

2013 AASHTO Subcommittee on Construction - Survey on the use of Dispute Review Boards -

Agency	Does your agency use Dispute Review Boards in your construction dispute/claim resolution process?	If yes, what are the criteria for use?	If yes, please provide links to (or copies of) your specificaitons, guides, etc.	Please provide contact information	Attachments
Alaska DOT	No			Eric DeSentis, eric.desentis@alaska.gov	
Arkansas DOT	No			Benjamin Browning, Benjamin.Browning@arkansashighways.com	
Connecticut DOT	No			Lewis Cannon, Lewis.Cannon@po.state.ct.us	
Georgia DOT	No			Thomas B. Howell, thowell@dot.ga.gov	
Illinois DOT	No			Mike F Renner, Mike.Renner@illinois.gov	
Kansas DOT	No			Sandra Tommer, SandraT@ksdot.org	
Kentucky DOT	No	We do have a claims process in which our field crews will review and submit to the Central Office for final ruling. The Director of Construction makes the final determination (with the help of others in the Cabinet). Then the contractor has the option to accept the ruling or (1) go to court, (2) mediation, or (3) Administrative Hearing through our Attorney General's Office.	Please see Section105.13 of our Standard Specifications with the following link, <a href="http://transportation.ky.gov/Construction/Standard%20amd%20Supplemental%20Specifications/100%20General%20Provisions%2012.pdf">http://transportation.ky.gov/Construction/Standard%20amd%20Supplemental%20Specifications/100%20General%20Provisions%2012.pdf</a>	Rachel Mills, Rachel.Mills@ky.gov	
Louisiana DOT	No			Alden Allen, Alden.Allen@LA.GOV	
Massachusetts DOT	No			David Spicer, david.spicer@state.ma.us	
Missouri DOT	No			David Ahlvers, david.ahlvers@modot.mo.gov	
Montana	No		<a href="http://www.mdt.mt.gov/business/contracting/standard_specs">http://www.mdt.mt.gov/business/contracting/standard_specs</a>	Kevin Christensen, kechristensen@mt.gov	
Nebraska DOT	No			Claude Oie, Claude.Oie@nebraska.gov	
New Hampshire DOT	No			Ted Kitsis, tkitsis@dot.state.nh.us	

Agency	Does your agency use Dispute Review Boards in your construction dispute/claim resolution process?	If yes, what are the criteria for use?	If yes, please provide links to (or copies of) your specifications, guides, etc.	Please provide contact information	Attachments
New Jersey DOT	No	Likely you will find that "dispute review board" means different things to different states. It is usually meant as a panel of independent reviewers (i.e. not state employees) - who give non-binding recommendations to resolve a dispute/claim. NJDOT does <b>not</b> use a DRB as such. We do use the term "Dispute Review Board" - to refer to our 2nd level of claim review, but our DRB consists of state employees - our Regional Construction Engineer, the Program Manager, and the Manager from our Construction Management unit. Also we have a third review step - the Department Claims Committee, which again consists of state employees - all of whom are at the Director level. We also have a 4th step which is Mediation. The process is outlined in section 107.12 of our Standard Specification.	<a href="http://www.state.nj.us/transportation/eng/specs/2007/spec100.shtm#s10712">http://www.state.nj.us/transportation/eng/specs/2007/spec100.shtm#s10712</a>	Sean Sheehy, Sean.Sheehy@dot.state.nj.us	
New York DOT	No			James Tynan, james.tynan@dot.ny.gov	
North Carolina DOT	No			Ronald Hancock, rhancock@ncdot.gov	
North Dakota DOT	No			Cal Gendreau, cgendrea@nd.gov	
Oklahoma DOT	No			George T. Raymond, P.E., graymond@ODOT.ORG	
Tennessee DOT	No			Brian K. Egan, brian.egan@tn.gov	
Vermont DOT	No			David Hoyne, David.Hoyne@state.vt.us	

