

108.12 FAILURE TO COMPLETE WORK ON TIME.

- (a) Time Essential Element. Time is an essential element of the Contract. The Contractor shall plan its progress schedule and vigorously press the progress of the work in order to complete the Contract on or before the Contract Completion Date set forth in the Contract.
- (b) Manner, Sequence, or Schedule Required. Whenever the Special Provisions of the Contract call for any portion or portions of the work to be performed in any particular manner or for any portion or portions of the work to be completed pursuant to a certain sequence or schedule prior to the date of completion of the entire Contract, the Contractor shall punctually comply with the related instructions, dates, and periods of time.
- (c) Liquidated Damages; General; Days Charged. For each working day on which any work remains incomplete after the Completion Date specified in the Contract for completion of the work involved there shall be deducted from any monies due the Contractor the amount shown in the following table, unless otherwise specified in the Contract. The deduction is not a penalty, but is liquidated damages to defray the cost to the Agency to administer the Contract, including but not limited to the cost of engineering, inspection, supervision, inconvenience to the public, obstruction of traffic, and interference with business. Due account shall be provided for any adjustment of the Contract time for completion of the work under the provisions of Subsection 108.11.

**DAILY CHARGE FOR LIQUIDATED DAMAGES
FOR EACH WORKING DAY OF DELAY**

Original Contract Amount		
From More Than	To And Including	Daily Charge Per Day of Delay
\$ 0	\$ 300,000	\$ 700.00
300,000	500,000	900.00
500,000	1,000,000	1,300.00
1,000,000	1,500,000	1,500.00
1,500,000	3,000,000	1,900.00
3,000,000	5,000,000	2,200.00
5,000,000	10,000,000	2,700.00
10,000,000	20,000,000	4,200.00
20,000,000+	-----	6,600.00

Should the Contractor elect to work on Saturdays, Sundays, Holidays, or days from December 1st to April 15th, exclusive, after the Contract Completion Date, the Contractor will be charged liquidated damages for such days worked.

- (d) No Waiver. Permitting the Contractor to continue to finish the work or any part of the work after the time fixed for its completion or after the date to which the time for completion may have been extended shall not operate as a waiver on the part of the Agency of any of its rights under the Contract.
- (e) Liability for Liquidated Damages. The Contractor covenants and agrees that should the amount of monies due or that may become due the Contractor be less than the amount of ascertained liquidated damages, the Contractor and the Contractor's surety shall be liable to the State for the deficiency.
- (f) Liquidated Damages Cutoff Date. No liquidated damages will be charged after the establishment of a Substantial Completion Date.

108.13 TERMINATION OF CONTRACT.

- (a) General; Notice. Upon written notice from the Engineer or other proof satisfactory to the Secretary, the Secretary will give notice in writing to the Contractor and the Contractor's surety of delay, neglect, or default if the Contractor:
 - (1) fails to begin the work under the Contract within the time specified in the "Notice to Proceed;"
 - (2) in the opinion of the Engineer, fails to perform the work with sufficient workers and equipment or with sufficient materials to ensure the prompt completion of said work;
 - (3) in the opinion of the Engineer, performs the work unsuitably or neglects or refuses to remove materials or to redo or replace work rejected as defective and unsuitable;
 - (4) discontinues the prosecution of the work without authorization of the Engineer;