



# Construction Policy Bulletin

## CPB 11-3 Alternative Dispute Resolution for Projects with a Total Bid of Less Than \$3 Million

References:	<i>Amended 2006 Standard Specifications</i>	Section 5-1.145, "Requests for Information"
		Section 5-1.146, "Potential Claims and Dispute Resolution"
		Section 9-1.08D, "Final Payment and Claims"
	<i>Construction Manual</i>	Section 5-404, "Alternative Dispute Resolution Process"
	<i>Construction Policy Bulletin</i>	CPB 09-5, "Minor B Contract Claim Process"

Effective Date: May 27, 2011

Approved: \_\_\_\_\_

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Chief  
Division of Construction

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### Background

Alternative dispute resolution helps resolve disputes, mitigate damages, and maintain project schedules. California Department of Transportation (Caltrans) construction contracts with bid amounts of less than \$3 million dollars do not have a contractual alternative dispute resolution process.

### Existing Procedure

Projects with bids less than \$3 million use Section 5-1.146, "Potential Claims and Dispute Resolution," of the *Amended 2006 Standard Specifications* for resolving disputes.

### New Procedure

Projects with bids less than \$3 million use the partnering dispute resolution ladder (DRL). Districts may integrate the DRL into contracts using the non-standard special provision or with a zero-cost contract change order. You can find non-standard special provisions at <http://pd.dot.ca.gov/construction/contractmanagement/nssp.htm>.

The DRL is an optional part of the Caltrans administrative claims process. Although the DRL may run concurrently with the request for information and potential claims provisions, it is not a substitute for any contract requirement or administrative claims procedure or provision.

At the preconstruction conference, kickoff partnering workshop, or any time before contract acceptance, the resident engineer offers the contractor the option of using a DRL as alternative dispute resolution. When accepted by the contractor, the resident engineer should document the DRL by filling out form CEM-6208, "Dispute Resolution Ladder," which lists the names, titles, and contact information for Caltrans and contractor personnel. Caltrans' dispute resolution ladder, in ascending order, is as follows:

Field Level - Inspector

Level 1 - Resident Engineer

Level 2- Area Construction Engineer

Level 3- Area Construction Manager, Office Chief, or Deputy District Director of Construction, as designated by the Deputy District Director of Construction.

The resident engineer and the contractor's representative may use form CEM-6209, "Elevation of a Dispute Memorandum," to define the dispute before elevating it upward.

A dispute can be advanced up the ladder 1) when agreement between the parties on a defined level cannot be reached within the time specified in non-standard special provision 5-1.15 or 2) upon agreement of both representatives on a defined level with concurrence of the representatives at the next higher level.

Caltrans does not pay the contractor's costs for participating in the DRL process.

If you have questions or comments about this bulletin, please contact Andy Alvarado, Division of Construction, at [andy\\_alvarado@dot.ca.gov](mailto:andy_alvarado@dot.ca.gov) or (916) 653-8633.

- Attachments:
1. Non-Standard Special Provision for Dispute Resolution Ladder
  2. Dispute Resolution Ladder Sample Contract Change Order
  3. Dispute Resolution Ladder Sample Transmittal Memorandum
  4. CEM-6208, "Dispute Resolution Ladder"
  5. CEM-6209, "Elevation of a Dispute Memorandum"