2013 AASHTO Subcommittee on Construction - Survey on the use of Dispute Review Boards -

Agency	Does your agency use Dispute Review Boards in your construction dispute/claim resolution process?	If yes, what are the criteria for use?	If yes, please provide links to (or copies of) your specifications, guides, etc.	Please provide contact information	Attachments
Alabama DOT	Yes	After the Construction Bureau and Division has performed a joint review and made a decision for payment or denial, the Contractor has the right to accept or appeal. ALDOT utilizes two committees/boards. The first is the Claims Committee, which consists of Department Administrators not involved with the claim issue. If the Contractor does not like their decision, he can appeal to the Claims Appeal Board, which consists of one member appointed from the contracting industry, one appointed by ALDOT (a retired administrator), and one jointly appointed.	Article 110.04 - <a href="http://www.dot.state.al.us/conweb/doc/Specifications/2012%20DRAFT%20Standard%20Specs.pdf">http://www.dot.state.al.us/conweb/doc/Specifications/2012%20DRAFT%20Standard%20Specs.pdf</a>	Curtis W. Vincent, <a href="mailto:vincentc@dot.state.al.us">vincentc@dot.state.al.us</a>	
California DOT	Yes	DRBs are used on projects that have total bid of more than \$10 million and at least 100 working days. (Caltrans also uses Dispute Resolution Advisors - a single party neutral - on projects with total bids of between \$3 million and \$ 10 million and at least 100 working days, and an optional dispute resolution ladder for projects with total bids of less than \$3 million.)	<a href="http://www.dot.ca.gov/hq/construc/dispute_resolution/drbinfo.htm">http://www.dot.ca.gov/hq/construc/dispute_resolution/drbinfo.htm</a>	Andy Alvarado, <a href="mailto:andy.alvarado@dot.ca.gov">andy.alvarado@dot.ca.gov</a>	
Colorado DOT	Yes	All projects have the specification which requires use of a DRB at a certain stage in the dispute resolution process.	<a href="http://www.coloradodot.info/business/designsupport/construction-specifications/2011-Specs/standard-special-provisions/section-100-revisions/105dcca.docx/view">http://www.coloradodot.info/business/designsupport/construction-specifications/2011-Specs/standard-special-provisions/section-100-revisions/105dcca.docx/view</a>	Mark Straub, <a href="mailto:mark.straub@state.co.us">mark.straub@state.co.us</a>	
Delaware DOT	Yes	Our agency uses a four step process. First, the Construction District issues a formal, written decision. Decisions may be appealed to the "Claims Committee", which is a group of five agency members who are randomly selected that had nothing to do with the project. The decision of the Claims Committee can be appealed to the Chief Engineer, whose decision can be appealed to an arbitration panel. We use binding arbitration exclusively as an appeal to our final agency action. We do not resolve any construction claims in court.	Our claim spec is attached above as a word document. It is currently being rewritten. This specification was written years ago and was intended to settle small claims.	Jim Pappas, Assistant Director of Design Resources, <a href="mailto:jim.pappas@state.de.us">jim.pappas@state.de.us</a> Chris Costello, North II Construction Engineer, <a href="mailto:chris.costello@state.de.us">chris.costello@state.de.us</a>	

