

Rock Products Committee

Independent Peer Review Panel Process

The RPC Co-Chairs may choose an to use an Independent Peer Review Panel (IPRP) as an alternative dispute resolution process for the timely resolution of complex technical disputes that arise out of RPC Task Groups.

Member Selection

Caltrans and Industry must select IPRP members and establish the IPRP using the following procedure:

1. Each nominates an IPRP member candidate. The candidate must:
 - 1.1. Be knowledgeable in the type of construction, materials, test methods and contract documents concerning the disputed issue.
 - 1.2. Have no prior direct involvement in the dispute.
 - 1.3. Have no financial interest concerning the outcome of the dispute or with the parties, contractors, subcontractors, suppliers, consultants, or associated legal or business services within 6 past months, except for payments for Caltrans IPRP services, or payments for retirement or pensions from either party not tied to, dependent on, or affected by the net worth of the party.
2. Industry and Caltrans must request a disclosure statement from each nominated IPRP member candidate and must each furnish it to the other party. The statement must include:
 - 2.1. Resume of the candidate's experience
 - 2.2. Declaration statement that describes past, present, anticipated, and planned professional or personal relationships with each of the following:
 - 2.2.1. Parties involved in the dispute
 - 2.2.2. Parties' principals
 - 2.2.3. Parties' counsel
 - 2.2.4. Associated subcontractors and suppliers
3. Industry and Caltrans are allowed:
 - 3.1. A one-time objection to the other's candidate
 - 3.2. An objection to the other's candidate based on a specific breach of the candidate's responsibilities or qualifications under items 1 and 2 above.
4. If Industry or Caltrans objects to the other's candidate, the party who's candidate was objected to must nominate another IPRP candidate within 15 days.
5. The 1st candidate from a party that receives no objection becomes that party's IPRP member.
6. Industry and Caltrans each provide written notification to your selected IPRP member.
7. Within 15 days of their notifications, the selected IPRP members will submit a list of candidates to Industry and Caltrans for the final IPRP member selection and approval.
8. If Industry and Caltrans do not agree on any of the candidates on the list provided by the first 2 selected IPRP members, Industry and Caltrans each must select 3 candidates from the first 2 selected IPRP members submitted list and Caltrans and Industry must select the 3rd member in a blind draw of these 6 candidates.
9. The 3 IPRP members then decide which of the 3 will act as the IPRP chairman.

Member Replacement

The service of a IPRP member may end at any time with notice of at least 15 days if:

1. A member resigns
2. Caltrans replaces its selected member
3. Industry replaces selected member
4. Caltrans's and your selected members replace the 3rd member
5. Industry or Caltrans replace any member who fails to comply with specified employment or financial disclosure conditions of IPRP membership

Replacing any IPRP member must be accomplished by written notification to the IPRP and the other party with substantiation for replacing the member.

An IPRP member replacement is selected the same way as the original IPRP member selection. Selecting a replacement IPRP member must start upon determination of the need for replacement and must be completed within 15 days.

Dispute Meeting Process

When additional technical input is required to resolve a disputed issue, RPC Co-Chairs should refer the dispute to an IPRP within 45 days after receiving the dispute from a Task Group. The dispute meeting must be held no later than 90 days after the RPC Co-Chairs receives the referral unless Caltrans and Industry otherwise agree.

At least 15 days before the scheduled dispute meeting, each party must furnish the IPRP documentation that supports its position and any additional information requested by the IPRP. The documentation must describe the dispute in individual discrete segments such that resolved and unresolved discrete segments are differentiated. A copy of all documents submitted to the IPRP must be simultaneously submitted to the other party.

Neither Industry nor Caltrans may meet with or discuss the disputed issues with the IPRP members unless the other party is present.

Only Caltrans's Task Group Co-Chair and Industry Task Group Co-Chair may present information at a dispute meeting unless Caltrans and Industry otherwise agree. Only persons who are directly involved with the dispute and who have direct knowledge of the dispute may participate in the dispute meeting. No participation of either party's attorney is allowed. Individuals not associated with the dispute may attend the dispute meeting but must disclose their reason for attending and not participate in the proceedings.

During a dispute meeting, each party presents its position, makes rebuttals, provides relevant documents, and responds to IPRP questions and requests. The following is not allowed:

1. Testimony under oath
2. Cross-examination
3. Reporting of the procedures by a shorthand reporter or by electronic means

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If either party fails to attend a dispute meeting, all documents submitted by the nonattending party is considered as the nonattending party's entire argument.

If the IPRP requests additional information within 10 days after the dispute meeting, the party receiving the request must furnish this information within 10 days of receiving the request. A copy of all supplemental documents submitted to the IPRP must be simultaneously submitted to the other party.

The IPRP provides a written recommendation report within 30 days of the dispute meeting unless Caltrans and Industry agree to allow more time. Within 10 days of receiving the IPRP's recommendation report, either Caltrans or Industry may request clarification of any part of the report. Only one request for clarification from each party is allowed per dispute.

Recommendations

Recommendations resulting from the IPRP dispute resolution process are nonbinding on Caltrans.

Payment

Before an IPRP member spends any time reviewing documents, plans and specifications, evaluating positions, preparing recommendations, or performs any other off-site IPRP-related tasks, Industry and Caltrans must agree to pay for the tasks.

Caltrans and Industry share 50-50 reimbursement of the invoiced costs of the IPRP. This payment includes full compensation for offsite time, onsite time, travel expenses, transportation, lodging, travel time, and incidentals for each day or portion thereof the IPRP member is at an IPRP meeting.