

# Contractor's Past Performance Rating (CPPR) Guidelines

The following is provided as guidance to users of the Florida Department of Transportation's Contractor's Past Performance Rating (CPPR) system. From FDOT Form 700-010-25 and the State Construction Office's website and the mandatory spreadsheet for calculating score, the following guidance is extracted. Guidance provided is in the form of direct statement or answers to listed questions.

Click on a link below to view an informative presentation on the CPPR process.

[CPPR Guideline & Instructional Presentation](#)

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# Section 1 - Pursuit of Work

Contractor diligently and systematically pursues the work with sufficient labor, materials and equipment at all times. Active progress is made on critical path items each day in accordance with the approved schedule. The contractor schedules the subcontractors so that they are pursuing their work as well. Contractor worked five (5) days a week unless the contract states otherwise, excluding weather days. Percent is based on allowable contract time (minus weather days) and on a five (5) workday week unless otherwise stated in the contract.

Contractor Notification Method: Contractor notified monthly by weather letter. Contractor can appeal grade given in this category for the month within 10 days of receiving weather letter.

**Guidance provided:**

1. Contract time is normally established utilizing a 5 day work week, that is why the CPPR Pursuit of Work is evaluated against a 5 day work week unless specified differently in your contract. This works even for bonus jobs that are striving to achieve the monetary bonus by working extended hours, shifts, or days.
  
2. The grading form already indicates that weather days are excluded from the calculations. Weather days should be accounted for in the following manner:

If during the week it rained 3 days of the 5 the contractor was to work and he pursued the 2 days that he could, then the calculation for that week would be pursued 2 of 2 (100%) days with note in the remarks that had 3 days rain. If the contractor did not work 1 of the 2 available days, then his pursuit would be 1 of 2 (50%) days. If the contractor worked weekends to try to make up for the rain impacts, the time for pursuit would still be determined as 2 of 2 (100%) days regardless of the weekend work. As an example of accounting for weather days, see excerpt from spreadsheet below:

<b>CATEGORY 1 - Pursuit of the Work</b>	<b>Score (max. of 12):</b>	12.0
	<b>Pursuit of Work</b>	94%

Period	Work Days	Pursued Days	Remarks
Jan '2001	12	12	
Feb '2001	20	16	
Mar '2001	17	17	Rained 3/4, 3/7, and 3/15
Apr '2001	20	20	

3. As for grading a Contractor in both Category 1, Pursuit of Work, and Category 8 when the Contractor is not on the project and the schedule shows that they should be working, definitely would affect Category 1. It would only affect Category 8 if the Contractor neglected items of work that affected the quality of workmanship (i.e., MOT, erosion control, etc.).
4. In the event a Contractor shuts down company-wide operations, for a period not to exceed 7 consecutive calendar days during a calendar year, to provide for employee vacation and such period of inactivity is shown in the schedule submitted at the time of pre-construction conference, then such period of inactivity shall not be counted as non-pursuit days in the category of "Pursuit of the Work" in the Contractor Past Performance Report.

Given that the decision by a Contractor whether or not to make a company-wide shut down for a vacation or holiday is often determined by the needs of the Contractor near the time for the shut down (i.e., whether a job(s) are on schedule or behind), this should be discussed early in the project when reviewing project schedule. Consideration should be given to allowing for a vacation/holiday shut down of operations if reasonable notice is given by the Contractor even if the shut down was not initially shown in the Contractors project schedule.

5. **Question:** I need a little more direction in the use of Category 1, Pursuit Of Work, CPPR, when the contractor is in liquidated damages. Your email of 8/4/03 directed us to use a 5 day work week when evaluating Pursuit Of Work. Your email of 10/31/03 went on to instruct us to apply all liquidated damage days as non-pursuit days. If the pursuit category is based on a five day work week, don't we skip the weekend days that the contractor is in liquidated damages?

**Answer:** You are correct in your understanding of the weekend days. To be consistent, we decided that since we are accounting for the workdays (either as 5 days per week or as defined in your contract) we would stay with the same work day count for non-pursuit days. Rather than changing from 5 days per week used before the job went into LD's to 7 days per week after the job went into LD's, we decided to leave as defined in your contract. See example below:

<b>CATEGORY 1 - Pursuit of the Work</b>	<b>Score (max. of 12):</b>	<b>5.0</b>
	<b>Pursuit of Work</b>	<b>66%</b>

Period	Work Days	Pursued Days	Remarks
Jan 2001	12	12	
Feb 2001	20	16	
Mar 2001	17	17	Rained 3/4, 3/7, and 3/15
Apr 2001	20	20	
May 2001	20	0	contractor in LD's, counted work days
Jun 2001	10	0	after allowable time ran out

6. Category 1 is based on a five-day work week unless the contract stipulated otherwise. Also, a Contractor's performance is measured against his submitted, accepted schedule. If a contractor is not working on the Critical Path activities on the project, then his performance will be measured as a non-pursuit day. Also, work on weekends isn't included as the category was developed based on the 5-day work week or work week stated in the contract.

7. **Question:** Would the five days be the five days defined in your contract? For example, if the project was night work on the nights Sunday through Thursday, then those would be the five days used?

**Answer:** Yes. The five days used would be the same from week to week unless defined otherwise in your contract. Section 1-3 of the Standard Specifications defines the working day as "any calendar day on which the contractor works or is expected to work in accordance with the approved work progress schedule." Also, specific reference to work limitations should be defined in your contract under Limitations of Operations.

The typical project work days are Monday through Friday, daytime hours. There are some specific projects that limit the time/days on which the contractor can work, hence the Sunday to Thursday night work example provided in my earlier response. If the contract does not stipulate what days or hours the contractor can work, then the contractor is free to choose which days/times to work.

8. If the Contractor doesn't begin work on the first contract day, but gets the project finished early, are the days they don't work prior to final acceptance non-pursuit?

