

**Michigan Department of Transportation (MDOT)**  
**Incentive and Disincentive Report for Fiscal Year 2024**  
**Public Act 121 of 2024 - Section 612**

Contract ID	Contractor	Description	Early / Late Completion	Incentive / (Disincentive) Amount	Funding Source	Date Payment Completed
<b>NO INCENTIVE PAYMENTS IN FY 2024</b>						
			<b>Incentive Total ==&gt;</b>	<b>\$0</b>		
09035-128585	Ace-Saginaw Paving Company	Liquidated Damages, Failure to complete SB I-75 work within the contract time	31 days	(\$828,400)	Federal 90% State 10%	2/1/2024
22012-213457	Bacco Construction Company	Liquidated Damages, Oversight, Failure to complete M-95 work by the completion date	13 days	(\$19,500)	Federal 81.85% State 18.15%	1/22/2024
31012-212199	Zenith Tech, Inc.	Liquidated Damages, Oversight, Failure to complete Portage Lake Lift Bridge work by the completion date	86 days	(\$129,000)	Federal 81.85% State 18.15%	7/9/2024
31051-128708	Bacco Construction Company	Liquidated Damages, Oversight, Failure to complete US-41 work by the completion date	31 days	(\$71,300)	Federal 81.85% State 18.15%	3/7/2024
33044-210093	Walsh Construction Company II, LLC	Liquidated Damages, Failure to complete I-496 work within contract time	38 days	(\$1,550,400)	State 100%	11/22/2023
41000-207873	Wolverine Sealcoating LLC	Liquidated Damages, Oversight, Failure to complete crack treatment work by the completion date	34 days	(\$27,200)	Federal 81.85% State 18.15%	8/1/2024
41131-201255-2	Michigan Paving and Materials Company	Liquidated Damages, Oversight, Failure to complete EB I-96 work by the completion date	37 days	(\$74,000)	Federal 90% State 10%	12/13/2023
45031-211396	Rieth-Riley Construction Co., Inc	Liquidated Damages, Oversight, Failure to complete EB I-96 work by the interim completion date	4 days	(\$6,000)	Federal 81.85% State 18.15%	4/4/2024
48032-212632	Bacco Construction Company	Liquidated Damages, Oversight, Failure to complete M-123 work within contract time	116 days	(\$174,000)	State 100%	7/2/2024
49025-208901	Hebert Construction Co.	Liquidated Damages, Oversight, Failure to complete I-75 work within contract time	635 days	(\$952,500)	Federal 90% State 10%	9/24/2024
52032-204069	A. Lindberg & Sons, Inc.	Liquidated Damages, Oversight, Failure to complete M-35 work within contract time	24 days	(\$36,000)	Federal 81.85% State 18.15%	6/25/2024
52041-201941-2	Hebert Construction Co.	Liquidated Damages, Oversight, Failure to complete US-41/M-28 work within contract time	2 days	(\$4,000)	Federal 88.69% State 11.31%	4/16/2024
52043-205023	J. Ranck Electric, Inc.	Liquidated Damages, Oversight, Failure to complete ITS work within contract time	1 day	(\$1,500)	Federal 81.85% State 18.15%	1/25/2024
55022-211072	Bacco Construction Company	Liquidated Damages, Oversight, Failure to complete US-2/US-41 work within contract time	11 days	(\$16,500)	Federal 81.85% State 18.15%	1/25/2024
63022-124103	Dan's Excavating, Inc.	Liquidated Damages, Failure to complete I-96 work within contract time and calendar days bid	18 days	(\$1,805,000)	State 100%	6/20/2024
76062-204414	Ace-Saginaw Paving Company	Liquidated Damages, Failure to complete M-21 work within contract time	39 days	(\$146,263)	Federal 81.85% State 18.15%	6/13/2024
82251-210351	C. A. Hull Co., Inc.	Liquidated Damages, Oversight, Failure to complete bridge work on I-375 within contract time	9 days	(\$13,500)	Federal 90% State 10%	5/16/2024
			<b>Disincentive Total ==&gt;</b>	<b>(\$5,855,063)</b>		
			<b>Grand Total ==&gt;</b>	<b>(\$5,855,063)</b>		

