

CHAPTER 27. RULES FOR ADMINISTRATIVE SERVICES.

Subchapter C. NEGOTIATION AND MEDIATION OF CERTAIN CONTRACT DISPUTES.

DIVISION 2. NEGOTIATION OF CONTRACT DISPUTES.

§27.89. Timetable.

- (a) Following receipt of a contractor's notice of claim, the chief administrative officer of the commission or other designated representative shall review the contractor's claim(s) and the commission's counterclaim(s), if any, and initiate negotiations with the contractor to attempt to resolve the claim(s) and counterclaim(s).
- (b) Subject to subsection (c) of this section, the parties shall begin negotiations within a reasonable period of time, not to exceed 60 days following the later of:
 - (1) the date of termination of the contract;
 - (2) the completion date, or substantial completion date in the case of construction projects, in the original contract; or
 - (3) the date the commission receives the contractor's notice of claim.
- (c) The commission may delay negotiations until after the 180th day after the date of the event giving rise to the claim of breach of contract by:
 - (1) delivering written notice to the contractor that the commencement of negotiations will be delayed; and
 - (2) delivering written notice to the contractor when the commission is ready to begin negotiations.
- (d) The parties may conduct negotiations according to an agreed schedule as long as they begin negotiations no later than the deadlines set forth in subsections (b) or (c) of this section, whichever is applicable.
- (e) Subject to subsection (f) of this section, the parties shall complete the negotiations that are required by this chapter as a prerequisite to a contractor's request for contested case hearing no later than 270 days after the commission receives the contractor's notice of claim.
- (f) The parties may agree in writing to extend the time for negotiations on or before the 270th day after the commission receives the contractor's notice of claim. The agreement shall be signed by representatives of the parties with authority to bind each respective party and shall provide for the extension of the statutory negotiation period until a date certain. The parties may enter into a series of written extension agreements that comply with the requirements of this section.
- (g) The contractor may request a contested case hearing before the State Office of Administrative Hearings (SOAH) pursuant to §27.99 of this title (relating to Request for Contested Case Hearing) after the 270th day after the commission receives the contractor's notice of claim, or the expiration of any extension agreed to under subsection (f) of this section.
- (h) The parties may agree to mediate the dispute at any time before the 270th day after the commission receives the contractor's notice of claim or before the expiration of any extension agreed to by the parties pursuant to subsection (f) of this section. The mediation shall be governed by Division 3 of this subchapter (relating to Mediation of Contract Disputes).
- (i) Nothing in this section is intended to prevent the parties from agreeing to commence negotiations earlier than the deadlines established in subsections (b) and (c) of this section, or from continuing or resuming negotiations after the contractor requests a contested case hearing before SOAH.