**Answer:** Yes. For example, if the Contractor signs the project and then does not show up to work for the first 25 days as shown in your example, those days would be counted as non-pursuit days, even if it ends up that the project finishes early. The reason is that once we put up the signs on the project, we are telling the public that we are ready to start work and their expectation is to see work going on. If the

Contractor does not sign the project and let's us know his intentions regarding starting the project later, we have not been charging those days as non-pursuit.

**Additional Example:** If the Contractor was ahead of schedule in completing some critical items and so he pulled off the project for a couple of weeks to send his crew to another project. Would they be marked down for "non pursuit" because they were not working on the job? Even if they completed their items ahead of schedule and as long as they didn't get behind when they returned, could we not mark the non pursuit category?

**Answer:** The time on the job when the contractor has pulled off would be non-pursuit. The intent with pursuit is that it is maintained at all times on the project, unless otherwise specified in the contract.

9. Can a Contractor be in pursuit when using a two person crew a part of a day installing silt fence (It took them three weeks to complete what normally would take two days)?

**Response:** We would consider that not meeting the intent of actively pursuing the work. Remember that per the directions given in Contractor's Past Performance Report form that the Contractor is to diligently and systematically pursues the work with sufficient labor, materials, and equipment at all times. Active progress is made on critical path items each day in accordance with the approved schedule. Also, the grades for the category are based on aggressively pursuing the work. Having a crew of two working on a task that would normally take a regular crew only a few days in not considered diligently, aggressively pursuing the work.

10. If the Contractor is being charged with a non-pursuit day, can it be considered a nonconformance day on the little bit of work they do complete?

**Response:** If the quality of the work was considered acceptable, then there would not be a nonconformance day(s) charged while this work was being done during nonpursuit. If, as your lead in statements indicated, the work performed by the 2 member crew was unacceptable, the work would be nonconforming and the days would be nonpursuit.

11. Regarding the CPPR Instructions for Pursuit of Work, pg. 4 of 7, it reads "Contractor diligently and systematically pursues the work with sufficient labor, materials, and equipment at all times. Active progress is made on critical path items each day in accordance with approved schedule."

**Response:** Presumably this means if by contract day #100 the Contractor's schedule shows work completed to be at 50% and yet the Contractor has only completed say 10% of the work, then he is in non-pursuit.

**Additional Example:** With that being said, what percentage threshold of the planned schedule work vs. actual progress must the Contractor fall behind before we start marking every available day as non-pursuit?

**Response:** Your presumption that a contractor is in non-pursuit whose schedule shows should be 50% complete at day 100 but is only 10% complete is correct.

There is no minimum percentage threshold established for planned versus actual work performed on a project. The accounting of non-pursuit days begins on the first day of the project. The requirement for being considered a pursuit day is that the contractor is diligently and systematically pursuing the work with sufficient labor, materials, and equipment at all times and that active progress is made on critical path items each day in accordance with the approved schedule.

In your example, the contractor is only pursuing the work at a production rate of 20% of what was scheduled, that would not be considered sufficient labor, materials and equipment to meet the schedule, even though the work may be on the critical path. In this example, it appears that the majority of the days used so far were not actively pursued.

12. A contractor states on his Controlling items of work that he is going to work 6 days a week. It rains on a Wednesday, he gets a weather day and Pursuit of work is only 4 of 4, with a weather day which equals 5 available days. Four days worked and one rain day.

It rains on a Saturday, Pursuit of work is 5 of 5. Do we grant a weather day for the rainout on Saturday?

**Response:** If the contractor's schedule shows a six day work week, we would grant the weather day for the Saturday.

**Follow-up:** What happens if it rains on a Sunday, do we grant a weather day for a Sunday if it was not a scheduled day of work?

**Response:** No on Sunday since it was not a scheduled work day. The granting of weather days is for delays to the work caused by the weather - if no work scheduled, there is no delay to work due to weather.

**Follow-up:** I know that we show Weather Days on the CPPR so that we can come up with Allowable Contract Days.

**Response:** Actually, the allowable contract days are accounted for in Category 8, Conformance with Contract Documents. Category 1 is not going to match allowable contract days for the project unless the contractor works 7 days/week with no weather days.

**Follow-up:** In the Remarks column of Category 1, should we show weather days if Saturdays and Sundays become weather days?

**Response:** You would show Saturday if it was a scheduled workday, would not show Sunday based on scenario from above.

**Follow-up:** What I try to do when I get copies of the monthly CPPR is to verify that category 1 and category 8 days are listed correctly. I look at a calendar and determine the Work Days for the month. Then I add up the Pursued Days, non-pursued days and the weather days and figure that should equal Work Days for the month. But I have run across one that this does not work since they are giving Saturday's and Sunday's as weather days. What are your thoughts?

**Response:** The quickest way to account for accuracy of the days in the spreadsheet is to sum the Category 8 allowable days column and compare it to days used in the header. If the numbers match, the days are correctly accounted for. As for Category 1, as I alluded to above, if the total work days will not match the allowable days due to weather and the fact that few jobs have a seven day a week schedule.

13. If the Contract was based on a 5 day work week and you have a Contractor that chooses to work 4 days a week (10-16 hrs/day), The Contractor is making good progress, would you calculate the time based on the schedule for 4 days or should we be counting the time based on a 5 day work week, as called for in the Contract? I realize that if we would base the evaluation on the work schedule that we would not allow for the contractor to use a Fri., Sat. or Sun. as a make up day for weather or nonpursuit of a previous scheduled work day.

**Response:** If we accepted the schedule based on a 4 day/week schedule of long days, we should evaluate the pursuit in Category 1 based on 4 day/week. Refer to CPPR guidance on the SCO website, Category 1, item number 2 for more information.

In this case, the Contractor is working Mon -Thur on 1 week and Tues - Fri. on the other week, alternating back and forth. (The Contractors employees are form out of

town and he uses the long weekends to allow his personnel to go home and see their families, though that is neither here nor there.)

