



Rules of
Department of Transportation
Division 20—Missouri Highways and Transportation
Commission
Chapter 26—Arbitration and Mediation of Construction
Disputes

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**Title 7—DEPARTMENT OF
TRANSPORTATION**

**Division 10—Missouri Highways and
Transportation Commission**

**Chapter 26—Arbitration and Mediation
of Construction Disputes**

**7 CSR 10-26.010 Selection of Arbitrator in
Arbitration Proceeding**

PURPOSE: This rule provides for the selection of arbitrators in arbitration proceedings.

(1) Demands for arbitration relating to any controversy or claim under the contract with Missouri Highways and Transportation Commission (Section 105.16 of the Missouri Standard Specifications for Highway Construction or its revisions) when the claim exceeds twenty-five thousand dollars (\$25,000) but does not exceed seventy-five thousand dollars (\$75,000), shall have appointed one (1) arbitrator using the “Fast Track Procedures” set forth in the *American Arbitration Association, Construction Industry Arbitration Rules and Mediation Procedures*, effective on the date the demand for arbitration is filed.

(2) Demands for arbitration relating to any controversy or claim under the contract with Missouri Highways and Transportation Commission (Section 105.16 of the Missouri Standard Specifications for Highway Construction or its revisions) when the claim exceeds seventy-five thousand dollars (\$75,000), but is less than three hundred twenty-seven thousand dollars (\$327,000) as adjusted as provided in section 226.096, RSMo (L. 2003, HB 668), shall have appointed one (1) arbitrator using the “Regular Track Procedures” set forth in the American Arbitration Association rules, effective on the date the demand for arbitration is filed.

(3) The arbitrator shall be selected according to the procedures provided by the American Arbitration Association rules, except as otherwise provided in this rule.

(A) Arbitrators shall be registered professional engineers for at least fifteen (15) years or shall be a construction industry professional with a minimum of fifteen (15) years experience in construction.

(B) After filing of the submission or the answering statement or the expiration of the time within which the answering statement is to be filed, the American Arbitration Association shall send each party in the dispute an identical copy of a specially prepared list of proposed arbitrators to resolve the controversy.

(C) The parties will be allowed fifteen (15) days to examine the list, strike names to which they object, number the remaining names in the order of preference, and return the list to the American Arbitration Association.

(D) The lists will be returned to the American Arbitration Association by the two (2) parties. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the American Arbitration Association shall invite the acceptance of an arbitrator to serve. If the parties fail to agree on any of the persons named, or if acceptable arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the American Arbitration Association shall have the power to make the appointment from among other members of the National Roster without the submission of additional lists. In no case shall an arbitrator be appointed who was struck from the original lists by either party.

(E) Arbitrators appointed by American Arbitration Association under this provision will meet the qualifications of subsection (3)(A).

AUTHORITY: sections 226.096, RSMo Supp. 2003 and 226.130 and 536.016, RSMo 2000. Original rule filed Nov. 5, 2003, effective June 30, 2004.*

**Original authority: 226.096, RSMo 2003; 226.130, RSMo 1939, amended 1993, 1995; 536.016, RSMo 1997, amended 1999.*

7 CSR 10-26.020 Mediation

PURPOSE: This rule provides for a mediation process to settle contract disputes.

(1) If a claim which exceeds twenty-five thousand dollars (\$25,000), but is less than three hundred twenty-seven thousand dollars (\$327,000) as adjusted as provided in section 226.096, RSMo (L. 2003, HB 668), arises on a contract awarded by the Missouri Department of Transportation, mediation of such claims shall be initiated if agreed to by both parties.

(2) The mediation procedures used shall be the procedures provided in the *American Arbitration Association, Construction Industry Arbitration Rules and Mediation Procedures*, effective on the date mediation was agreed upon.

AUTHORITY: sections 226.096, RSMo Supp. 2003 and 226.130 and 536.016, RSMo

2000. Original rule filed Nov. 5, 2003, effective June 30, 2004.*

**Original authority: 226.096, RSMo 2003; 226.130, RSMo 1939, amended 1993, 1995; 536.016, RSMo 1997, amended 1999.*