

SFCPSC Partnering Enhancement Proposal (PEP)

Success Factor 1.0: Education and Training

Issue 1.2.4 Integrated Dispute System

Barrier

Construction Project Issue Resolution is inconsistent for SF Departments and it is not clearly outlined or understood by City Project Managers (PM), Construction Managers (CM), Resident Engineers (RE) or industry staff.

Problem Statements and Current Practice

Currently, each Department handles dispute resolution and claims prevention differently. Contractors and City Staff do not know which issue resolution tools are at the project team's disposal from the outset of the project nor when they can and should use them.

- How can we develop an Integrated Dispute System so the Issue Resolution Ladder process is directly linked to claims resolution, and ultimately, claims prevention?
- How can we ensure that the Integrated Dispute System is flexible enough that each department can determine which elements it needs based on the size and complexity of its projects?

Proposal: 1.2.4. An Integrated Dispute Resolution System

The goal of any issue resolution process is to resolve all construction project issues at the lowest appropriate level. Construction project teams are expected to resolve construction issues using informal negotiation and the Issue Resolution Ladder developed in the Partnering process.

Recommendations:

To ensure that all methods for resolving project issues are exhausted prior to an issue becoming a Government Claim, we recommend the development of an **Integrated Dispute System** and incorporating that system into the key Partnering documents, including the Partnering Specifications, the updated Partnering Field Guide and the relevant SF Department General Conditions (if needed).

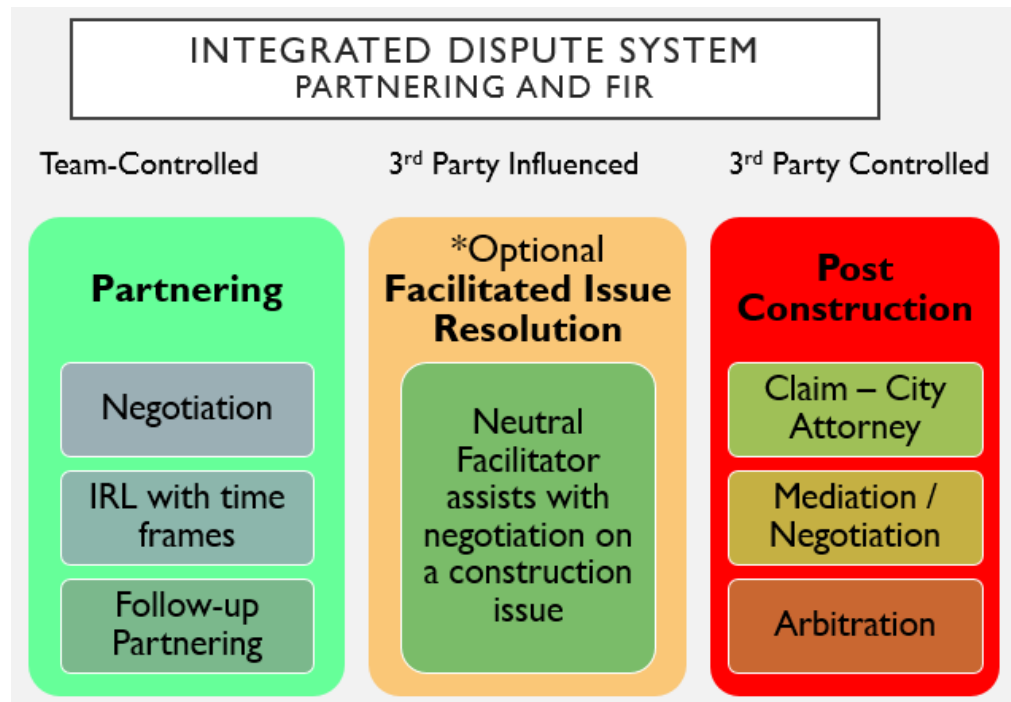
We recommend adding **Facilitated Issue Resolution (FIR)** as an **optional** tool for the dispute prevention process to ensure that all team-controlled vehicles for issue resolution are used prior to filing a government claim.

Facilitated Issue Resolution is a mediation-like process where the Partnering Facilitator (or a mutually-selected professional neutral with knowledge of construction) can be used by the team to resolve specific construction disputes. The team will decide during the kick-off Partnering meeting whether they would like to include the Facilitated Issue Resolution (FIR) Process for that project. They will note the inclusion of FIR in the Issue Resolution Ladder.

If a team elects to use the Facilitated Issue Resolution process for an issue that has become a Notice of Potential Claim (NOPC), they will be given up to twenty (20) additional days to resolve it. The fees associated with Facilitated Issue Resolution will be split 50/50 between the SF Department and the contractor.

