

Disagreements, Disputes, and Claims

As stated in Section 00140.30, changes in plans, quantities, or details of construction are inherent in the nature of construction. That is because much of construction work involves things that are hidden beneath the ground and those hidden things may not actually be as had been anticipated. Also, even with the best of intentions, the plans may not work as well as expected when they are applied to the actual site, traffic, maze of utilities, etc.

When changes occur, there is the potential of disagreement. Also, whenever two people interpret contract language, there is the potential of disagreement.

Since there is a great potential for disagreement on construction projects, the Project Manager and project staff need to, among other things:

- Establish and maintain a working relationship with the Contractor that will allow them to work together to resolve problems
- Plan proactively to anticipate as many problems as possible so that solutions or alternate plans can be developed before the problem is actually encountered
- Develop and follow an issue resolution process to allow the parties to work through any problems, including an escalation process for those problems that are not resolved at the lowest possible level
- Be able to analyze the issue(s) objectively and openly to reach resolution

Section 00199 discusses resolution of disagreements and disputes. The intent of that specification is that disagreements would be resolved in a timely fashion, at the lowest possible administrative level, and that the Contractor is treated fairly in any disagreements.

The claim review process in Section 00199 does not apply to issues that only involve contract time. That review process is specified in Section 00180.80(d) and discussed in the Contract Time section (13) of this Manual. If the Contractor does not accept ODOT's findings on contract time issues, it may only pursue resolution through litigation.

Requests for additional compensation for damages incurred due to unreasonable delay, as specified in Section 00195.40, are addressed under the Section 00199 process. If needed by the Project Manager, the Contract Administration Engineer can provide training and assistance to the Project Manager in understanding, reviewing, and analyzing the project schedule and impacts to the project schedule.

* Revised July, 2001