

CHAPTER 25. HIGHWAY CONTRACTORS

SUBCHAPTER 7. SETTLEMENT OF DISPUTES

730:25-7-2. Settlement of disputes arising during performance of construction or maintenance contracts; mediation and binding arbitration

The Department shall develop and implement a binding procedure for the settlement of Contractor claims which may arise in the course of the performance of construction or maintenance contracts.

- (1) **Procedure development.** The procedure developed by the Department shall generally provide the following:
 - (A) The Contractor shall provide a written notice of the claim to the Resident Engineer/Division Engineer prior to the beginning of work upon which the claim will be based.
 - (B) Submission by the Contractor to the Resident Engineer/~~Division Engineer~~ of detailed information concerning the work performed and each element of additional compensation requested.
 - (C) A time limit, from the receipt of all the Contractor's supporting information, in which the Department shall make a written response to the Contractor's claim.
 - (D) Appeal by the Contractor from the decision of the Resident Engineer/~~Division Engineer~~ to the Division Engineer. The Division Engineer's decision must be recommended to and approved by the Director of Operations ~~Director or Assistant Director of Operations of the Department.~~
 - (E) Provisions for the mediation of the Contractor's claim if the Contractor is dissatisfied with the final decision of the Director or Assistant Director of Operations. The mediation shall be performed under the auspices of the American Arbitration Association or other independent dispute resolution organization.
 - (F) Upon mutual consent of the Department and the contractor and upon order of the District Court in Oklahoma County, disputes arising from construction or maintenance contracts and relating to work performed or conditions under which work was performed under the contract may be referred to binding arbitration which shall be performed under the auspices of the American Arbitration Association or other independent dispute resolution organization.
- (2) **Implementation.** The Department will present its proposed procedure for settlement of contractor claims to the Commission for approval. The approved procedure shall thereafter be incorporated in each proposal for construction or maintenance contracts advertised by the Department.
- (3) **Procedure review.** The Department shall periodically review the procedure set forth in this section with highway construction industry and propose recommended changes to the Commission to insure the fair and efficient handling of Contractor claims.