

**New Jersey Department of Transportation
CORRECTIVE ACTION NOTICE**

QUALITY MANAGEMENT SERVICES

Manager: Brian Strizki

Telephone: (609) 530-6363

CAN No. CAN024

Approved: B. Strizki

Date: 09/02/1999

Bureau(s) Affected: Bureau of Program Support Services
Technical Specifications Unit
Bureau of Construction Engineering
Quality Management Services

Description of Problem(s):

Prior to the directive from the Assistant Commissioner for CPM in October 1998, liquidated damages related to Construction Engineering costs had been based upon FHWA approved schedules that considered the actual contract amount that was bid on the project. This directive as depicted in SI98 DOT1 provided for the inclusion of both a substantial and final completion date for all projects, and required that the liquidated damages be based instead on the engineer's estimates. This change required coordination between the Bureau of Program Support Services and the Technical Specifications unit in order to determine the daily liquidated damages amount to include in contracts. However, because the finalizing of the documents that each of these offices produce is done concurrently, coordination was difficult and sometimes resulted in delays in projects' schedules. In addition to that, it has been noted that the engineer's estimates do not always accurately reflect actual bid amounts, resulting in inaccurate liquidated damage calculations.

Corrective Action Plan:

In order to prevent the occurrence of these problems associated with assessing liquidated damages, the attached schedules which were previously approved by the FHWA, will be utilized and will be based on the original contract amount bid on the project. These attachments will replace the text in Subsection 108.16 of the SI which revised the schedule in the Standard Specifications and will provide a realistic liquidated damage amount for each day of overrun in substantial completion along with an explanation of how to assess the values for final completion. These attachments will address liquidated damages on an interim basis while the Department further evaluates the actual impacts of road user delays. To ensure its implementation, the responsibility of each unit shall be as follows:

Bureau of Construction Engineering

This Bureau will determine which schedule (Attachment #1 or Attachment #2) is to be used in the specifications depending on the construction engineering staffing level required for each project and notify the Technical Specification Unit after the review of the Final Design Submission.

Technical Specification Unit

This unit will incorporate the selected schedule into the Special Provisions for each project.

Bureau of Program Support Services

This Bureau will no longer be required to provide any information regarding liquidated damages to the Technical Specification Unit.

Bureau of Quality Management Services

Since the above is an interim solution, this office will issue a BDC when the road user delay aspect of liquidated damages is finalized.

Implementation: *Effective Immediately*

Superseded