**Response:** I would have no problem with this if it was communicated to the Department up front in the Contractor's schedule and was accepted by the Department.

14. **Question:** Can a contractor submit and be evaluated for Pursuit of Work against a 6 day or 7 day per week schedule?

**Response:** It was inferred in earlier responses to questions on Pursuit of Work that a workweek could be longer than a 5 day per week schedule provided it was agreed to and accepted by the Department. This response is written to provide more specific guidance on that issue.

The contractor has had the opportunity to submit a schedule all along that showed a 6 or 7 day workweek. If the Department can accept this schedule then that becomes the measuring stick by which the pursuit of work is measured. The contractor can not bank days. If the contractor submits and we accept a 6 day/week work schedule, for example, then its pursuit would be evaluated against the work of 6 days. If the contractor only worked 5 of the 6 days, then its pursuit percentage that week would be 83%.

The contractor's pursuit, in the event the contractor chooses to abandon the project, would be measured against the 6 day work week of the accepted schedule and would feel the impacts in its grade. We would/should not accept a week to week varied schedule (i.e., 5 day work week one week, 6 day the next, 5 the following, etc.). The accepted work week should be the one that the contractor uses for the job duration.

This only includes an accepted baseline schedule and not the two-week look ahead. If the contractor submits a revised schedule at some point during the project to go from a 5 day to a 6 day work week and we accept it, at that point we would begin measuring pursuit against a 6 day work week. What we won't accept is workweeks jumping back and forth between 5 or 6 days.



## **Section 2 - Proper MOT & Minimize Impact to Traveling Public**

Provide maintenance of traffic (MOT) in accordance with all applicable standards. Coordinate construction operations that directly affect the traveling public so as to minimize impacts to the public. Effectively used the worksite Traffic Supervisor to monitor and correct deficiencies. The contractor takes the initiative to identify and fix MOT concerns in a timely manner.

Contractor Notification Method: Contractor notified via verbal warning, deficiency warning letter, or Deficiency letter. Contractor can appeal to the District Construction Engineer Deficiency Letters within 10 days of receipt.

### **Guidance provided:**

1. A great deal of attention is paid to the category due to public safety. The guidance that we give our personnel in this category is that we generally start with Verbal Warnings (VW). If the Contractor does not correct the issue, we expect our personnel to next issue a Deficiency Warning Letter (DWL) for the same issue. If after this DWL the Contractor has still not corrected the problem, our personnel are expected to issue a Deficiency Letter (DL). That is the typical process, however there are times in which the VW and DWL will be omitted and issue goes directly to DL if it is a serious concern over safety compliance.

## Section 3 - Timely & Complete Submittal of Documents

Contractor submits all required documents in a timely and accurate manner and with all the required information and detail. Documents include sublet requests, rental agreements, certification of materials, shop drawings, responses to correspondence, monthly certification, time extension requests, project schedules and schedule updates, claims for delay or extra work, quality control plans, test results, work plans, weekly MOT, NPDES reviews, etc. For EEO/DBE submittals, trainee submittals, certified payrolls, statewide DBE utilization reporting, a deficiency letter will only be issued on these documents when a monthly estimate is actually withheld.

Contractor Notification Method: Contractor notified via verbal warning, deficiency warning letter, or Deficiency letter. Contractor can appeal to the District Construction Engineer Deficiency Letters within 10 days of receipt.

### Guidance provided:

1. Category 3, Timely and Complete Submittal of Documents, would be where the DWL or DL would be issued for not following the QC Plan.
2. **Question:** What kind of time frame do we look for from the contractor on Timely and Complete Submittals of Documents - particularly for responses to correspondence and time extension and price requests? When can you send out a DWL or DL if these documents are not received in a timely fashion? I can't find any time table that is given for these issues in the Specifications.

**Answer:** Unless contract specified a time frame, only recourse was to set a reasonable time frame in the correspondence and measure performance against that.

3. **Question:** On lump sum projects, the contractor is required to submit their certified estimate by noon, Monday after cutoff. At one time, I remember being told that anytime an estimate is held, it is an automatic deficiency. We still don't have their estimate, so the estimate is being held. However, we were also told that with certifications, the first time the deadline isn't met, it is a warning letter and the second time it is a deficiency. In this case, which one rules?

**Answer:** Category 3 addresses that DL's for EEO/DBE submittals, trainee submittals, certified payrolls, statewide DBE utilization reporting are only issued if the monthly estimate is held for not submitting these timely or accurately. Other than that, discretion is allowed for other documentation submittals. In your case, I would issue a VW or DWL for the first occurrence with increasing consequences for continued failure to submit the certification timely.

## Section 4 - Timely Completion of Project

The contractor completes the project in a timely manner.

Contractor Notification Method: Contractor notified monthly by weather letter. Contractor can appeal grade given in this category for the month within 10 days of receiving weather letter.

### **Guidance provided:**

1. **Question:** Contractor is asking for the bonus points for Category 4 upfront because he is showing an early completion schedule.

**Answer:** Bonus points should not be awarded up front for an early completion schedule. The points, if earned, would be awarded at the end of the project. Interim grades would show 100% (or 14 points) for Category 4.

## Section 5 - Coordination/Cooperation w/ CEI, Property Owners & Utility Companies

Coordination / Cooperation with Construction Engineering Inspection Personnel, Property Owners and Utilities Companies - The contractor coordinates/cooperates with CEI personnel responsible for administration of the contract requirements and inspection of the work. The contractor coordinates/cooperates well with property owners, utilities companies and adjacent projects throughout the contract. The contractor responds to 3rd party damages in a timely manner.

Contractor Notification Method: Contractor notified via verbal warning, deficiency warning letter, or Deficiency letter. Contractor can appeal to the District Construction Engineer Deficiency Letters within 10 days of receipt.

