## Section 108. — PROSECUTION AND PROGRESS

01/06/2023– FP-14

WFL Specification 11/12/20

GENERAL INFORMATION

Note 1: This LOS contains specification choices concerning various contracting methods and bidding strategies. (Examples: MATOC, Base & Option Schedule, Multiple Schedule, Full and Open, 8(a) Competitive, 8(a) Sole Source, HUBZone Small Business Set-Aside, Small Business Set-Aside, etc.)

Please coordinate with the PM to confirm the contracting method/strategy being used.

Note 2: Terminology used for various contracting methods and bidding strategies vary. Yellow highlighted text to be filled-in by the designer. When a choice of terminology is given, please use the following terminology below:

 - MATOC project or 8(a) Sole Source project: offer, offeror, proposal, task order

 - All other projects: Bid, Bidder, contract

WFL Specification 01/06/23 1080030

Include the following with all projects.

For MATOC projects INSERT task order. For all other project types INSERT contract.

### 108.01 Commencement, Prosecution, and Completion of Work.

Amend as follows:

Delete the text of the second paragraph and substitute the following:

A preconstruction conference will be held after the [**INSERT** contract **OR** task order] is awarded and before beginning work. A baseline schedule submittal meeting is also required according to Subsection 155.10. The schedule manager, project manager, and project superintendent are required to attend the preconstruction conference and the schedule submittal meeting unless otherwise approved by the CO.

WFL Specification 01/06/23 1080031

Include the following in all projects where mobilization is allowed immediately after Notice To Proceed. Consult with the PM and COE to determine.

Only mobilization, construction survey and staking, temporary traffic control, and work under Section 637 is allowed prior to approval of the preliminary work plan.

WFL Specification 01/06/23 1080032

Include the following in all projects requiring baseline schedule approval prior to mobilization. Consult with the PM and the COE to determine.

Do not begin on-site ground disturbing activities or Section 151 mobilization within the construction limits prior to approval of the baseline schedule submittal. Only construction surveying and staking, temporary traffic control, and work under Section 637 is allowed before approval of the baseline schedule submittal.

WFL Specification 01/06/23 1080040

Include the following with all projects.

Coordinate with the CFT and Partner Agency on specific project limitations and,

* Include any restrictions or limitations on work not identified in other Sections; and,
* Reference any Section or Subsection here that limits work.

Examples:

 Do not perform work from October 1 of any year through April 30 of the succeeding year.

 Complete underground utility work before constructing the subgrade.

 Complete rock scaling work in an area before constructing the subgrade.

 Limit work as provided for in Section \_\_\_\_.

 Limit work as provided for in Subsection \_\_\_\_.

 Complete mainline paving by the date provided for in Section 401.

Add the following:

Furnish at least a 48-hour advanced notice before changing the current work schedule. Work schedule changes that include additional shifts require a 14-day advanced notice.

Perform work under this contract by limiting work as provided for in Sections 105, 107, 156, and 157.

[INSERT LANGUAGE].

[INSERT LANGUAGE].

WFL Specification 07/20/15 1080050

Include the following in all projects.

Note – the ½ mile criterion is a result of case law.

### 108.01A Labor.

(Added Subsection).

Follow the requirements of FAR Clause 52.222-6 Construction Wage Rate Requirements.

Adjacent or virtually adjacent work sites, as used in FAR Clause 52.222-6, are defined to be work sites within ½ mile of the project. Application of Construction Wage Rate Requirements (Davis-Bacon Act) for work sites beyond ½ mile of the project will be determined by the CO.

WFL Specification 03/25/16 1080060

Include if any material source or waste area listed in the contract is:

 More than 0.5 miles from the project, AND is dedicated exclusively (or nearly so) to the performance of this project.

Coordinate with the PM and Acquisitions (or your COR) to determine whether each material source or waste areas is “adjacent or virtually adjacent” or “not adjacent or virtually adjacent” to the project.

[INSERT WORK SITE NAME] has been determined [**INSERT** to be **OR** not to be] adjacent or virtually adjacent to the project. The requirements of FAR 52.222-6 Construction Wage Rate Requirements (Davis-Bacon Act) [**INSERT** will **OR** will not] apply.

