



# Best Practices for Working with Dispute Review Boards Work Shop

Session One  
Introduction and DRB Principals

**Best Practices for Working with  
Dispute Review Boards**  
DRBF of Florida

# Course Agenda

- Session One Introduction and DRB Principals
- Session Two FDOT DRB Procedures
- Session Three Best Practices for DRB Meetings
- Session Four Best Practices for Preparing Full Position Papers
- Session Five Best Practices for Presenting a Position to a DRB
- Session Six Most Common Mistakes, Assessment and Evaluation

# Course Objectives

- Understand the background and principals of the DRB process
- Know the FDOT DRB procedures
- Know the best practices for DRB meetings
- Know the best practices for preparing issue papers for submission to a DRB
- Know the best practices for presenting an issue to a DRB

# DRB History

- Originally developed in the underground construction segment of the industry
- Industry leaders got together and looked for something better than traditional dispute resolution
- First DRB guidelines published in 1985 and revised in 1991`by the American Society of Civil Engineers

# Traditional Dispute Resolution Alternatives

- Negotiate (OK but if not successful we still have a dispute)
- Arbitration
- Litigation

# Shortcomings of Traditional Dispute Resolution Alternatives

- **Timing** – Issues often aren't resolved until long after the project is complete
- **Accuracy of Information-** Timing effects accuracy. Memories fade. Written records are difficult to maintain.
- **Cost** – It cost a lot. In both \$ and people time.
- **Judges/Jurors Not technically competent** - They don't know the technical construction and engineering issues.
- **Judges/Jurors Don't know the whole story-** They weren't there.

# DRB Core Principals

1. Panel of three, experience, respected impartial reviewers
2. Board formed before construction begins
3. Board meets periodically at the project site and keeps abreast of progress and issues
4. Hearings may be requested by either party
5. Hearings are held promptly and are informal
6. Board recommendations are not binding

# Results

- DRB Foundation reports 1305 projects (\$89.7 Billion) using DRBs since 1979
- 1501 disputes heard by DRBs
- 1440 disputes settled
- 54 disputes still pending
- 45 disputes litigated

97 % of disputes settled without litigation or arbitration.

# Florida Owners Using DRBs

- Florida Department of Transportation
- Tampa-Hillsborough County Expressway Authority
- Orlando-Orange County Expressway Authority
- Miami-Dade Expressway Authority
- Greater Orlando Aviation Authority

# What Makes DRB Different from Other Approaches?

- All three board members are neutral and subject to the approval of both parties
- All three board members are obligated to serve all parties equally and fairly
- DRBs are formed at the beginning of the project
- DRBs meet regularly at the project and keep informed of project issues

# What Makes DRB Different from Other Approaches?

- Either party can refer a dispute to the board for a recommendation
- Hearings are held promptly and are informal
- Board recommendations are not binding

# FDOT's Experience

- Began with DRBs in 1994 and added regional DRBs in 2002
- Now
  - Standard practice on major projects
  - All Districts have access to a standing regional DRB available to all projects

# SUMMARY OF FLORIDA'S EXPERIENCE

- The following information, while not complete is the best available concerning experience with DRBs in Florida 1994 thru 2004
  - Approximately 500 Projects with DRBs
  - There have been 124 different DRB members on above DRBs
  - Approximate total value of these projects \$10,000,000,000
  - Approximately 260 projects have been completed
  - Over 220 disputes heard and all but 5 settled with 3 beginning litigation and 2 have gone to the State Arbitration Board, a 97.7% success rate
  - The largest claim settled was over \$6,000,000
  - The FDOT has a slight edge in favorable recommendations, 54% for the FDOT and 46% going for the Contractor