### **Guidance provided:**

1. **Question:** If the Contractors work schedule is submitted and approved for Mon. - Fri. and the contractor decides that he wants to work all day on Saturday, for no other reason than just to come to work that day, the PA schedules the personnel and they show up on Saturday, The Contractor does not, would we issue a DWL or DL in accordance with Category 5 for failure to show up for an approved work day? If so, is it safe to assume that you would show the DWL/DL as a nonconformance day in Category 8 when issuing the FINAL CPPR? or would we count this day under Category 1 as a nonpursuit day?

**Response:** I wouldn't make an issue of it if this was an infrequent occurrence. Just communicate your concerns with the Contractor. If this was something that happened routinely, I would bring it up with the contractor (call it a VW if you want or just communicating your concerns) followed up by DWL or DL in Category 5 if it continues. If a DWL or DL was issued, it would be a nonconformance day in Category 8. It would not be a non-pursuit day in Category 1 since the job was based on a 5 day/week schedule.

## Section 6 - Mitigate Costs & Time Overruns

The contractor organization takes the initiative and works diligently to avoid cost or time increases and to mitigate the effects of changed conditions whenever they do occur. Requests for additional money or time are well documented (complete and accurate), fair and submitted timely.

Contractor Notification Method: Contractor notified via verbal warning, deficiency warning letter, or Deficiency letter. Contractor can appeal to the District Construction Engineer Deficiency Letters within 10 days of receipt.

### **Guidance provided:**

1. **Question:** Can or Should a Deficiency letter be issued under section #6 if the contractor is behind schedule? Category 6 would also seem to apply since he is not working diligently to avoid time increases (isn't a time overrun an increase?) Based on my interpretation, category 6 applies to both the original contract work and any changed conditions or added work.

**Answer:** The affects of being behind schedule will be taken care of in Category 1 and Category 4. Also, Category 6 is established to record how a contractor reacts to contract changes and manages those. Unless there were time/money changes to this contract that could be attributed to the current status of this project, then Category 6 would not be affected.

## Section 7 - Environmental Compliance

The contractor complied with all Federal, State, and local environmental regulations, including permit requirements, National Pollutant Discharge Elimination System (NPDES), and the contract erosion control plan. Contractor takes the initiative to review environmental compliance and corrects deficiencies as necessary to minimize the affects on the environment. (\*) Note: On projects over 300 days of allowable contract time, a bonus of 2 points will be given if the contractor did not receive any deficiency letters in this category.

Contractor Notification Method: Contractor notified via verbal warning, deficiency warning letter, or Deficiency letter. Contractor can appeal to the District Construction Engineer Deficiency Letters within 10 days of receipt.

### Guidance provided:

1. **Question:** Can we add in Section 7 that if a project receives a NOV from a permitting agency that the contractor has points from this category automatically deducted?

**Answer:** This would be automatic the way the section is written now. If the contractor receives a Notice of Violation from a permitting agency, we should issue an automatic DL which would affect the points.

2. A great deal of attention is paid to this category due to it being an environmental safety and protection issue. The guidance that we give our personnel in this category is that we generally start with Verbal Warnings (VW). If the Contractor does not correct the issue, we expect our personnel to next issue a Deficiency Warning Letter (DWL) for the same issue. If after this DWL the Contractor has still not corrected the problem, our personnel are expected to issue a Deficiency Letter (DL). That is the typical process, however there are times in which the VW and DWL will be omitted and issue goes directly to DL if it is a serious concern over poor environmental protection compliance.

## Section 8 - Conformance with Contract Documents

The contractor ensured conformance to all contract requirements including quality of materials and workmanship of temporary as well as final products and services. Contractor provided sufficient supervision, management and oversight to ensure quality control at all times. Contractor's efforts are such that the Department's CEI efforts are not essential to ensure quality.

Contractor Notification Method: Contractor notified monthly by weather letter. Contractor can appeal grade given in this category for the month within 10 days of receiving weather letter.

### Guidance provided:

1. **Question:** It was my understanding that the column Allowable Days could have said Contract Days, however the criteria states chargeable workdays. Should we be placing the calendar days or the chargeable workdays under that column?

**Answer:** Chargeable workdays.

2. **Question:** Contractor was issued a warning deficiency letter in two categories MOT and Timely & Complete Submittal of Contract Documents for that incident. Based on what I am reading in the criteria, the Contractor will need to be in non-conformance in more than 5% of the chargeable work days in order to be graded less than 20, therefore since this was an isolated incident that cause severe backup, it appears that Contractor still gets 20 out of 20 points, right?

**Answer:** Correct.

3. **Question:** Furthermore, will the quality days be affected and be one day less than the allowable days column for the month of April?

**Answer:** Correct.

4. **Question:** In preparing the response below, to the forgoing questions I realized that the definition of a chargeable work day in category 8 is much more complicated than I thought. I also realized that there are situations that conformance to contract documents should not be compared to chargeable work days. We often have flex start or procurement periods preceding chargeable work days. During these pre chargeable contract workday periods, how are we to base our rating of this category as outlined on page 7 of 7, form 700-010-25?

**Answer:** Category 8 would not be affected for "pre-chargeable" contract days. Category 3, Timely and Complete Submittal of Documents, would be where the Contractor's performance should be measured before contract time starts.

5. **Question:** The first sentence on page 7 of 7 [from Contractor's Past Performance Report Form 700-010-25] states "The contractor ensured conformance to all contract requirements \_\_\_\_". Does this mean from award, execution, NTP, the first contract day, or the first chargeable workday?

**Answer:** From the first chargeable workday for the purposes of Category 8.

6. **Question:** The contractor has many contract obligations before the first workday.

**Answer:** These before contract time starts obligations would be evaluated in other categories.

7. **Question:** An example on page 7 under note B. [from Contractor's Past Performance Report Form 700-010-25] references that shortcomings to shop drawing submittals should be documented on the daily diary. We often have procurement periods preceding any workdays on projects when contractors should be submitting shop drawings. If this category is to consider workdays only, how do we account for procurement periods, and flex start projects within the guidelines for this category?

