

0081002-AMOUNT OF LIQUIDATED DAMAGES
RESPONSE TO COMMENTS FROM INDUSTRY REVIEW

Conrad Campbell
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Comments:

Is the Daily Charge Per Calendar Day for contracts from \$500,000 to \$2,500,000 correct at \$148/contract day? This number does not seem in line with the other rates.

Response: The rate is actually \$1,148 per day but is difficult to see in the redline strikethrough format. It will be correct rate when changes are accepted. Thanks for your review and comments.

Brannon Chatwood, E.I.
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Comments:

In reference to the proposed specification revision 0081002 Amount of Liquidated Damages, for my informational purposes, how is it possible to reduce the LDs when the cost of construction projects has significantly increased? Can you please shed a little light on how the amounts are determined and adjusted?

Response: A major component of the LD rate is based on CEI percentages. The trend over the last 10 years has been reduced CEI costs for our construction costs. As such, LD rates have generally been going down over the past several years. The actual bid costs for projects do not figure LD calculations. Thanks for your review and comments.

Jacquelin D. Brown
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Comments:

The price for \$500,000....appears to be in error.

Response: The rate is actually \$1,148 per day but is difficult to see in the redline strikethrough format. It will be correct rate when changes are accepted. Thanks for your review and comments.

Bob Dion
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Comments:

Please change the wording in the introduction, Subarticle 8-10.2 'is' being deleted, not 'are' being deleted.

A single subarticle is being deleted.

Response: Will do. Thanks for your review and comments.

William Sheridan
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Comments:

By simple inspection of daily rates not clear how they were developed. FHWA has provide guidance(s) on point via memorandum, their 2006 Reference Guide(see pages 108 & 156) & 23 CFR 635.127.

Are we developing rates consistent with such directed guidances from FHWA?

Response: LD rates are determined as required by Florida Statute 337.18, paragraph (2). Thanks for your review and comments.

Heather Lussier
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Comments:

I think this is a good change because of the realistic figures. If a contract is going to LDs then the contractor is probably already close to being in the red. These reduced fees will alleviate some of that sort of pressure.

Response: Thanks for the review and comment.

Mark A. Croft
District Six Construction Engineer
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Comments:

David, Thanks for responding, \$1148 makes sense but was not shown that way on Duane's 9/05/07 memo. Also, the amount of LDs is diminishing as it approaches \$20 million but then takes a big jump from \$3,782/day to \$5,684/day when it crosses \$20 Million. Why?

Response: The figures are still diminishing when compared to current spec rates. Thanks for your review and comments.

Christopher P. Wood
D2 Construction Contract Support Specialist
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Comments:

Suggest that line 4, the \$500k to less than \$2.5 mil, be clearly noted as \$1,148.

Response: Will be correct value of \$1,148 in the final version. Thanks for your review and comments.

Brian Blair, P.E.
PBS&J - GEC Project Manager
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Comments:

Thank you for the opportunity to review and comment on the proposed Specification. I respectfully disagree with the proposal to reduce the amount of per-day liquidated damages assessed to the contractor for late work.

By reducing the amount of the fines, it sends the message that FDOT is not serious about having the projects completed within the contract-approved construction time. In my humble opinion, the fines should increase on par with the way that construction costs have escalated within the last few years.

If we are to fully obtain the contractors' buy-in in a true partnership regarding the 10% cost and 20% time overrun goals set forth by FDOT for the motoring public, they need to know that FDOT stands behind its commitment.

Response: FDOT is serious about assessment and withholding of Liquidated Damages when warranted. The bid costs for construction projects do not enter into the calculations of the LD rates pursuant to Florida Statute 337.18, paragraph (2). Thanks for your review and comments.

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Comments:

We have retrieved the referenced document from the State Specifications Office's Industry Review intranet website. Pursuant to request, we have reviewed the document, entitled "Amount of Liquidated Damages," and offer the following comments for your consideration.

It is recommended that the fourth line reflects \$ 1,148. We feel it is a little misleading since every other line reflected the existing LD amount lined through with the proposed amount reflected to its right side yet line four was different.

Thank you for the opportunity to provide input. If you have any questions or need additional information, please do not hesitate to contact me, at (850) 415-9200.

Response: LD rate of \$1,148 will be correct when the strikethrough changes are accepted. Thanks for your review and comments.