WFL Specification 09/17/18 1080070

Include the following with Montana projects.

* Determine the number of work sites. Work areas separated by more than 1 road mile (edge-to-edge) are counted as separate work sites.
* Find the nearest County Courthouse to each site from: BILLINGS, BOZEMAN, BUTTE, GREAT FALLS, HELENA, KALISPELL, -or- MISSOULA.
* Determine road miles (+/- 0.1 mile) over the shortest practical maintained route from the nearest County Courthouse to the geographic center of each site.

Edit the second paragraph (or use a table) for multiple work sites. Clearly identify each site.

Pay rates and zone pay used in the General Wage Decision are based on the “Center of the job.” The “Center of the job” is:

**(a)** The geographic center of the project when construction sites are contiguous; or

**(b)** The geographic center of the project when construction sites are noncontiguous and separated by no more than 1-mile from edge to edge.

Construction sites that are noncontiguous and separated by greater than 1-mile will each have a separate “Center of the job” for the purposes of determining pay rates and zone pay.

The geographic center of the job site is [INSERT XX.X] miles from the County Courthouse in [INSERT CLOSEST Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, OR Missoula].

WFL Specification 09/17/18 1080080

Include the following with Full and Open projects.

### 108.02 Subcontracting.

Amend as follows:

Delete the text of the first paragraph and substitute the following:

Follow the requirements of FAR clauses 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns, 52.222-11 Subcontracts (Labor Standards), and 52.236-1, Performance of Work by the Contractor.

Delete the last paragraph and substitute the following:

Evaluate the percentage of the cost of contract performance incurred for personnel in FAR Clause 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns, according to the following formula:

P = H / T

where:

P = Percent of the cost of contract performance incurred for personnel working for HUBZone firms.

T = Total wages/benefits paid during the life of the contract. Certified payrolls will be used to determine Davis-Bacon wages and benefits paid. Submit certified statements at least monthly declaring the wages and benefits paid to non-Davis Bacon personnel under this contract.

H = Total wages/benefits paid to employees working for HUBZone firms (prime and subcontractors).

In FAR Clause 52.236-1, Performance of Work by the Contractor, the percentage of work performed on-site by the Contractor will be computed as 100 percent less the combined initial dollar amount of all subcontracts involving on-site labor as a percent of the original dollar amount of the contract.

WFL Specification 09/17/18 1080090

Include the following with HUBZone Small Business Set-Aside projects.

### 108.02 Subcontracting.

Amend as follows:

Delete the text of the first paragraph and substitute the following:

Follow the requirements of FAR clauses 52.219-3, Notice of HUBZone Set-Aside or Sole Source Award, and 52.222-11 Subcontracts (Labor Standards).

Delete the last paragraph and substitute the following:

In FAR Clause 52.219-3, Notice of HUBZone Set-Aside or Sole Source Award, the percentage of the cost of contract performance incurred for personnel will be computed according to the following formula:

P = H / T

Where:

P = Percent of the cost of contract performance incurred for personnel working for HUBZone firms

T = Total wages/benefits paid during the life of the contract. Certified payrolls will be used to determine Davis-Bacon wages and benefits paid. Submit certified statements, at least monthly, declaring the wages and benefits paid to non-Davis Bacon personnel under this contract.

H = Total wages/benefits paid to employees working for HUBZone firms (prime and subcontractors)

WFL Specification 09/17/18 1080100

Include the following with MATOC projects that are:

NOT Small Business Set-Aside projects

### 108.02 Subcontracting.

Amend as follows:

Delete the text of the first paragraph and substitute the following:

Follow the requirements of FAR Clause 52.222-11 Subcontracts (Labor Standards) and FAR Clause 52.236-1 Performance of Work by the Contractor.

Delete the last paragraph and substitute the following:

In FAR Clause 52.236-1 Performance of Work, the percentage of work performed by the Contractor will be computed as the cost of the contract work performed on-site by the Contractor’s employees divided by the total cost of the contract.

WFL Specification 12/17/18 1080130

Include the following in all projects.

