

Michigan Department of Transportation
COVID-19 Construction Administration Field Guidance
May 8, 2023

On April 11, 2023, the United States national emergency to respond to the COVID-19 pandemic ended as President Joe Biden signed a bipartisan congressional resolution to bring the emergency to a close. Based on current COVID-19 trends, the U.S. Department of Health and Human Services (HHS) is planning for the federal Public Health Emergency (PHE) for COVID-19, declared under Section 319 of the Public Health Service (PHS) Act, to expire at the end of the day on May 11, 2023. In light of these events, the Michigan Department of Transportation (MDOT) is issuing the following guidance.

All construction and construction administration guidance previously issued concerning COVID-19 is hereby rescinded.

Any contractor requests for extension of contract time due to COVID-19-caused delays encountered prior to May 12, 2023, are eligible for approval as an excusable delay under subsection 108.08.C.5 of the Standard Specifications for Construction. To support a request, the Contractor must submit appropriate documentation to demonstrate the COVID-19 pandemic delayed the critical path of the project's progress schedule. MDOT will not pay any delay costs (e.g., idle equipment, material, and/or labor) because these delays are not attributable to the Department and are therefore non-compensable under subsection 108.09.B of the Standard Specifications for Construction. However, because COVID-19-caused delays are considered excusable, MDOT will not assess liquidated damages for properly supported extension of time requests.

Contractor requests for extensions of contract time due to alleged COVID-19-caused delays encountered on or after May 12, 2023, should be approved with the assessment of liquidated damages.

All extension of time requests must be submitted in accordance with the Standard Specifications for Construction. Specifically, non-weather-related requests for extensions of time must be submitted within 14 days after the last day of the delay. The Engineer is to carefully review all COVID-related requests for extension of time to determine when the Contractor's delay ended and whether the request is timely based on that date. Failure to submit written requests to the Engineer within the required time frame will constitute a waiver of claim for an extension of time under subsection 108.09.A of the Standard Specifications for Construction.

This is guidance for administering projects and does not amend or modify existing contract language.