:00 Noon Wednesday to  6:00 am Monday | - |
| Christmas / New Year’s | 12:00 Noon December 23 to 6:00 am January 2 | If December 23 or January 1 falls on a Monday, do not work the adjacent weekend and do not work on December 23. If January 1 falls on a Friday, do not work the weekend. |

Schedule at least 2 non-work days out of every 14 calendar days. The selected non-work days do not need to be consecutive, but they must be scheduled. Notify the CO at least 2 weeks before changing the scheduled days off.

The CO may grant written approval for exemptions to scheduled days off for specific project operations and for periods of limited duration.

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| Use on projects as applicable. |

Add the following:

The CO will issue a Notice to Proceed before commencement of any work. The contract completion date is (fill in).

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| --- |
| Include the following for A+B bidding (cost plus time). |

Add the following:

The count of contract time will begin upon issuance of the Notice to Proceed and shall run continuously until final construction completion.

|  |
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| Use on all projects. |

Add the following:

Use the Government’s web-based system, *Engineer’s Estimating, Bidding, Award, and Construction System (EEBACS),* to prepare all “*Inspector’s Daily Record of Construction Operations”* (*Contractors Daily Reports)* and measurement notes (pay notes and field measurement documentation).

Attend a training session on the use of EEBACS. The training session will require up to 4 hours. No more than 3 Contractor staff may attend the training unless approved by the CO. The Contractor shall be responsible for training additional staff.

Complete and electronically submit *“EEBACS User Account Form”* (Form EEBACS-001) for each individual requiring EEBACS access. Submit forms to the CO at the preconstruction conference or at least 10 days prior to the start of any contract work or EEBACS training. As needed, request additional system access using Form EEBACS-001 and allow 7 days for system access.

Maintain active EEBACS accounts for all contractor staff who use EEBACS and ensure that the CO is notified within 24 hours after an account holder is reassigned or no longer employed by the Contractor. Within 24 hours after an account holder is reassigned or no longer employed by the Contractor, submit an EEBACS-001 form requesting that the account be disabled.

The electronic version of EEBACS-001 is available at:

<https://highways.dot.gov/federal-lands/estimates/forms>

**108.02 Subcontracting.** Delete the third paragraph and substitute the following:

Within 14 days of subcontract award, submit a completed SF 1413 and 1413S. Complete Part I for each Subcontractor, and include Part II when the Subcontractor performs on-site work. Complete other forms that may be required by the Government to show the work subcontracted and the total dollar amount of the subcontract. Submit the above required information for each Subcontractor at lower tiers.

**108.04 Failure to Complete Work on Time**.

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| Use on all projects. Values shown in Table 108-1 are default; discuss with PM and COE if any changes are needed |

Delete Table 108-1 and substitute the following:

Table 108-1

Charge for Liquidated Damages for Each Day

Work Is Not Substantially Completed

| Original Contract Price | | Daily Charge |
| --- | --- | --- |
| From More Than — | To and Including — |
| $ 0 | $ 1,000,000 | $ 1,600 |
| $ 1,000,000 | $ 2,000,000 | $ 2,400 |
| $ 2,000,000 | $ 5,000,000 | $ 4,100 |
| $ 5,000,000 | $ 10,000,000 | $ 5,600 |
| $ 10,000,000 | and more | $ 6,500 |

|  |
| --- |
| Update yellow highlighted text below when interim completion dates are applicable. Describe interim completion dates and, if any, liquidated damages and incentives. If incentives are used, be sure to set a maximum limit on the incentive payment. Where the work cannot be completed after the deadline, additional specifications may be required. For example: requiring the contractor to place a lift of pavement prior to November 15, 200x for a winter driving surface and assessing liquidated damages may not be appropriate. The specification should continue on to state what will be done if this doesn’t happen by the specified date and the temperature/weather conditions are not conducive to completing the work according to the requirements. In this case, the specification may require the contractor to construct a temporary sacrificial lift of pavement, at no cost to the government. This type of specification is especially important for environmental and winter shutdown timeframes. Environmental deadlines may require remobilization of the contractor’s operations, at no cost to the government. |

Add the following:

(describe interim completion dates, liquidated damages, and incentives).

