# INSTRUCTIONAL MEMORANDUMS
**To Local Public Agencies**

Iowa Department of Transportation

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| To: | Counties and Cities | Date: December 3, 2007 |
| From: | Office of Local Systems | I.M. No. 3.930 |
| Subject: | Interest Payment Procedures | |

**Contents:** This Instructional Memorandum (I.M.) describes the procedures for a Local Public Agency (LPA) to comply with the interest payment requirements associated with construction contracts. This I.M. includes the following attachments:

Attachment A – Sample Interest Payment Information Form

Note: The procedures outlined in this I.M. are required only for Federal-aid contracts; however, the interest payment requirements of section 573.14 of the Code of Iowa apply to all public agency contracts, regardless of the funding source. Therefore, the Iowa Department of Transportation (Iowa DOT) recommends that LPAs follow a similar procedure for non-Federal-aid contracts; however, no submittals to the Iowa DOT are required for such contracts. If interest is due for non-Federal-aid contracts, the LPA may contact the Iowa DOT Office of Finance, Project Accounting and Payables at 515-239-1703 to obtain the appropriate interest rate.

**Introduction**

Section 573.14 of the Code of Iowa requires that interest be paid on retained funds under certain conditions. For contracts let by the Iowa DOT, these conditions are specified in Article 1109.09 of the Iowa DOT Standard Specifications (available on-line as part of the Iowa DOT's Electronic Reference Library). For Federal-aid contracts that are let locally, these conditions are specified in the Proposal Notice for Locally Procured Federal-aid Contracts (for more information, see I.M. 3.720, Local Lettings – Federal-aid).

**Preparing the Interest Payment Information**

The information required to determine if interest will be due shall be documented on the *Interest Payment Information* (Form 830236, available in PDF). A sample form is provided as Attachment A to this I.M. The Project Engineer shall complete Form 830236 according to the instructions provided below:

Project Number, Project Name / Location, Accounting I.D., and Contractor: Complete these fields as appropriate for the contract being submitted.

Final Acceptance Date (FAD): For projects let using the Iowa DOT Standard Specifications, this date is when the LPA's Project Engineer signs the *Statement of Completion and Final Acceptance of Work* (Form 830435, available in Word or PDF). For projects that are let using other specifications, this date is when the LPA's Project Engineer signs the top portion of the *Certificate of Completion and Final Acceptance of Agreement Work* (Form 640003, available in Word or PDF).

Day Zero: This is the date the LPA's Project Engineer receives the final paperwork from the Contractor. The final paper work includes all forms, certifications, Change Orders, or other documentation required by the contract documents for final payment. The Day Zero date cannot occur before the FAD. If the Contractor provides all the final paperwork before the FAD, Day Zero Date will be equal to the FAD.

Suspension Periods in Day Zero Count: Enter each suspension period in the Day Zero count that applies, including the beginning and ending dates of the suspension period and the reason(s) for the suspension. The Day Zero count starts the day following Day Zero and stops as of the date shown on the final payment warrant. After the Day Zero count has started, it may be suspended in the following situations:

1. If at any time after the Contractor submits the final paperwork it is determined, either by the Project Engineer or the Iowa DOT, that any of the required final paperwork is missing. In such cases, the Project Engineer shall notify the Contractor in writing and specify the documentation that must be submitted. The Day Zero count will be suspended as of the date of the Project Engineer's notice to the Contractor and shall be resumed on the date the requested documentation is received by the Project Engineer.

2. If the Project Engineer has not received a signed final voucher or final pay estimate from the Contractor by FAD + 50, the Day Zero count will be suspended on the following day (FAD + 51). It will resume on the date the signed final voucher or pay estimate is received by the Project Engineer.

3. If after receipt of the final paperwork from the Contractor, the Project Engineer initiates a Change Order. In such cases, if the Change Order is not signed and returned to the Project Engineer by within 10 days after it was sent to the Contractor, the Day Zero count will be suspended on the 11th day and resume when the signed Change Order is received by the Project Engineer.

Total Suspension Periods in Day Zero Count: Enter the total number of days the Day Zero count was suspended, as indicated above. If there were no suspensions, enter "None" in the space provided.

If final payment is dated after: Enter the date which is 50 calendar days after the FAD.