Florida DOT	Yes	FDOT has 3 levels of DRBs. First is project specific board used for projects with contract values greater than \$15M. For other projects, FDOT makes available regional DRBs. The third DRB is the statewide DRBs that hear only performance related disputes post construction for items of work that have warranty responsibilities.	<a href="http://www.dot.state.fl.us/construction/Manuals/cpam/New%20Clean%20Chapters/Chapter3s4.pdf">http://www.dot.state.fl.us/construction/Manuals/cpam/New%20Clean%20Chapters/Chapter3s4.pdf</a> , Construction procedure covering DRB use. <a href="http://www.dot.state.fl.us/specificationsoffice/Implemented/Workbooks/JanWorkbook2013/Files/SP0080307DRB.pdf">http://www.dot.state.fl.us/specificationsoffice/Implemented/Workbooks/JanWorkbook2013/Files/SP0080307DRB.pdf</a> , Project specific DRB spec. <a href="http://www.dot.state.fl.us/specificationsoffice/Implemented/Workbooks/JanWorkbook2013/Files/SP0080307RDRB.pdf">http://www.dot.state.fl.us/specificationsoffice/Implemented/Workbooks/JanWorkbook2013/Files/SP0080307RDRB.pdf</a> , Regional DRB Spec. <a href="http://www.dot.state.fl.us/specificationsoffice/Implemented/Workbooks/JanWorkbook2013/Files/SP0080308SDRB.pdf">http://www.dot.state.fl.us/specificationsoffice/Implemented/Workbooks/JanWorkbook2013/Files/SP0080308SDRB.pdf</a> , Statewide DRB Spec. <a href="http://www2.dot.state.fl.us/proceduraldocuments/forms/informs/70001102.pdf">http://www2.dot.state.fl.us/proceduraldocuments/forms/informs/70001102.pdf</a> , DRB Three Party Agreement form. <a href="http://www.dot.state.fl.us/construction/CONSTADM/DRB/DRBMain.shtml">http://www.dot.state.fl.us/construction/CONSTADM/DRB/DRBMain.shtml</a> , Construction website on DRB related information.	David Sadler, David.Sadler@dot.fl.us Rudy Powell, State Construction Engineer, Rudy.Powell@dot.fl.us Zach Wiginton, State Construction Systems Support, Zach.Wiginton@dot.fl.us
Idaho DOT	Yes	3 member board, available for all contracts.	See subsection 105.19, <a href="http://itd.idaho.gov/manuals/Manual%20Production/SpecBook/2012_Specifications_book.pdf">http://itd.idaho.gov/manuals/Manual%20Production/SpecBook/2012_Specifications_book.pdf</a>	Frances Hood, frances.hood@itd.idaho.gov
Indiana DOT	Yes	INDOT uses a Dispute Review Board only as a way to resolve issues where there are claims that are less than \$150K, 20% of the original contract amount and 100 days of contact time extension. The board is made up only of 3 INDOT personnel and the board listens to the contractors arguments and then makes a ruling. The ruling of the board is final. When claims are over these numbers the contractor is allowed to request mediation if there is still a dispute after Central Office review and ruling.	The specifications can be found at the following web address and are in Section 105.16 – Notice of Changed Conditions and Claims <a href="http://www.in.gov/dot/div/contracts/standards/book/sep11/1-2012.pdf">http://www.in.gov/dot/div/contracts/standards/book/sep11/1-2012.pdf</a>	Greg Pankow, gpankow@indot.in.gov
Maine DOT	Rarely Used	Unresolved claim if agreed to by both parties	Article 111.4 - <a href="http://maine.gov/mdot/contractors/publications/standardspec/docs/ss_division_100.pdf">http://maine.gov/mdot/contractors/publications/standardspec/docs/ss_division_100.pdf</a>	George MacDougall, george.macdougall@maine.gov
New Mexico DOT	Yes	Cabinet Secretary's decision	Section 105.20 <a href="http://dot.state.nm.us/content/dam/nmdot/Plans_Specs_Estimates/2007_Specs_for_Highway_and_Bridge_Construction.pdf">http://dot.state.nm.us/content/dam/nmdot/Plans_Specs_Estimates/2007_Specs_for_Highway_and_Bridge_Construction.pdf</a>	David E. Trujillo, david.trujillo2@state.nm.us
Ohio DOT	Yes	Dispute resolution processes are now included in the 2013 standard specification (section 108.02.G), and for larger projects called out in Proposal Note 108 as linked below. The PN 108 designer note specifies: "This note shall appear on all projects over \$20,000,000 and/or of a highly technical nature. In all cases consultation must be made with the Division of Construction Management Dispute Resolution Coordinator (614-466-3957) prior to final determination."	Our Dispute and Claims website is available here: <a href="http://www.dot.state.oh.us/Divisions/ConstructionMgt/Pages/DisputesandClaims.aspx">http://www.dot.state.oh.us/Divisions/ConstructionMgt/Pages/DisputesandClaims.aspx</a> . Our contract clause is available here: <a href="http://www.dot.state.oh.us/Divisions/ConstructionMgt/Specification%20Files/PN108_10192012_for_2013.PDF">http://www.dot.state.oh.us/Divisions/ConstructionMgt/Specification%20Files/PN108_10192012_for_2013.PDF</a>	Pam Clawson, Pam.Clawson@dot.state.oh.us, 614-466-3957

