

**Supplemental Specification
2012 Standard Specification Book**

SECTION 00727M

CONTROL OF WORK

Delete Article 1.26 and 1.27 and replace with the following:

1.26 CLAIMS HIGHER LEVEL REVIEW

- A. Make a good-faith effort to settle the claim by utilizing the Partnering Escalation Ladder identified in the Partnering Field Guide prior to submitting a claim and requesting a meeting with the Claims Review Board.
- B. Submit a written request for a higher-level review to the Engineer within 10 calendar days after receiving the Engineer's decision or offer if not accepting the Engineer's denial of a claim, or a settlement offer. Attach to the written request for a higher-level review all required information. Refer to this Section, Article 1.23, paragraph D.
- C. Failure to submit a request within this 10-day time frame is considered acceptance of the Engineer's claim denial or offer.

1.27 CLAIMS REVIEW BOARD

- A. A Claim will be referred to the Claims Review Board (CRB) when requested by the Contractor as provided in this Section.
- B. The purpose of the CRB is to provide an independent and impartial review of submitted claims, written findings, and recommendations to the Department's Deputy Director.
- C. Scheduling a hearing or utilizing the CRB does not relieve the Contractor or Department of complying with all Contract terms and conditions, and does not waive any notice or timeliness requirements. Proceed diligently with all work during the CRB process.
- D. The Director of Construction or designee schedules a hearing before the CRB when deemed to be in the best interest of both the Contractor and the Department based on the Contractor's request for a higher-level review.
 - 1. The claim may be presented informally with or without legal counsel.

2. Notify the Department at least 10 calendar days before the meeting when using legal counsel.
 3. Legal counsel will be allowed to attend the presentation, and will be allowed to make brief opening and closing remarks and advise their clients. No other participation by legal counsel at the presentation will be permitted.
- E. Parties will bear their own costs.
1. All costs associated with preparation and participation in the CRB meeting will be the responsibility of each party.
 2. The Contractor will not receive compensation for travel, time, research activities, time away from the project, presentation preparation, presentation time or any other activities associated with the preparation for or participation in the CRB process.
- F. Pre-presentation Requirements
1. The Department and the Contractor will prepare concise written statements describing the claim and each party's position with reasoning and submit to the Project Controls Engineer who will distribute them to the other party a minimum of 7 calendar days before the scheduled presentation.
 2. The parties will submit their visual presentation to the Project Controls Engineer who will distribute it to the other party a minimum of 7 calendar days before the scheduled presentation, if either party chooses to prepare a visual presentation.
- G. Presentation
1. The party that is in attendance will prevail in their position on the claim if either the Department or the Contractor fails to appear before the CRB on the date and time scheduled for the presentation without justifiable cause.
 2. The Contractor will submit their position first, followed by the Department.
 3. The duration of each party's presentation will be determined when the Claim meeting is scheduled and will be agreed to by both parties.
 - a. The duration may vary depending on the complexity and size of the claim.
 4. Only information or claims related to the Contractor's original claim may be discussed in the hearing.
 - a. No new information may be submitted.
 - b. The CRB will inform the party that no additional information or claims are permitted if the Contractor or Department attempts to submit new information.

5. Recording the meeting by tape, court reporter, or video is prohibited.
 6. This presentation is informal, allowing for the Contractor and Department to present their positions, and for all parties to exchange questions and answers.
 7. The meeting will be conducted as follows:
 - a. The chairman informs the meeting attendees of the procedures and format of the meeting.
 - b. Both parties may deliver brief opening and closing remarks.
 - c. The Contractor presents their claim in detail as supported by previously submitted information and documentation.
 - 1) The presentation can be verbal or visual.
 - d. The Department presents its detailed position as supported by previously submitted information and documentation.
 - 1) The presentation can be verbal or visual.
 8. The CRB may allow rebuttals by both parties during the meeting after both the Contractor and Department make their presentations.
 - a. Rebuttals will not be heard after the meeting has ended.
- H. Offer of Settlement or Rejection of Claim
1. The Department Deputy Director makes an offer of settlement within 45 calendar days of the claim hearing if the offer is less than the amount required to be reviewed by the Transportation Commission.
 2. The decision of the Department Deputy Director is administratively final.
 - a. The CRB hearing ends all administrative appeal processes available to the Contractor.
 - b. The Contractor may elect to file a complaint in State court if the claim is rejected, or if the sum tendered by way of settlement is not acceptable to the contractor.
- I. Acceptance or Rejection
1. Provide written notice to the Deputy Director of acceptance or rejection of the offer or rejection of the claim within 7 days of the date of the Deputy Director's offer.
 - a. The Department will promptly process any required payments or contract changes if both the Department and Contractor agree to resolve the Claim.

Delete Article 1.28, paragraph B and replace with the following:

- B. Employ a qualified safety person.
 - 1. Required qualifications
 - a. Verifiable broad based safety background.
 - b. One of the following degrees or certifications:
 - 1) College degree in Occupational Safety & Health (OSH) related field
 - 2) Associate Safety Professional (ASP)
 - 3) Certified Safety Professional (CSP)
 - 4) Certified Industrial Hygienist (CIH)
 - 5) Construction Health and Safety Technician (CHST)
 - 6) Associate in Risk Management (ARM)
 - 7) OSHA 500, or other nationally recognized OSH related field certification approved by UDOT Risk Management
 - c. Must stay current on certification via the OSHA 502 or equivalent of 8 Continuing Education Units (CEU) in OSH related fields every 3years.
 - 2. Responsibilities
 - a. Perform on-site safety inspections on a monthly basis, for jobs 45 days or longer in duration. Refer to the UDOT Safety and Health Manual.
 - b. Coordinate all safety related efforts with the on-site competent safety person.
 - c. Cannot perform production-related responsibilities on the project.