Interest will start to accrue on: Beginning with Day Zero, add 31 calendar days, then add the total number of suspension days in the Day Zero Count, if any, and enter this date.

To illustrate how the various dates and suspension periods affect the interest period calculation, consider the following examples:

Example 1:

FAD = Jul 10, 2007
FAD + 50 = Aug 29, 2007
Day Zero = Jul 20, 2007
Day Zero + 31 = Aug 20, 2007
Total Day Zero Count Suspensions = 0 days
Date of Final Warrant = Sep 22, 2007

Result: The final warrant is dated after Aug 29, 2007 (FAD + 50) so interest will be paid for a period of 34 days, beginning Aug 20, 2007 (Day Zero + 31 + 0) and ending Sep 22, 2007 (date of final warrant).

Example 2:

FAD = Jul 10, 2007
FAD + 50 = Aug 29, 2007
Day Zero = Sep 10, 2007
Day Zero + 31 = Oct 11, 2007
Total Day Zero Count Suspensions = 0 days
Date of Final Warrant = Oct 5, 2007

Result: The final warrant is dated after Aug 29, 2007 (FAD + 50), but is before Oct 11, 2007 (Day Zero + 31 + 0), so no interest is due.

Example 3: (as shown on the sample form included as Attachment A)

FAD = Jul 10, 2007
FAD + 50 = Aug 29, 2007
Day Zero = Sep 10, 2007
Day Zero + 31 = Oct 11, 2007
Total Day Zero Count Suspensions = 20 days
Date of Final Warrant = Oct 15, 2007

Result: The final warrant is dated after Aug 29, 2007 (FAD + 50) but is before Oct 31, 2007 (Day Zero + 31 + 20), so no interest is due.

**Submittal and Review of Interest Payment Information**

After completing Form 830236, the Project Engineer shall submit it to the Iowa DOT Administering Office with the final voucher or pay estimate, along with the other paperwork required for Iowa DOT approval of final payment. Upon receipt, the Administering Office will review Form 830236 for completeness. If any of the information is incorrect or incomplete, the Administering Office will contact the Project Engineer. The Project Engineer shall revise and resubmit the form as required.

**Payment of Interest**

If the date of the final warrant to the Contractor is 50 calendar days or less from the Final Acceptance Date, no interest will be paid. If it is more than 50 calendar days, interest will begin to accrue as of the date indicated on Form 830236. If interest is due, it will be paid according to one of the following procedures:

1. For contracts paid using the Contractor Pay System (CPS): The Iowa DOT Office of Finance will calculate the appropriate amount of interest to be paid, if any. If the amount is over $25, the Office of Finance will issue a warrant to the Contractor for that amount. An interest payment voucher will not be prepared or sent to the LPA for review and approval. Payment will be made from the same account from which the earlier contract payments were made.

2. For contracts paid directly by the LPA: If Form 830236 indicates that interest is due, the LPA shall calculate the amount of interest to be paid using the interest rate as established by Code of Iowa section 12C.6. The LPA may contact the Iowa DOT Office of Finance, Project Accounting and Payables at 515-239-1703 to obtain the current interest rate, as established by this Code section. After calculating the appropriate interest payment, the LPA shall make payment to the Contractor accordingly.

Note: Regardless of which method is used to make the interest payment to the Contractor, such payments are not eligible for reimbursement with Federal funds.

**Retention Release**

The process for reviewing the final paperwork can be lengthy. Therefore, to reduce the chance that interest will be due to the Contractor, the Project Engineer should submit the final paper work to the Administering Office on or before FAD + 29. Submittal of the final paperwork on or before this date will usually allow enough time for the Iowa DOT to review and approve the final voucher and make final payment to the Contractor for contracts paid using the CPS; or for contracts paid directly by the LPA, for the Iowa DOT to review and approve the final pay estimate and notify the LPA that final payment to the Contractor can be made.

If at any time it appears that submittal of the final paperwork cannot be made on or before FAD + 29, the Project Engineer should consider preparing a Retention Release Voucher for CPS contracts; or for contracts paid directly by the LPA, pay the retainage due, less an amount double any claims on file. This will reduce or eliminate the amount retained and thereby reduce the amount of interest that may be due.