

**Forest Service Handbook
National Headquarters - Washington Office
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**Forest Service Handbook 7709.57 – Road Construction Handbook
Chapter 6 - Claims and Disputes**

Amendment: 7709.57-1992-1

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Duration: This amendment is effective until superseded or removed.

Superseded Directive: Entire Handbook issued September 1986; Title Page; 0--1 thru 7.3

Approved by: F. Dale Robertson, Chief

Date approved:

Responsible Staff:

Explanation of changes: Following is an explanation of the changes throughout the directive by section.

This amendment is a reissuance of FSH 7709.57 to conform the format and structure of the Handbook to the requirements of electronic directive issuance.

This amendment makes no substantive changes to the text. The only changes made are those necessary to meet new format requirements or to correct spelling, punctuation, or unit names.

This Handbook is now available electronically in the National Information Center in the same format as the paper copy. Henceforth, amendments to this Handbook will be issued to Forest Service units electronically on a document basis.

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6.1 - Prevention of Claims

In the course of construction, differences of opinion may arise over interpretation of the contract. The contractor may disagree with Contracting Officer (CO) or Contracting Officer's Representative (COR) directives issued in connection with the work.

Generally, discussion, negotiation, and issuance of appropriate changes or work orders resolve these differences. Take prompt action and make adjustments as the work progresses. Consult appropriate specialists to help resolve differences. Give full consideration to the terms of the contract, the content of the drawings, and the intent of the design.

Reduce the possibility of claims by good communications between the CO, COR, and Inspector and by being responsive and open with the contractor. Be sensitive to the timeliness of the following:

1. Review of shop drawings.
2. Approval of submittals and construction items.
3. Processing of changes and payments.
4. Delivery of Government-supplied materials.
5. Inspection of critical items.
6. Identification of significant changes in site conditions.
7. Documentation of the above.

6.2 - Documentation

1. Promptly inform the Contracting Officer of all significant problems that arise. Include information in the construction inspection reports on developments that may result in a claim or dispute.

2. Carefully document in the project diary and other project records the information necessary to evaluate all issues. The diary should include a log showing workers and equipment on site; class, location, condition, and identification of the equipment; work items in progress; and pertinent remarks. Properly labeled photographs and videotapes can be excellent documentation. A well-organized and documented project file will facilitate settlement of claims and disputes.

3. Public works contracts may require the contractor to perform the work, and to maintain current records of inspections, tests, measurements, and quantity computations. Review and verify these records for accuracy.

4. The daily diary records the day-to-day activities on a construction project. FSH 6309.11 identifies the type of information to put in the diary; refer to this handbook for both timber sale and public works contracts. The diary should be complete enough to reconstruct the occurrences and accomplishments on nearly every day throughout the life of the project. If a dispute or disagreement arises with the contractor, be sure to enter the following information in the daily diary:

- a. The nature of the contractor's complaint.
- b. A thorough description of both sides of the dispute.
- c. Commitments made by either party.
- d. A thorough record of the contractor's operation relative to the work in dispute, including equipment, labor, materials, time delays, and other cost items.

6.3 - Contract Disputes Act

When issues are not resolved to the contractor's satisfaction, the contractor may file a formal written claim. All claims filed by the contractor must be in writing and must be addressed to the Contracting Officer (41 USC 601, 604).

Provide the Contracting Officer with all necessary data in connection with a claim, including an analysis that describes the situation in factual terms and explains the background of the claim. Include appropriate recommendations for settling the claim.