**Answer:** These periods (before construction begins) would be accounted for in Category 3, Timely and Complete Submittal of Documents.

8. **Question:** Category 8 has many references to chargeable workdays. That implies to us, that if a contractor has a five-day work schedule, the other two days would not come into consideration.

**Answer:** The evaluation of seven-day per week activities (i.e., erosion control, MOT, etc.) would be covered in Category 8 when there are non-compliances. Otherwise, there is no effect.

9. **Question:** When calculating this rating how do we define the quality days is it days that the contractor pursued the work and was in conformance?

**Answer:** We have instructed Districts to use Chargeable Contract days in Category 8. The reason being is that we want to be able to account for nonconformance days that occur on weekends.

10. **Question:** Is the intent to penalize the contractor twice, once in Category 1 and then again in Category 8, for not pursuing the work or should the allowable days actually be the days the contractor pursued the work?



**Answer:** The intent is not to penalize a Contractor in both Category 1 and 8. Category 1 deals with how the Contractor pursued the work. Category 8 handles the conformance of the work to contract requirements.

11. Category 8 should be used to evaluate the performance of the Contractor's conformance with all contract requirements and the Contractor's Quality Control. There will, on almost all projects, be cases of overlap of other categories with Category 8. There will likely be instances in which performance in other categories do not rise to the level of DWL or DL but would still affect Category 8. Reasonableness and good judgment should be at the forefront of your decisions but that does not mean that there are 100 lifelines available for every incident.
12. Definition of "Allowable Contract Time" is the Original Contract Time plus all approved time adjustments.
13. When a project goes into LD's, we have previously instructed that in Category 8, zero would be entered for Allowable Days used after the project went into LD's and a negative value equal to the number of days LD's would be entered into the Quality Days column.

Upon further review of this process, we have determined that the fairest way to capture non-conformance during periods of work when there are no allowable days left on the contract would be to only count the actual non-compliant day, or days, rather than running the days continuously. This would account for the only for the actual days any non-conformances occur.

The following attachment illustrates this.

<b>Date of the Report:</b>	April 21, 2001	<b>Original Contract Days:</b>	90
<b>FIN ID:</b>		<b>Days Granted:</b>	0
<b>Contract Number :</b>		<b>Weather days:</b>	10
<b>Contractor:</b>		<b>Allowable Contract Days:</b>	100
<b>Job Description:</b>		<b>Days Used:</b>	160
<b>Project Engineer:</b>		<b>Deficiency Ltr. Factor (DLF):</b>	1.0

<b>Contractor Performance Rating:</b>	70	Interim		Final	x
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<b>CATEGORY 1 - Pursuit of the Work</b>	<b>Score (max. of 12):</b>	3.0
	<b>Pursuit of Work</b>	61%

Period	Work Days	Pursued Days	Remarks
Jan '2001	12	12	
Feb '2001	20	16	
Mar '2001	20	20	
Apr '2001	20	20	
May '2001	20	0	Contractor in LD's, counted calendar days
Jun '2001	20	0	after Allowable Contract Time ran out.

<b>CATAGORY 8 - Conformance With Contract Documents</b>	<b>Score (max. of 20):</b>	15
	<b>Quality of Work</b>	89%

Month	Allowable Days	Quality Days	Remarks
Jan '2001	20	20	
Feb '2001	28	28	
Mar '2001	31	28	3 NQ days
Apr '2001	21	18	3 NQ days
May '2001	0	-2	2 NQ days during LD period
Jun '2001	0	-3	3 NQ days during LD period

Additionally, as a clarification, there have been many questions lately about other Categories affects on Category 8. It should be understood that Category 8 will be affected by impacts to other categories. If a contractor receives a VW, DWL, or DL in other categories, the days on which a DWL or DL is issued would be non-conformance days. Days on which a VW is issued would not be considered a nonconformance day in Category 8.

Also, category 8 is to be used to account for non-conformances such as lack of submittal of shop drawings or other documents. Tracking of these types of non-conformance days are required to be noted on the daily reports of construction for purposes of tracking (please reference Form 700-010-25 Contractor's Past Performance Report). If a non-conformance day is given due to lack of submittal of documents and the contractor provides a firm commitment to provide the documents on a specific date to which we can agree, then it is our intent that the initial non-conformance day would be counted and subsequent days would not be counted as non-conformance for this reason. If the contractor provides the documents on the

committed to date, that is the end of the matter. If the contractor fails to submit the documents on the agreed upon date, then non-conformance days would resume until such time the documents are provided.

14. **Question:** What is the position of Central office on how we impact the contractor's grade when we have pulled part of the QC Plan? We will obviously affect category 8 with a non conformance day, but it seems like we should be impacting another area. My thoughts are, the first time a DWL in category 4 and the second time a DL in category 8, but I want to be consistent with your direction.

**Answer:** Category 3 would see a DWL or DL for the pulled QCPlan, Category 8 would see the non-conformance day for the date of the occurrence, and Category 1 could see non-pursuit days.

15. We have not been requiring Category 8 to be affected when a contractor starts work on a project after time has started. Categories 1 and 4 will take care of this.

If the nonconformance day in category 8 was given as a result of the DWL or DL in another category, then it would not be appealable and the contractor should be given this as the reason. We don't have any intentions of making the DWL's appealable.

Having said that, the following would be how things are handled for appeals:

If a non-conformance day is given as a result of a DWL or DL, if the DL is appealed and the Contractor prevails in the appeal, then the non-conformance day in Category 8 would be removed.

Recognize that non-conformance days are appealable each month for that month. DL's are appealable within 10 days of issuance of the DL. Bear in mind the affect that a successful appeal can/will have on non-conformance days.

16. Only time non-pursuit days (Category 1) would be counted as non-conformance days (Category 8) is if there are items (i.e. MOT, Erosion Control features, etc.) that were not properly maintained during non-pursuit period.