### 108.03 Determination and Extension of Contract Time.

Add the following to paragraph (c):

No adjustment in contract time or amount will be made for stop orders issued under Subsection 108.05(a) or (b), except an adjustment in contract time, as provided by FAR Clause 52.249-10 Default (Fixed-Price Construction), may be made when the Contractor is able to demonstrate that the weather was unusually severe based on the most recent 10 years of historical data.

WFL Specification 11/12/20 1080135

Include the following in all projects with early completion incentives.

### 108.03A Early Completion Incentive.

(Added Subsection).

Because time is of the essence in completing the contract work, a monetary incentive is offered for early completion of the work.

For each day prior to the contract completion date that contract work is substantially complete, payment to the Contractor will be increased by an incentive amount of $[INSERT DAILY INCENTIVE RATE] per day up to a maximum of $[INSERT MAXIMUM INCENTIVE AMOUNT].

WFL Specification 01/01/14 1080140

Include the following in all projects.

### 108.04 Failure to Complete Work on Time.

Delete this Subsection and substitute the following:

Follow the requirements of FAR Clause 52.211-12 Liquidated Damages — Construction.

WFL Specification 04/02/21 1080150

Include the following with A+B projects that are:

 One Schedule projects

Note 1: Consult with the CO if combing with other contracting methods.

Note 2: Administrative cost determined in 102.02 must be a calculated cost (i.e., not from the LD Tables)

Liquidated damages in the amount of [INSERT ADMINISTRATIVE COST DETERMINED IN 102.02] per day will be assessed for each calendar day beyond the time specified in the contract until substantial completion of the work.

WFL Specification 11/12/20 1080155

Include the following in projects with early completion incentives.

Liquidated damages in the amount of [INSERT ADMINISTRATION COST] per day will be assessed for each day beyond the time specified in the contract until substantial completion of the work.

WFL Specification 01/01/14 1080160

Include the following in all projects that meet both of the following requirements:

 Is NOT an A+B project, and;

 Does NOT have an early completion incentive

Liquidated damages in the amount specified in Table 108-1 will be assessed for each day beyond the time specified in the contract until substantial completion of the work.

WFL Specification 08/01/14 1080170

Include the following with Base & Option Schedule projects.

If the Government exercises any options, assessment of liquidated damages will be based on the completion date as provided for in FAR Clause 52.211-10 Commencement, Prosecution, and Completion of Work.

WFL Specification 11/05/15 1080190

Include the following in all projects.

Liquidated damages will not be assessed for the following:

**(a)** The day of the final inspection.

**(b)** Days required to perform work added to the contract after substantial completion including items identified during the final inspection that were not required before that time.

**(c)** Delays by the Government after all work is complete and before a formal acceptance is executed.

**(d)** Periods of time when all work is complete but acceptance is delayed pending the plant establishment period or similar warranty period.

**(e)** During winter shutdown periods ordered by the CO.

WFL Specification 08/01/19 1080200

Include the following in all projects (except A+B projects and projects with early completion incentives).

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 | $ 1,000 |
| $ 1,000,000 | $ 2,000,000 | $ 1,800 |
| $ 2,000,000 | $ 5,000,000 | $ 3,500 |
| $ 5,000,000 | $ 10,000,000 | $ 4,400 |
| $ 10,000,000 | and more | $ 5,200 |

WFL Specification 04/03/20 1080205

Include the following in all projects.

### 108.05 Stop Order.

Delete the last paragraph.

WFL Specification11/12/20 1080210

Include the following in all projects.

Edit to include known, but indefinable suspensions, when the burden of risk is to be assumed by the Government. Example:

Nesting birds. Endangered Species. See subsection 107.10

Be specific on the suspension reason. List when the work can resume (i.e., Do not resume work until approved by CO.)

### 108.06 Suspension.

(Added Subsection).

Follow the requirements of FAR Clause 52.242-14 - Suspension of Work.

Suspend work, either in whole or in part, for such periods deemed necessary due to human burials, cultural resources, historic properties, paleontological remains, or archeological specimens discovered within the construction area. See Subsection 107.02.