

Section 8.8

STATE ARBITRATION BOARD

8.8.1 Purpose

To enable the personnel of the Florida Department of Transportation to effectively communicate with the State Arbitration Board. The Board was established by the Legislature to facilitate the prompt settlement of claims arising out of construction contracts.

8.8.2 Authority

Sections 334.048, 337.185, and 120.68, Florida Statutes

FHWA Approved: July 28, 2004

8.8.3 Definitions

Claim: For the purpose of this section, a claim is the aggregate of all outstanding claims.

8.8.4 General

The Board is a creation of the Florida Legislature. It is not part of the Department of Transportation and it has the authority to establish its own operating procedures. Therefore, this section includes only those activities required of Department personnel when interacting with the Board. Information and procedures are available on the Florida Transportation Builder's Association's web site, <http://www.ftba.com/>.

8.8.5 Consideration of a Claim

The Board will consider a claim only after the project is final accepted by the Department. The claim must deal only with disputed issues that have been submitted to the other party of the contract and could not be resolved by negotiation.

If a Dispute Review Board (DRB) was constituted for the project, only issues that were heard by the DRB may be submitted to the Board.

Statutory Law requires that the Board arbitrate every contractual claim in an amount up to \$250,000 per contract or, at the claimant's option, up to \$500,000 per contract or, upon agreement of the parties, up to \$1,000,000 per contract. As an exception, either party to the dispute may request binding private arbitration.

(A) District Level Responsibilities

If the Department is filing a claim against a Contractor, the District Construction Engineer will make a request to the Board for an informational package. The Board will then send the forms and a copy of the procedure for initiating arbitration to the District Construction Engineer.

The "Request for Arbitration of a Claim" must be accompanied by a warrant made payable to the Board for the administrative fee established by the Board. The fee schedule is included in the procedure provided by the Board in their informational package.

The Board will set a time and date for the evidentiary hearing and notify the parties at least twenty one (21) calendar days in advance. This notice is sent to the District Director of Operations.

The Board will send a copy of the "Request for Arbitration of a Claim" package to the respondent. Normally, the respondent is the Department. If so, the package is sent to the District Director of Operations. The respondent prepares a rebuttal to the claim package and furnishes a copy to the party requesting arbitration and to each of the members of the Board ten (10) calendar days prior to the date scheduled for the evidentiary hearing. The Director, Office of Construction will be responsible for assuring the Board has an up-to-date list of Directors of Operations and their addresses.

Ascertain from the Contractor if he is going to have a legal counsel present at these proceedings. If so, immediately notify the Chief Civil Litigation Counsel in Central Office, Office of the General Counsel or the District's General Counsel to obtain representation.

The materials provided to the Board must be complete, clear and include all pertinent information.

8.8.6 Evidentiary Hearing and Order

The Board will hold an evidentiary hearing and will meet within sixty (60) calendar days to issue its written Order. The Board will deliver a copy of the Order and a certified copy of the transcript to the District Director of Operations and to the Contractor.

The Board may also transmit an invoice for the Department's prorated share of the court reporting costs. The court reporting costs are to be paid using Receiving Report and Invoice Transmittal – Contracts (RRIT), Form No. 350-060-02.

The original Order of the Board and the certified transcript are to be stored in the project files in the Resident Office.

(A) District Level Responsibilities

If the Department does not plan to appeal the Order, the District must encumber the appropriate funds to comply with the Order and prepare a final estimate to pay the amount of the order, and also specify the appropriate amount of Federal-Aid Participation. The estimate is then sent to the Contractor with a proposed acceptance letter identifying the arbitration number and amount. The Contractor signs the acceptance letter, returns it to the District Final Estimates Office and the Department pays the firm.

8.8.7 Appeal

(A) District Level Responsibilities

There is a narrow basis for appeals as defined in **Section 120.68, Florida Statutes**. If the Department wishes to appeal the Order, the proper forum is through the District Court of Appeals. This must be initiated through your District General Counsel or the Chief Civil Litigation Counsel.