17. Process for handing projects that ended in Liquidated Damages but later, either through DRB ruling or negotiations, time was added to the project that made the assessment of LD's not required, the following is how the CPPR would be calculated:

The Final Grade entered by the Resident Office would have to be changed. To do this, the State Construction Office ([Zach Wiginton](#)) is contacted about getting the grade re-opened to allow changes to be made.

The Resident Office would have to revise the CPPR Spreadsheet as shown below. The example project is the same as used in Category 8, Guidance Number 13 of this document.

<b>Date of the Report:</b>	April 21, 2001	<b>Original Contract Days:</b>	90
<b>FIN ID:</b>		<b>Days Granted:</b>	60
<b>Contract Number :</b>		<b>Weather days:</b>	10
<b>Contractor:</b>		<b>Allowable Contract Days:</b>	160
<b>Job Description:</b>		<b>Days Used:</b>	160
<b>Project Engineer:</b>		<b>Deficiency Ltr. Factor (DLF):</b>	1.0

<b>Contractor Performance Rating:</b>	95	Interim		Final	x
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<b>CATEGORY 1 - Pursuit of the Work</b>	<b>Score (max. of 12):</b>	12.0
	<b>Pursuit of Work</b>	96%

Period	Work Days	Pursued Days	Remarks
Jan '2001	12	12	
Feb '2001	20	16	
Mar '2001	20	20	
Apr '2001	20	20	
May '2001	20	20	Time granted on this project resulting from negotiation with Contractor.
Jun '2001	10	10	

<b>CATEGORY 4 - Timely Completion of Project</b>	<b>Score (max. of 20):</b>	14
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<b>CATEGORY 8 - Conformance With Contract Documents</b>	<b>Score (max. of 20):</b>	19
	<b>Quality of Work</b>	93%

Month	Allowable Days	Quality Days	Remarks
Jan '2001	20	20	
Feb '2001	28	28	
Mar '2001	31	28	3 NQ days
Apr '2001	30	27	3 NQ days
May '2001	31	29	2 NQ days (formerly in LD period)
June '2001	20	17	3 NQ days (formerly in LD period)

Things to note in this example are the changes that were made.

- Days granted – changed from 0 to 60
- Allowable days – changed from 100 to 160
- Contractor Performance Rating – changed from 70 to 95
- Pursuit of Work – changed from 61% to 96%
- Timely Completion of Project – changed from 0 to 14
- Conformance with Contract – changed from 89% to 93%

18. Urban project 6 lane divided highway.

Contractor completes a Traffic Control Phase and shifts traffic to the new alignment. The next week the Contractor's MOT report indicates no deficiencies. The CCEI

MOT report indicates old traffic striping has not been completely eradicated. (A total of 4 locations ranging from 2 to 10 feet in length were not completely eradicated). The following week the CCEI Sr. Inspector and the Contractor's WSTSS meet to review MOT. The Sr. inspector request the contractor's MOT report be corrected to reflect deficient pavement markings. Contractor complies and next report indicates minor pavement marking removal remains to be completed. Contractor WSTSS, while reviewing MOT with the Sr. Inspector, calls the Pavement Markings Subcontractor and ask that as soon as the water blasting unit is available that he stop by the project and complete the pavement marking removal. Sr. Inspector request the partially removed pavement markings be completely removed by next Wednesday (one week). Contractor's WSTSS states he can not commit to the one week time frame but states he will continue to pressure his Sub and insure they are removed the next time water blasting unit is on site. One week passes and the old pavement markings that were only partially removed still remain. The WSTSS did have his forces paint over one yellow stripe with black paint because it was at the beginning of a taper and was a little confusing. The second week after the traffic shift, the Sr. Inspector and the WSTSS meet again to review MOT. Sr. Inspector informs the WSTSS that each additional day old pavement markings remain without being water blasted off will be counted as a non conformance day under category 8. Contractor sends the Subcontractor a letter and cc's the Project Engineer informing the Subcontractor that his CPPR rating is being affected. It takes the pavement marking sub an additional two weeks to remove the partially removed pavement markings.

**Question A:** Should the day the Sr. Inspector informed the WSTSS that his MOT report needed to be corrected, be counted as a non conformance day under Category 8?

**Answer:** Yes, this would count as a non-conformance day.

**Question B:** Since the Type III barricades were not corrected in one week as requested by the Sr. Inspector, should each day after the one week be counted as a non conformance day under Category 8?

**Answer:** We have maintained in the guidance that we have issued that if we get a firm commitment date from the Contractor to which we can agree for correcting non-conformance issues, then we would only charge non-conformance days if the commitment date passes without the issue being corrected. In your example, you stated that the Contractor was given one week to correct but that he did not/could not commit to correcting the barricades within that time frame. Without compelling reasons, one week to correct MOT errors is a reasonable amount of time. Given that the non-conformances were not corrected within the week allowed, then non-conformance days would be assessed.

**Question C:** Should the project engineer have issued a DWL after one week?

**Answer:** Yes in Category 2.

**Question D:** Should the project engineer have issued a DL at the end of the second week?

**Answer:** Yes in Category 2.

**Question E:** Is this the type of situation that even warrants documentation?

**Answer:** Yes, this is representative of the types of things that would be expected to be documented in the CPPR process in addition to the Daily Work Reports and MOT reports.

