

Final Report
Michigan Department of Transportation
Use of a No Excuse Incentive on a Freeway Reconstruction Project
Workplan approved on October 8, 2014
Final Report completed on January 5, 2024

MDOT Job Number: 106858, 109066 and 109078
Control Section: 73111
Length of Project: 3.75 Miles
Location: I-75, from Dixie Highway to Hess Road (Saginaw County)
Contract Cost: \$45,970,244.59

Introduction

The Michigan Department of Transportation (MDOT) proposed to use a Special Provision titled “Incentive, I-75, No Excuse Completion of Work” in the contract to incentivize the expedited construction of the early stages of the project in order to increase mobility during seasonal periods when traffic volumes on this segment of I-75 are the highest.

This segment of I-75 has 6 lanes of traffic (3 NB and 3 SB) and ADT of 52,550 with 10% commercial. Traffic volumes increase significantly after Memorial Day due to seasonal and tourist traffic. The project will also have an alternate pavement bidding component. The No Excuse Incentive was applied to the completion of the initial stages of construction so 5 lanes of traffic can be maintained while the freeway is reconstructed. After the initial stages were completed, MDOT maintained 3 lanes of traffic in the peak direction and 2 lanes in the non-peak direction by using movable barrier wall.

Purpose

The purpose of using a No Excuse Incentive was to increase mobility during the times when traffic volumes increase. A very aggressive construction schedule was required to complete the preliminary work by Memorial Day, and the contract needed to dedicate significant resources above those typically needed for an expedited project. The use of this incentive demonstrated MDOT’s commitment to maintaining mobility on the I-75 corridor.

Project Scope and Background

I-75 is a freeway with an ADT of 52,550 (with 10% commercial). Furthermore, the project used an alternate pavement bidding (APB) process to determine if it will be built as concrete pavement or HMA pavement.

A Special Provision for No Excuse Incentive was developed by MDOT staff. The project was a Project of Division Interest and the final version used in the contract was provided to the FHWA – Michigan Division for final approval. MDOT has previously used a No Excuse Incentive and had successful results.

Schedule

The Project was let for bids in February, 2015, and construction was completed and open to traffic at the end of 2016.

Evaluation

MDOT's response to the approved SEP-14 Workplan's evaluation criteria are consolidated in the responses below.

1. Industry Reaction: MDOT will record and track the response from our contracting industry. This will also include an assessment of improvements to the process that may be proposed by industry.

MDOT Response 1: After discussion with bidders for this project, it was apparent that the concept of the No Excuse Incentive provision clause caused bidders to approach the preparation of their bid slightly differently than for a normal (non-expedited) construction schedule. Because this provision involved an incentive for meeting a deadline of **May 21, 2015** for an incentive pay of \$250,000, this would have required bidders to mobilize and accelerate their work operation to meet that deadline. Liquidated damages would be assessed if the bidders were not able to meet a deadline of **June 13, 2015**. The incentive of \$250,000 was not seen as enough to cover the operating and overhead costs associated with accelerating the work operations by 3 weeks.

The concept of the No Excuse Incentive provision did not cause the bidder, however, to approach the preparation of the bid differently than for other typical accelerated construction schedules with incentives. The difference for this was that this particular contract only involved one aspect of the contract to be incentivized early in the construction process.

The coordination efforts to discuss the evaluation of the No Excuse Incentive with the Contractor started years after the project was completed, and MDOT is having difficulty receiving further industry reaction at this point in time. MDOT can update the report if additional information is received.

2. Time and Cost Savings: MDOT will evaluate the effectiveness of having this special provision in a contract and if there was an associated cost savings.

MDOT Response 2: The actual incentive amount of \$250,000 was not viewed as enough money to warrant the effort, coordination and acceleration of the work operations to achieve the No Excuse Incentive date. The time difference of three weeks would have required the contractor to mobilize additional equipment and labor to achieve that date which would have exceeded the incentive amount of \$250,000.

3. MDOT will evaluate the positive or negative effects of having this special provision in a project and evaluate the effectiveness of the contract language in facilitating MDOT oversight.

MDOT Response 3: Based on input from the bidders, the specifications for the No Excuse Incentive were clear for the bid preparation. The specification held the same clarity as the Traditional Calendar Day Incentive/Disincentive, A+B Calendar Day provision, and the Lane Rental Provision.

