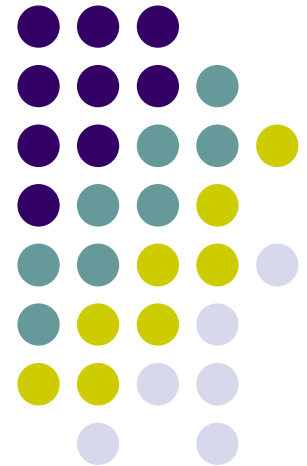
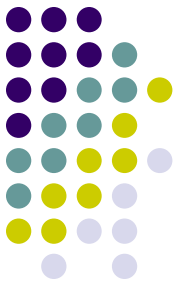


Florida Department of Transportation Use of Disputes Review Boards

**David Sadler, P.E.
Director, Office of Construction**

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Presentation Topics

Brief background and history of DRBs in agency

How DRBs are being used (types of projects, value, number of cases)

Selection and training of panel members

Overview of DRB recommendations (binding, admissibility, treatment)

Owners overall view

Contractors overall view



Background and History

FDOT began use of DRBs in 1994

Expanded to use of Regional Boards 2002

FDOT added use of Statewide BOARD in 2004

FDOT uses DRBs on, or makes available to,
EVERY CONSTRUCTION PROJECT



Background and History

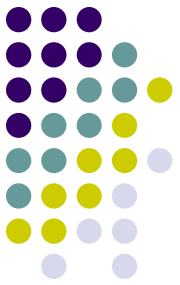
Project Specific DRB is used on contracts over \$15 Million dollars – typically monthly meetings

Regional DRBs are available for use on all projects without project specific DRB – used on as needed basis



Background and History

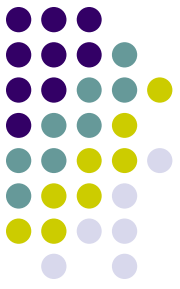
Statewide DRB used to hear issues related to warranties or materials performance after Final Acceptance of the construction project – specified on nearly all projects, meet as necessary



How DRBs are being used

Fiscal Years 2014-2016			
Jobs \$ Range	Number of Jobs	Percent	Cumulative Percent
\$250k or less	110	10.85%	10.85%
\$250k - \$500k	116	11.44%	22.29%
\$500k - \$1M	159	15.68%	37.97%
\$1M - \$2M	178	17.55%	55.52%
\$2M - \$5M	225	22.19%	77.71%
\$5M - \$10M	93	9.17%	86.88%
\$10M - \$15M	38	3.75%	90.63%
over \$15M	95	9.37%	100.00%
Grand Total	1014	100.00%	100.00%

Means approximately 30 jobs/year with project specific DRBs



How DRBs are being used

DRBs used on more than 800* projects

hearings held on 250 of these projects

total <400 hearings

60** recommendations rejected

*includes regional and SW boards

**nearly half the 60 rejected recommendations from 3 projects



How DRBs are being used

DRBs used on projects totaling nearly \$24.5B in construction (excludes >\$6B on P3s)

Cost of DRB service to date is approximately \$20M (<0.08% of construction cost)



Selection and Training

FDOT requires persons wanting to be qualified as a DRB member to complete member training offered by the Disputes Review Board Foundation

This training coupled with experience in construction is what it takes to become a candidate member



Selection and Training

Don't allow full-time consultant or full-time contractor to be a DRB member

Membership selection is not advocacy for choosing party

Each party has right to reject the other party's recommended candidate

Selection and Training



Project Specific BOARD:

The contractor and FDOT selected members choose a third candidate that is subject to the approval of both the contractor and FDOT. That third candidate then acts as Chairperson.



Selection and Training

Regional DRBs are established as a pool of five members that can be used to hear issues arising on jobs that do not have project specific DRB

The President of the Florida Transportation Builders Association (FTBA) and FDOT Director, Office of Construction select pool members

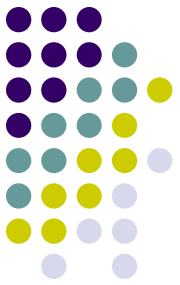


Selection and Training

Chairman of a Regional DRB will rotate off after a one year term and second member in line will move up as Chairman

FTBA and FDOT will select a new fifth member

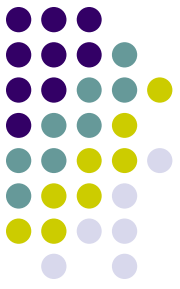
Only three members will hear any issue – pool of five is to allow for possible conflicts of interest allowing for a member's recusal



Selection and Training

Statewide DRBs are established as a pool of five members consisting of technical experts in respective subject areas

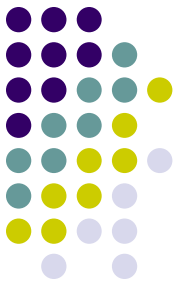
The President of the Florida Transportation Builders Association (FTBA) and FDOT Director, Office of Construction select pool members



Selection and Training

Term of service on Statewide DRB is for as long a member chooses

Statewide DRBs have been seldom used –
FDOT contracts have specific performance measures for warrantied items post Final Acceptance



Selection and Training

For all DRBs, after member selection complete, will execute a Three Party Agreement (TPA)

Project specific DRBs TPA is between members, contractor, and FDOT

Regional and Statewide DRB TPAs executed by members, FTBA President, and FDOT Director of Construction

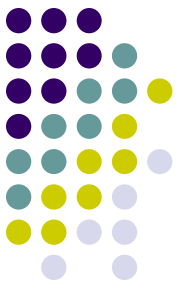


Overview of Recommendations

Recommendations reviewed by both parties

These will either accept or reject within 15 days,
otherwise accepted by default

For FDOT, if rejection is a consideration, that
must be reviewed and agreed to by the State
Construction Engineer



Overview of Recommendations

Admissibility in court – all recommendations are admissible as evidence in court

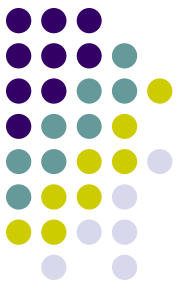
DRB recommendations are non-binding with the exception of recommendations made by a DRB related to a claim on a Bonus or Incentive/Disincentive job or a recommendation issued by a Statewide DRB related to a post-final accepted product performance issue



Overview of Recommendations

Breakdown of percentages for/against

Data is a bit dated but FDOT has a slight favorable edge in recommendations with 54% for FDOT and 46% for contractors



Owner's Overall View

Overall considered a successful program that has helped avoid potentially millions of claims and litigation costs

Another measure of the success is the relatively small number of hearings that occur

Most issues resolved on jobs without hearings

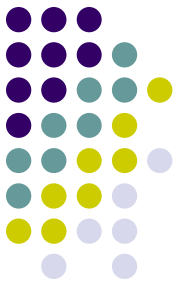


Contractor's Overall View

Mostly in favor of the process

Thinks sometimes too formal and too difficult a process

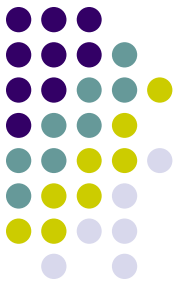
Perception too many recommendations rejections by FDOT



DRB Recommendations

The following web link is to FDOT DRB site:

<http://www.dot.state.fl.us/construction/CONSTADM/DRB/DRBMain.shtm>



Questions

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