19. Urban project 6 lane divided highway.

Contractor completes a Traffic Control Phase and shifts traffic to the new alignment. The next week the Contractor's MOT report indicates no deficiencies. The CCEI MOT report indicates 2 of 32 Type III barricades are not in conformance with contract documents. (Two of the 6 Type III barricades delivered to the site for the Phase traffic shift had Road Closed Signs mounted over the reflective panels). The following week the CCEI Sr. Inspector and the Contractor's WSTSS meet to review MOT. The Sr. inspector request the contractor's MOT report be corrected to reflect deficient Type III barricades. Contractor complies and next report indicates 2 Type III barricades need signs repositioned so they are not covering reflective panels. Contractor WSTSS, while reviewing MOT with the Sr. Inspector, calls the supplier of the Type III barricades and request they be corrected. Sr. Inspector request the signs on the Type III barricades be corrected by next Wednesday (one week). Contractor's WSTSS states he can not commit to the one week time frame but states he will move the signs to a dead end side street with only 3 residences. One week passes and the Road Closed Signs on the Type III barricades have not been remounted. The WSTSS did have the signs moved to side the streets. The second week after the traffic shift, the Sr. Inspector and the WSTSS meet again to review MOT. Sr. Inspector informs the WSTSS that each additional day the 2 Type III barricades are not corrected will be counted as a non conformance day under category 8. Contractor sends the Subcontractor a letter and cc's the Project Engineer informing the sub no payment is being made for the two type III barricades not in conformance with the contract documents. It takes the supplier of the barricades an additional week and a half to come out and remount the road closed signs in proper location.

**Question A:** Should the day the Sr. Inspector informed the WSTSS that his MOT report needed to be corrected, be counted as a non conformance day under Category 8?

**Answer:** Yes, this would count as a non-conformance day.

**Question B:** Since the Type III barricades were not corrected in one week as requested by the Sr. Inspector, should each day after the one week be counted as a non conformance day under Category 8?

**Answer:** We have maintained in the guidance that we have issued that if we get a firm commitment date from the Contractor to which we can agree for correcting non-conformance issues, then we would only charge non-conformance days if the commitment date passes without the issue being corrected. In your example, you stated that the Contractor was given one week to correct but that he did not/could not commit to correcting the barricades within that time frame. Without compelling reasons, one week to correct MOT errors is a reasonable amount of time. Given that the non-conformances were not corrected within the week allowed, then non-conformance days would be assessed.

**Question C:** Should the project engineer have issued a DWL after one week?

**Answer:** Yes in Category 2.

**Question D:** Should the project engineer have issued a DL at the end of the second week?

**Answer:** Yes in Category 2.

**Question E:** Is this the type of situation that even warrants documentation?

**Answer:** Yes, this is representative of the types of things that would be expected to be documented in the CPPR process in addition to the Daily Work Reports and MOT reports.

20. **Question:** There is still some confusion about DWL's and DL's issued in some category such as Cat. 3 and its effect on Category 8 before chargeable work days have begun. I have copied the Additional Guidance question/answer as well as the instructions in the e-mail of January 27, 2004 and have pasted them below. They conflict somewhat. The question arose because a Contractor has not submitted several required pre-construction documents and the PA has issued a DWL in Cat. 3. I will appreciate clarification one more time.

**Response:** We have not been counting the DWL or DL's written prior to work starting (prechargeable contract days) against Category 8. We have only been affecting Category 3 for the submittal of documents prior to work actually beginning. This guidance is provided to clarify response to question 13 of this category. Reference response given to question 4 of this category.

21. A contractor states on his Controlling items of work that he is going to work 6 days a week. It rains on a Wednesday, he gets a weather day and Pursuit of work is only 4

of 4, with a weather day which equals 5 available days. Four days worked and one rain day.

It rains on a Saturday, Pursuit of work is 5 of 5. Do we grant a weather day for the rainout on Saturday?

**Response:** If the contractor's schedule shows a six day work week, we would grant the weather day for the Saturday.

What happens if it rains on a Sunday, do we grant a weather day for a Sunday if it was not a scheduled day of work?

**Response:** No on Sunday since it was not a scheduled work day. The granting of weather days is for delays to the work caused by the weather - if no work scheduled, there is no delay to work due to weather.

I know that we show Weather Days on the CPPR so that we can come up with Allowable Contract Days.

**Response:** Actually, the allowable contract days are accounted for in Category 8, Conformance with Contract Documents. Category 1 is not going to match allowable contract days for the project unless the contractor works 7 days/week with no weather days.

In the Remarks column of Category 1, should we show weather days if Saturdays and Sundays become weather days?

**Response:** You would show Saturday if it was a scheduled workday, would not show Sunday based on scenario from above.

What I try to do when I get copies of the monthly CPPR is to verify that category 1 and category 8 days are listed correctly. I look at a calendar and determine the Work Days for the month. Then I add up the Pursued Days, non-pursued days and the weather days and figure that should equal Work Days for the month. But I have run across one that this does not work since they are giving Saturday's and Sunday's as weather days. What are your thoughts?

**Response:** The quickest way to account for accuracy of the days in the spreadsheet is to sum the Category 8 allowable days column and compare it to days used in the header. If the numbers match, the days are correctly accounted for. As for Category 1, as I alluded to above, if the total work days will not match the allowable days due to weather and the fact that few jobs have a seven day a week schedule.



## Section 9 - DBE Utilization

The contractor will receive 4 bonus points for achieving or exceeding the DBE availability percentage shown in the bid proposal. If no DBE availability percentage is shown in the bid proposal, the contractor will receive 4 bonus points for achieving 8% or more DBE utilization. In order to get credit for DBE utilization, the contractor must put it in the Department's Equal Opportunity Reporting tracking system.

### Guidance provided:

1. **Question:** Contract does not show a percentage goal. My interpretation is that in order for them to get the 4 bonus points, they would have to achieve 8% DBE and enter that information onto our website database, and that those points would be given once the 8% was met and entered. Since Contractor is proposing 5% they think they should get a bonus for 5%.

**Answer:** Interpretation of Engineer is correct. If no DBE utilization percentage is shown in the bid proposal, then the Contractor must achieve 8% or greater to receive the bonus points.

2. **Question:** Does the interim rating need to take into consideration DBE? Technically, they have not achieved the DBE goals.