4. Lessons Learn: MDOT will provide a summary of any lessons learned throughout the project and will include any items that may be improved on for the next project that uses a similar process.

MDOT Response 4: The dollar amount involved in this No Excuse Incentive provision was not substantial enough to make a difference.

MICHIGAN
DEPARTMENT OF TRANSPORTATION

SPECIAL PROVISION
FOR
INCENTIVE, I-75, NO EXCUSE COMPLETION OF WORK

BAY:JYP

1 of 2

APPR:JJG:DBP:12-05-14

a. Description. This special provision identifies the work requirements, hereinafter referred to as the “specified work”, that if met, the Department will pay the Contractor a “No Excuse Incentive”.

1. Work required to construct Stage 1A and Stage 1B as defined in the Special Provision for Maintaining Traffic, Permanent Signing and Pavement Marking and as specified on the plans is fully completed.

2. Southbound I-75 traffic is shifted to the northbound roadway with five lanes maintained from the POB to the POE with three lanes of traffic in the direction of peak flow as defined in the Special Provision for Maintaining Traffic, Permanent Signing and Pavement Marking.

The Department will pay an incentive of \$250,000 for completion of the specified work on or before the no excuse incentive date of May 21, 2015, regardless of the stage completion dates in the Progress Clause.

The Department will not extend the no excuse incentive date for the specified work for any reason, regardless of fault, with the exception of a declared state of emergency.

Delays may be caused by or arise from any number of events during the course of the contract, including but not limited to, work performed, work deleted, change orders, supplemental agreements, delays, disruptions, differing site conditions, utility conflicts, design changes, actions of suppliers or other contractors, material defects, suspension of the Contractor’s operations, actions by third parties, weather, or other factors. Such delays or events and their potential impacts on performance by the Contractor will not invalidate or alter the “No Excuse Incentive” provisions or the Progress Clause requirements. Any and all costs or impacts incurred by the Contractor in accelerating the Contractor’s work to overcome or absorb such delays or events in an effort to complete the specified work by the “No Excuse Incentive” date, regardless of whether the Contractor is successful or not, will be the sole responsibility of the Contractor in every instance and no claims will be considered if filed by the Contractor for such costs or impacts.

The Engineer may allow additional compensation for costs incurred due to increased quantities or extra work to keep the project on schedule to meet the no excuse incentive date for the specified work, in accordance with the following subsections.

b. Increased Quantities. The Engineer will only consider cost adjustments for quantity increases to complete the specified work if all of the following conditions are met:

1. The quantity increase is required to meet the completion date,

2. The increases are to a major item of work,

3. The increase affects completion of the Contractor's controlling operation(s) as defined in the Contractor's approved progress schedule valid at the time the quantity increase occurs, and

4. The Contractor demonstrates that the quantity increase meets the significant change criteria as it relates to the controlling operation.

Obtain the Engineer's approval for cost adjustments prior to performing the work involving the quantity increase. Provide justification to the Engineer for the adjusted unit price due to the quantity increase relative to keeping the project on schedule without any change in the completion date.

The Engineer will only consider actual direct costs above that necessary to complete the work. No cost adjustment will be allowed for overhead.

c. Extra Work. Extra work is as defined in subsection 101.03 of the Standard Specifications for Construction. If the Engineer determines that extra work is required, the Engineer will decide if the extra work must be performed prior to the completion time for the "No Excuse Incentive" or at some other time period.

If the extra work affects the controlling operation as defined in the Contractor's approved progress schedule and the Engineer determines that the extra work is to be done prior to the completion time for the "No Excuse Incentive", the Contractor will provide a documented cost to complete the extra work. The cost will include a detailed breakdown for completing the extra work. If there is additional cost relative to keeping the project on schedule without any adjustment in the no excuse incentive date, the Contractor will provide documented justification of all such costs. The Contractor will bear the burden to fully justify the cost of any extra work to the satisfaction of the Engineer.

d. Measurement and Payment. If the Contractor meets all of the above requirements and earns the incentive as described above, it will be paid using the following pay item:

Pay Item	Pay Unit
Incentive, I-75, Completion of Work	Dollar