

Analyze the complete potential claim, and provide a timely response. Take appropriate actions within the scope of the contract and within your authority to resolve the potential claim. If you lack authority to resolve the potential claim, discuss the issue with the construction engineer, structure construction engineer, or both. If the dispute has merit, obtain approval of a contract change order within five days of receiving the potential claim issue. If the contractor's dispute has no merit, advise the contractor of the reasons for the lack of merit within five days of receiving the potential claim.

Claim Processing

Follow the guidelines in Section 5-403B, "Documentation Guidelines," of the *Construction Manual*. Also, see the attached flowchart, "Minor B Contracts—Claims Resolution Process."

- A. Within 30 calendar days following acceptance of the contract, the contractor should submit a written claim for an unresolved dispute as part of the fully itemized invoice covering the actual work performed. At this time, the contractor can also file a claim with the California Victims Compensation and Government Claims Board. By law the contractor has a maximum of one year to file a claim with the board, so districts must be sure to complete their part of the minor B claim resolution process within established timeframes.
- B. The resident engineer immediately processes the invoice, and the state pays the monies due on the undisputed work. Within 30 calendar days following receipt of the contractor's invoice with a claim, the resident engineer prepares the claim findings (see Section 5-412, "Construction Claim Findings Preparation and Guidelines," of the *Construction Manual*) and discusses the claim with the construction engineer and the construction manager. Following the meeting, the construction manager can approve full payment for the amount claimed by the contractor or continue the claim resolution process.
- C. Within five calendar days of deciding to continue the claim resolution process, the construction manager designates a district reviewer. The district reviewer can be a district or a Division of Engineering Services, Structure Construction senior transportation engineer (or higher level) and someone not involved with the project. The district reviewer cannot be someone from headquarters construction, which could be involved later if the contractor files a claim with the California Victims Compensation and Government Claims Board. The resident engineer notifies the contractor of the decision either to pay the full claim amount or to select a district reviewer.
- D. Within 30 calendar days after the notifying the contractor, the resident engineer schedules a meeting with the district reviewer and the contractor to discuss the merits of the claim.
- E. Within 10 calendar days following the meeting, the district reviewer drafts a Determination of Claims. The draft is submitted to the deputy district director for construction.
- F. Within 10 calendar days, the deputy district director for construction finalizes and approves the Determination of Claims.

- G. Within 10 calendar days, the district reviewer notifies the contractor of the district's determination. Any payments to the contractor will then be processed by the resident engineer.
- H. The Division of Accounting has 30 calendar days to pay the contractor the full or partial claim settlement amount.
- I. The contractor can accept the district's decision, thereby ending the process, or file a claim with the California Victims Compensation and Government Claims Board.
- J. The contractor files a claim as outlined in Section 900, "Claims Against Public Entities," of the California Government Code.
- K. Claims for less than \$5000.00 automatically go back to Caltrans for disposition (go to N below). Claims for amounts of \$5000.00 or more go to the California Victims Compensation and Government Claims Board. The Caltrans Legal Division is responsible for representing Caltrans before the board and expects district and headquarters construction to provide assistance upon request.
- L. The California Victims Compensation and Government Claims Board has 45 calendar days to review the claim and grant or deny it. If the board grants the contractor's claim, the Legal Division sends a board decision approval memorandum to the chief, Division of Construction. The chief signs a release agreement for the Division of Construction's contract specialist responsible for arbitration management to notify the resident engineer to pay the amount granted by the board. Copies of the release agreement are also sent to those listed in Section 5-409B, item 8, "Arbitration Payment Process," of the *Construction Manual*. The contractor can accept the board's decision or file a complaint in California Superior Court, allowing the court to hear the claim.
- M. The California Victims Compensation and Government Claims Board can also delegate duties to Caltrans. Then, Division of Construction headquarters takes the lead (with assistance from the Legal Division) and is under the same 45-calendar-day timeframe to complete the review and make a decision. The contractor can accept the board's decision or file a complaint in California Superior Court, allowing the court to hear the claim.
- N. The chief, Division of Construction appoints a headquarters reviewer. The headquarters reviewer meets with the district reviewer and resident engineer to discuss the claim. The headquarters reviewer discusses meeting results with the chief, Division of Construction to give a recommendation. The chief has the authority to grant or deny the claim, just as the California Victims Compensation and Government Claims Board does. The district reviewer informs the contractor of the chief's decision. The contractor can accept the claim decision or file a complaint in Superior Court, allowing the court to hear the claim.
- O. The contractor has six months to file a complaint in Superior Court after the California Victims Compensation and Government Claims Board or the chief, Division of Construction rejects the contractor's claim. The Legal Division is responsible for representing Caltrans in court and expects district and headquarters construction staff to provide assistance upon request.

- P. After the complaint is filed in Superior Court, a judge or jury makes the final decision. When it receives notice from the court, the Legal Division notifies headquarters and district construction. The parties often agree to a settlement before going to trial. If the claim does go to trial, the Legal Division expects district construction to assist with preparation of evidence.

The Division of Construction notifies the resident engineer of the court's decision. If a settlement agreement is reached or the court awards for the contractor, the Legal Division sends a court award or settlement agreement memorandum to the chief, Division of Construction. The chief, signs a release agreement for the Division of Construction's contract specialist for arbitration management to notify the resident engineer to pay the court award or settlement. Copies of the release agreement are also sent to those listed in Section 5-409B, item 8, "Arbitration Payment Process," of the *Construction Manual*.

- Q. The resident engineer processes the invoice (along with the decision) and sends it to accounting for payment. Accounting processes the invoice and sends payment to the contractor within 30 calendar days. The district project manager is required to secure any additional funds required to make the payment to the contractor.
- R. The project is complete. See Section 5-104, "Final Construction Project Records," in the *Construction Manual*.

The Division of Construction's contract specialist for arbitration management is responsible for coordinating minor B claims with the Legal Division and for updating the database that includes tracking, monitoring, and reporting on all minor B claims filed with the California Victims Compensation and Government Claims Board, Superior Court, or Division of Construction. The contract specialist is the point of contact regarding the status of and providing statistics for all minor B claims filed with California Victims Compensation and Government Claims Board, Superior Court, or Division of Construction.

If you have questions or comments about this bulletin, please contact Rick Gifford, Division of Construction, at (916) 657-5211.

Attachment