**Answer:** Interim rating should not take into consideration the DBE utilization.

### General Guidance Provided:

1. Contractor is responsible for keeping abreast of performance on regular basis.
2. Communication is the key to the success of this grading system. Regarding submittals of documents and the affect these can have on Category 8, it is imperative that the Contractors be notified of all outstanding documents. CPAM chapter 13, Section 1, requires the Resident Engineer to provide monthly written notification to Contractors of issues in Categories 1, 4, and 8 - the categories that do not have DWL's and DL's. This monthly notification affords the Contractors the opportunity to be aware of performance concerns in Categories 1, 4, and 8 as well as have an appeals process during the project each month for these categories.
3. Deficiency Letters issued by the Resident Engineer can be rescinded with concurrence from the DCE. If the Department discovers that the letter was issued in error, a Deficiency Letter can be rescinded without appeal by the contractor.

# General Guidance

1. Contractor is responsible for keeping abreast of performance on regular basis.
2. Communication is the key to the success of this grading system. Regarding submittals of documents and the affect these can have on Category 8, it is imperative that the Contractors be notified of all outstanding documents. CPAM chapter 13, Section 1, requires the Resident Engineer to provide monthly written notification to Contractors of issues in Categories 1, 4, and 8 - the categories that do not have DWL's and DL's. This monthly notification affords the Contractors the opportunity to be aware of performance concerns in Categories 1, 4, and 8 as well as have an appeals process during the project each month for these categories.
3. Deficiency Letters issued by the Resident Engineer can be rescinded with concurrence from the DCE. If the Department discovers that the letter was issued in error, a Deficiency Letter can be rescinded without appeal by the contractor.
4. Pushbutton Contracts: Don't do CPPR for pushbutton contracts.
5. Fast Response Contracts: Don't do CPPR for fast response contracts - we typically invite the contractors to bid this work. If they don't perform, don't invite them next time.
6. Emergency Contracts: Don't do CPPR.
7. CPPR for Defaulted Contractor: For a Contractor that has been defaulted on a Contract, provide a final CPPR for the defaulted Contractor; provide date on the spreadsheet in the notes for Category # 1, Pursuit of Work, that the Contractor was defaulted. Do not enter the score in AASHTOware Project Construction (PrC). Provide the State Construction Office (attn. [Zach Wiginton](#)) with the form (700-010-25) and the spreadsheet for the defaulted Contractor. The State Construction Office will ensure that the defaulted contract will not show up on the District CPPR overdue lists.

**Note:** When a Contractor has been defaulted by the Department, the Surety Company for that Contractor takes over the Contract to complete the Contract. We can not do a final CPPR on the Surety Company due to the Surety will hire a completion Contractor to complete the remaining contract work. Therefore, the completion Contractor becomes a subcontractor to the Surety Company.

8. Appealed CPPR: For final CPPR that has been appealed by the Contractor, provide the State Construction Office (attn. [Zach Wiginton](#)) with an e-mail that Contract Number \_\_\_\_\_ has been appealed by the Contractor. This will inform the

State Construction Office not to use the appealed CPPR for that Contractor during the pre-qualification process.

Revised CPPR: If a CPPR grade that has been previously marked as Final needs to be edited (e.g., after a claim or DRB ruling), an email must be sent to the Office of Construction (attn. [Zach Wiginton](#)) to have the grade re-opened for editing.

The email notification will also allow the Office of Construction to ensure that a revised final grade modification date does not adversely affect the district performance measure related to entering the final CPPR within 45 days of Final Acceptance.

9. Each of the members of any Joint-Venture project would receive the same CPPR score and that score would apply to and be used in calculating the capacity of the individual firms that comprised that Joint-Venture. Just as a Design-Build project has the Designer receiving its score and the contractor receiving a CPPR score, the Design-Build Joint-Venture project will be done the same way, only in this case, with each of the contractors in the Joint-Venture receiving the same CPPR score.

In a Design-Build contract, if the Designer is the prime contractor and the contractor is the subcontractor, the Designer will receive its score and the contractor will receive a CPPR score.

10. In a Design-Build contract, when the project starts the contractor should only be graded in Category 3, Timely and Complete Submittal of Documents, with regard to the submittal of plan documents. When construction starts, the contractor should then be graded on all of the nine categories.

Contract time can be tracked in Categories 1 & 8 as shown below:

Date of the Report:	October 8, 20XX	Original Contract Days:	600
FIN ID:	12345678910	Days Granted:	0
Contract Number:	TX000	Weather days:	
Contractor:	State Construction	Allowable Contract Days:	600
Job Description:	Resurfacing	Days Used:	184
Project Administrator:	Art Vandelay	Deficiency Ltr. Factor (DLF):	0.6

Contractor Performance Rating:	0	Interim	YES	Final
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CATEGORY 1 - Pursuit of the Work	Score (max. of 12):	12.0
	Pursuit of Work	98%

From	To	Work Days	Pursued Days	Remarks
3/1/2014	3/31/2014	21	21	Design Phase
4/1/2014	4/30/2014	22	22	Design Phase
5/1/2014	5/31/2014	21	21	Design Phase (Holiday 5/26)
6/1/2014	6/30/2014	21	21	Design Phase
7/1/2014	7/18/2014	13	13	Design Phase (Holiday 7/4)
7/19/2014	7/31/2014	8	8	Construction began, 5 day work week
8/1/2014	8/31/2014	22	20	No work 8/21 & 8/22

CATEGORY 8 - Conformance With Contract Documents	Score (max. of 20):	20
	Quality of Work	99%

From	To	Allowable Days	Quality Days	Remarks
3/1/2014	3/31/2014	31	31	Design Phase
4/1/2014	4/30/2014	30	30	Design Phase
5/1/2014	5/31/2014	31	31	Design Phase
6/1/2014	6/30/2014	30	30	Design Phase
7/1/2014	7/19/2014	19	19	Design Phase
7/20/2014	7/31/2014	12	12	Construction began, 5 day work week
8/1/2014	8/31/2014	31	30	DL 8/15 category 2