## Guidelines Governing the Use of Incentive and Disincentive Provisions

### Guidance for Construction Staff:

1. Incentive and Disincentive Provisions –  
[https://mdotwiki.state.mi.us/construction/index.php?title=Projects\\_with\\_Incentive\\_Provisions](https://mdotwiki.state.mi.us/construction/index.php?title=Projects_with_Incentive_Provisions)
2. Liquidated Damages –  
[https://mdotwiki.state.mi.us/construction/index.php?title=108.10\\_Liquidated\\_Damages#LIQUIDATED\\_DAMAGES](https://mdotwiki.state.mi.us/construction/index.php?title=108.10_Liquidated_Damages#LIQUIDATED_DAMAGES)
3. Progress Clauses with Incentives –  
[https://mdotwiki.state.mi.us/construction/index.php?title=102.02\\_Contents\\_of\\_Proposal\\_-\\_Progress\\_Clause#Progress\\_Clauses\\_with\\_Incentive\\_or\\_A.2BB\\_Schedules](https://mdotwiki.state.mi.us/construction/index.php?title=102.02_Contents_of_Proposal_-_Progress_Clause#Progress_Clauses_with_Incentive_or_A.2BB_Schedules)

### Guidance for Design Staff:

Michigan Road Design Manual Chapter 14 (Procedures for Plan Preparation), Sections 14.51, 14.51.01, 14.51.02, and 14.51.03 – see below.

## MICHIGAN DESIGN MANUAL ROAD DESIGN

**14.51** (revised 12-17-2018)

### **INCENTIVE AND LIQUIDATED DAMAGES CLAUSES**

There are two inducements to completing work by the prescribed completion date or time. These are in addition to the normal schedule of Liquidated Damages included in Section 108.10 of the current Standard Specifications for Construction. Both are listed below.

1. Incentive payments - used primarily on critical projects where traffic inconvenience and delays are to be held to a minimum. The amounts are based on estimates of items such as traffic safety, traffic maintenance, and road user delay costs.
2. Liquidated Damages for Other Department Costs - based on increased user costs and/or additional cost incurred by MDOT; such as increased maintenance costs or costs due to the type of designs for temporary roads.

**14.51.01** (revised 3-16-2015)

#### **Guidelines**

Guidelines for the development and use of Incentive or Liquidated Damages Clauses are as follows:

- Projects that are to be on an expedited schedule should be identified during the "Call for Projects" process and in the Project Concept Statement.
- Justification material such as hourly counts, user cost data and construction costs should be available prior to The Plan Review Meeting so a traffic control plan can be presented and reviewed at the meeting.
- When Incentive clauses or special expedited schedules are used, adequate Department staff must be available to maintain proper inspection and to assure a quality product.
- Projects should be straight forward and not require several different types of construction procedures or typical sections.

**14.51.02** (revised 7-22-2013)

#### **Applications**

Incentive Clauses would be appropriate where the following conditions exist:

- A substantial savings in user costs can be realized by shortening the time of the traffic restrictions or completing the project ahead of schedule.
- Total additional user costs should be at least in the neighborhood of 5% of the project cost. \$5000 per day should be considered as the daily minimum incentive for major projects. For smaller interim elements of a project, a lesser value may be used.
- The time of the traffic restriction should be long enough to allow the construction schedule to be compressed at least an additional 15 days, based on a completion date using an expedited schedule.
- Where capacity will be reduced below an acceptable level of service and no detour route is available.
- Where a detour route must be used and the detour has an unacceptable level of service.

## MICHIGAN DESIGN MANUAL ROAD DESIGN

### 14.51.02 (continued)

Liquidated Damages for Other Department Costs would be appropriate where the following conditions exist:

- Where additional costs would be incurred by MDOT in the form of maintenance costs on temporary roads, costs of over-designing temporary roads, maintaining traffic costs, etc. and where substantial additional user costs would be incurred or could be justified. An example would be a road being maintained on a detour or a temporary road through the construction area. The level of service would not be reduced but maintaining this situation beyond a specified date (winter shutdown) would create additional costs for MDOT. The amount of the Liquidated Damages should be substantive enough to cause the contractor to follow the schedule and to do the work as required otherwise the contractor may choose to pay the Liquidated Damages payment.
- Where the substantial user costs could be justified but the construction time is too short to allow a meaningful incentive period before the established completion date. An example would be to assess Liquidated Damages to assure the daily lane closures will not extend into the rush hour.

### 14.51.03 (revised 7-22-2013)

#### Procedure

As soon as the Project Managers are aware that Incentive or Liquidated Damages Clauses will be included in a project, they should request an analysis. Since the analysis often requires considerable data from different work centers, it is essential to give as much lead time as possible. The Project Manager should supply, as a minimum, the following information:

- all available traffic counts (24 hour)
- the number of lane closures, if applicable
- detour routes - distance and estimated travel times

Once the analysis is completed, reviewed, and approved the information is forwarded to the Project Manager and is incorporated into the progress clause.

The maximum cost (usually 5% of the total contract) must be included in the construction cost of the project and remain within the approved programmed amount.