



Purpose

To provide instructions and guidance to designers and project engineers on how to apply the new, project specific, requirement for determining time-related Liquidated Damages (LD). This instruction is being published now, instead of waiting for the next scheduled Plans Preparation Manual (PPM) update, to assure that designers incorporate the LD changes in their current PS&E packages. The new guidance revises PPM Section 700.01(18)(a).

Background

Liquidated Damages are monies assessed or withheld from the contractor's payment for failure to complete the project within a contractually specified period of time. Liquidated Damages are not a penalty, but reimbursement for the costs to the contracting agency associated with administering the contract beyond the specified contract time. Since 1991, WSDOT's Standard Specifications have included a formula for calculating contract Liquidated Damages. That process, although easy to apply, did not reflect Liquidated Damaged equitably amongst the various project types. The updated process will provide an estimate for reimbursement based on workforce projections for the project.

Direction

All projects scheduled for advertisement after November 30, 2019 require calculated Liquidated Damages using this process. The design team is responsible for completing the [Design Liquidated Damages Calculation Sheet](#) to determine the Liquidated Damages amount. Attached to the calculation sheet are instructions and a completed example calculation sheet. The calculation sheet is easy to use. Once the resources and hours are listed on the sheet, the calculations are done automatically. This amount is to be used in the new General Special Provision 1-08.9.OPT3.FR1, which will be dated December 2, 2019 for use in all projects on or after that date. This GSP will be published mid-November on the Construction General Special Provisions webpage.

This calculation should be done at or near 90% design. The Design Project Engineer should coordinate with the Construction Project Engineer to evaluate workforce projections, as well as any other available information, such as per diem, OT, and travel time, to fill out the calculation sheet.

It is understood that workforce fluctuates during the life of a project. Review the workforce for the duration of the project and select a day that best represents the staffing levels anticipated for the majority of the project. Document the workforce assumptions in the Comments/Assumptions/Staffing Notes section at the bottom of the form.

The Liquidated Damages Calculation Sheet will be kept in the Project File documentation in the region, and a copy given to the construction office responsible for administering the contract.

*A copy of this memorandum is posted to the WSDOT Design Support webpage:

<http://www.wsdot.wa.gov/design/support/>