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| --- |
| Consider using the weather delay SCR on the following types of projects:  -Large earthwork jobs (4R) in areas where weather is likely to have a significant impact on the number of days available to perform critical path work  -Projects where duration spans multiple seasons |

Add the following:

**108.06 Weather Delays.**

**(a) Definitions**.

1. **Reasonably Predictable Weather Days.** Estimated weather day(s) where critical activities cannot be performed in any specific month, within contract weather or temperature limitations, or due to weather related soil conditions. Calculate Reasonably Predictable Weather Days according to Subsection 108.06 (b).
2. **Weather Day**. Workday(s) where work cannot be performed within contract weather or temperature limitations or due to weather related soil conditions, and where work on critical activities cannot be performed for more than 50 percent of the workday.
3. **Drying Day.** Work day(s) immediately following a weather day, as defined by Subsection 108.06 (a)(2) above, where work can’t be performed on scheduled critical activities within contract weather or temperature limitations, or due to weather related soil conditions, for more than 50 percent of the workday. Do not consider drying days when critical activities can be performed immediately after weather days. Do not consider drying days if they fall on scheduled non-work days within the contract or the construction schedule.
4. **Work Day**. A day described under Subsections 155.05 (a)(2)(*e*) or 155.05 (b)(4)(*e*) in the Contractor’s Baseline Construction Schedule, are not excluded from work by the contract, or are not considered as a non-work day in the construction schedule.
5. **Unusually Severe Weather Day**. The number of approved scheduled work days affected by weather that are greater than the calculated Reasonably Predictable Weather Days for the month in question. An Unusually Severe Weather Day will not be considered if it is a scheduled non-work day in the contract or the construction schedule.
6. **Reasonably Predictable Weather Days.** Determine Reasonably Predictable Weather Days for this contract by completing Table 108-3. Calculate data for Table 108-3 as follows:
   1. Using the last 10 years of historical weather data from the nearest NOAA weather data collection station, or other approved weather station, compute the average number of weather days defined by Subsection 108.06 (a)(2) for each month. Include estimated drying days defined by Subsection 108.06 (a)(3). Calculate the standard deviation from the average for each month. Determine the Reasonably Predictable Weather Day(s) total for each month by adding the estimated average weather and drying days from above, plus one standard deviation.
   2. Submit a completed Table 108-3 with the initial construction schedule. Include NOAA or other approved weather data, the average number of weather days, the estimated number of drying days, and the standard deviation, calculations for each month with Table 108-3. Allow 14 days for approval or rejection of Table 108-3. If rejected, submit a revision within 7 days after the date of rejection. Time for review and approval starts again after the revised Table 108-3 has been resubmitted. Weather related Time Impact Analyses will not be accepted without an approved Table 108-3. If the normally scheduled work days are changed within the current construction schedule, provide the CO with a revised Table 108-3 which if approved will become the Reasonably Predictable Weather Days for each month of the remainder of the contract.

**Table 108-3**

**Reasonably Predictable Weather Days**

|  |  |  |
| --- | --- | --- |
| Project Name | |  |
| Project Number | |  |
| Contractor | |  |
| Month | Year | Reasonably Predictable Weather or Weather Related Soil Conditions  (Monthly Total Days) |
| January or other month |  |  |
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|  |  |  |
| Date Submitted: | |  |
| Signature of Authority: | |  |

1. **Unusually Severe Weather.** Under FAR Clause 52.249-10, Default (Fixed-Price Construction), the Contractor can request time for a delay due to Unusually Severe Weather.

Determine the number of weather days conforming to Subsection 108.06 (a)(2) and Drying Days conforming to Subsection 108.06 (a)(3). Deduct any days meeting the following conditions:

* 1. Workdays when only non-critical activities are shown for that day on the construction schedule, or only non-critical work is performed on that day.
  2. Drying days when only non-critical activities are shown for that day on the construction schedule, or only non-critical work as performed on that day.
  3. Weather or drying days where critical work was not performed more than 50 percent of the day, or could have been performed more than 50 percent of the day but was not.
  4. Scheduled or contract non-work days not accounted for under 108.06 (a) or (b).

Unusually severe weather has occurred during any month in question when the net number of actual workdays lost for critical work activities, due to contract weather or temperature limitations, or weather related soil conditions, is greater than the Reasonably Predictable Weather Day total from Table 108-3 submitted with the initial construction schedule.

1. **Time Adjustments for Weather Delays.** No time adjustments will be made if the net number of weather days is less than the Reasonably Predictable Weather Day total for any month shown in Table 108-3. An excusable time extension may be granted if the net number of weather days is more than the Reasonably Predictable Weather Day total for any month shown in Table 108-3. Submit a weather or soil time impact analysis supporting any alleged delays due to unusually severe weather or soil conditions. Submit a weather-related soil or weather time impact analysis within the month that the weather days occur. If a period of weather days or soil conditions is split between months, submit a weather or soil time impact analysis for each month of occurrence.
2. **Delays Due to Other Weather Conditions.** Delays due to other unusually severe weather conditions (extreme cold or heat, high winds, etc.) or soil conditions must be supported with a weather time impact analysis using historical weather data or construction site weather related soil conditions based on appropriate proctor test results and existing moisture contents.