Oregon DOT	Yes	We call it a "Claim Review Board", and yes we use them as the final step before going to litigation. As noted they are used as the final step before litigation (Step 3). They are used for all claims between \$25,000 and \$250,000 by specification. However, we typically would use them by change order for claims quite a bit above the \$250,000 level.	<u>The specifications are in section 199.40(d) of our standard specifications at the following link:</u> <a href="http://www.oregon.gov/ODOT/HWY/SPECS/docs/08book/08_00100.pdf">http://www.oregon.gov/ODOT/HWY/SPECS/docs/08book/08_00100.pdf</a>	Jeffrey Gower, jeffrey.l.gower@odot.state.or.us	
Pennsylvania DOT	Yes	Notice of Intent to claim within six months of the date the claim accrues, and 15 days from either denial from the claim review meeting OR 135 days from receipt of intent to claim noted above if no denial is issued.	<a href="ftp://ftp.dot.state.pa.us/public/bureaus/design/pub408/pdf%20for%20printing%202011%204/105.pdf">ftp://ftp.dot.state.pa.us/public/bureaus/design/pub408/pdf%20for%20printing%202011%204/105.pdf</a> , <a href="ftp://ftp.dot.state.pa.us/public/pdf/BOCM_MTD_LAB/PUBLICATIONS/POM/PartB/B01-19.pdf">ftp://ftp.dot.state.pa.us/public/pdf/BOCM_MTD_LAB/PUBLICATIONS/POM/PartB/B01-19.pdf</a>	Joseph Robinson, josrobinso@pa.gov, 717-787-4974	
South Carolina DOT	Yes	It is allowed on all projects. Contractor must fill out Notice of Claim within 15 days of delay (if delay claim) or prior to proceeding with work if they feel they are entitled to additional compensation. Additional details in specs referenced below.	Section 105.16 of Standard Specs: <a href="http://www.scdot.org/doing/doingPDFs/2007_full_specbook.pdf">http://www.scdot.org/doing/doingPDFs/2007_full_specbook.pdf</a>	Charles Eleazer, EleaserCR@dot.state.sc.us	
Virginia DOT	On a limited basis	State Construction Engineer's approval of the project manger's and District Construction Engineer's recommendation.		Mark Cacamis, mark.cacamis@vdot.virginia.gov	
Washington DOT	Yes	For projects less than \$10M our standard specification are used and they allow a DRB if both parties, Engineer and Contractor agree to have during the construction of the project, but the specifications don't require a DRB to be set up as mandatory in the contract. On projects over \$10M our specifications require a DRB to used in the contract as part of the contract.	For projects under \$10M go to the 2012 Standard Specification Book Section 1-09.11 at our internal web site of: <a href="http://www.wsdot.wa.gov/NR/rdonlyres/EA6CDA63-FBD5-46E0-BBBB-32B576074038/0/SS2012.pdf">http://www.wsdot.wa.gov/NR/rdonlyres/EA6CDA63-FBD5-46E0-BBBB-32B576074038/0/SS2012.pdf</a> For projects over \$10M use our General Special Provisions located at the internal web site of: <a href="http://www.wsdot.wa.gov/publications/fulltext/projectdev/gspspdf/egsp1.pdf">http://www.wsdot.wa.gov/publications/fulltext/projectdev/gspspdf/egsp1.pdf</a>	Mike Grigware, grigwaM@wsdot.wa.gov	
West Virginia DOT	Yes	We only use a DRB on what we consider large and/or complex projects. Large projects for WV usually are \$25 Million and above. A complex project is defined as "new" technologies, types of work seldom performed in WV (tunnel rehab, 14' caissons, etc.), incentive/disincentive projects, no excuse clauses, performance based projects, warranty projects, etc.	<a href="http://www.transportation.wv.gov/highways/contractadmin/prequalifications/Pages/DisputeResolutionBoardMemberPrequalification.aspx">http://www.transportation.wv.gov/highways/contractadmin/prequalifications/Pages/DisputeResolutionBoardMemberPrequalification.aspx</a>	Stephen Todd Rumbaugh, P.E., Director Contract Administration, (304)558-9569 – work, Stephen.T.Rumbaugh@wv.gov	

Wisconsin DOT	Yes	<p>We have a three tier claim review process.</p> <p>The first level is the Region Review. At this level the contractor or region (department) can request an advisory opinion where a neutral third party provides a cursory review of the claim and then makes a recommendation regarding entitlement and quantum if requested - WisDOT calls this an informal DRB review. Before engaging this process, both parties must agree to use the process. If the informal DRB process is not used, the region hears the claim and makes a decision regarding entitlement and quantum. If the claim is not resolved at the region level, the claim will move on to the Bureau level.</p> <p>The Bureau of Project Development review is the second tier of WisDOT's claims process. At this level, either party may request a formal DRB, which typically involves three neutral individuals. If both parties agree to a DRB, then the DRB process is engaged. If both parties do not agree to engage a DRB, the Bureau reviews the claim, conducts a hearing and makes a decision regarding entitlement and possibly quantum. If the claim is not resolved at this point, the claim will be forwarded to the Review Panel.</p> <p>The Review Panel is the third and final step in the administrative claims process. At this level either party can request a formal DRB and mutual agreement to engage the DRB process is not necessary - this guarantees the opportunity to have a claim heard by a neutral party prior to exhausting the administrative claims process. If a DRB is not requested, the Review Panel hears the claim and renders a decision on entitlement and possibly quantum.</p>	<p>WisDOT's Claims Process is prescribed in subsection 105.13 of the Standard Specifications - <a href="http://roadwaystandards.dot.wi.gov/standards/stndspec/ss-01-05.pdf#ss105">http://roadwaystandards.dot.wi.gov/standards/stndspec/ss-01-05.pdf#ss105</a>.</p> <p>WisDOT's Dispute Resolution Procedures – Formal and Informal Dispute Review Board - <a href="http://roadwaystandards.dot.wi.gov/standards/admin/index.htm">http://roadwaystandards.dot.wi.gov/standards/admin/index.htm</a></p>	Doak Christenson, <a href="mailto:doak.christenson@dot.wi.gov">doak.christenson@dot.wi.gov</a>	
Wyoming DOT	Yes	Yes we are starting to implement one. To be used on jobs over 6 million dollars. The special provision is being finalized now.		Andy Long, <a href="mailto:andy.long@wyo.gov">andy.long@wyo.gov</a>	