Integrated Dispute System

For SF Public Works, San Francisco International Airport, Port of SF, and SF Rec and Park



Sample Issue Resolution Ladder with Optional FIR

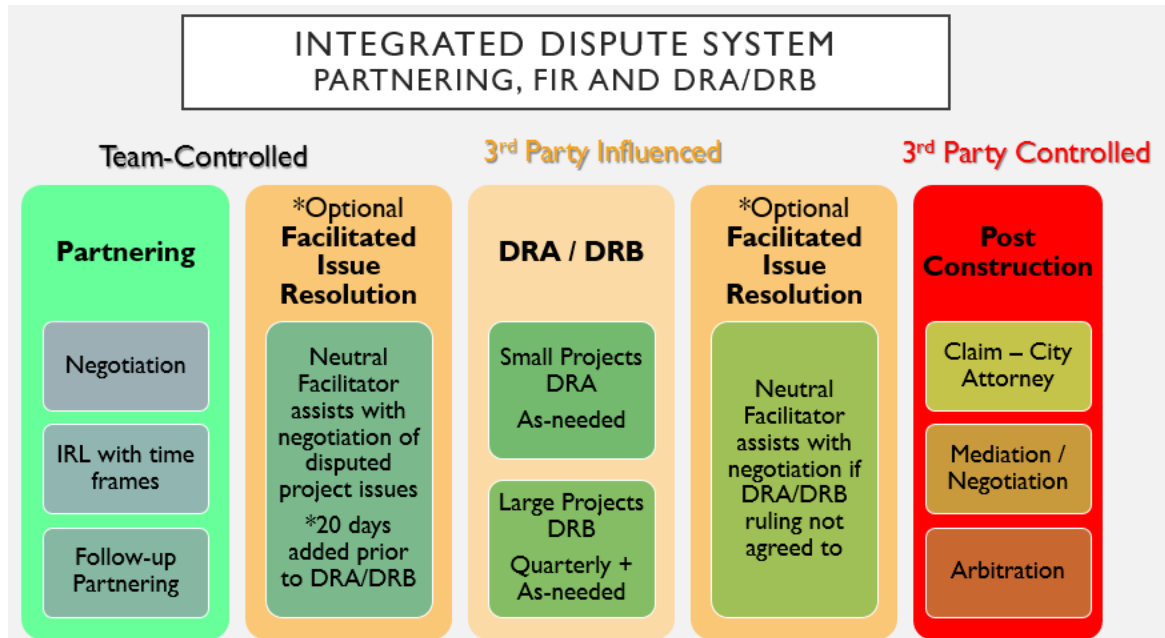
Team Level	Awarding City Department	Contractor	Time to Elevate
I	Inspector or Resident Engineer	Foreman/ Superintendent	1 day
II	Project Manager	Project Manager	1 week
III	Program Manager	Area Manager	1 week
IV	Division Manager	Operations Manager	2 weeks
V	Deputy Department Director	Owner; President	1 week
ADR	*Facilitated Issue Resolution (Team is allowed to add 20 additional days to the NOPC process to resolve the issue)		

*Note – The project team will discuss the optional inclusion of Facilitated Issue Resolution during the Partnering kick-off meeting. If it is used, it will be added as the final rung of the Issue Resolution Ladder.

For Project Teams using a Dispute Review Advisor or Dispute Review Board and Facilitated Issue Resolution

**Note – For SFPUC and SFMTA only*

For construction projects teams utilizing the Dispute Review Advisor (DRA) or Dispute Review Board (DRB), the Facilitated Issue Resolution (FIR) process may be used prior to the DRA or DRB hearing. Twenty (20 additional days will be granted for the team to organize the FIR meeting. The team may also use the FIR process if a decision rendered by the DRA or DRB is not agreed to by the team. (See sample dispute system and IRL below).





Sample Issue Resolution Ladder with DRA/DRB and FIR

Team Level	Awarding City Department	Contractor	Time to Elevate
I	Inspector or Resident Engineer	Foreman/ Superintendent	1 day
II	Project Manager	Project Manager	1 week
III	Program Manager	Area Manager	1 week
IV	Division Manager	Operations Manager	2 weeks
V	Deputy Department Director	Owner; President	1 week
ADR	*Facilitated Issue Resolution (Team is allowed 20 additional days prior to the DRA/DRB Hearing once NOPC is filed to resolve)		
	Dispute Review Advisor (DRA) or Dispute Review Board (DRB)		

Performance Measurement

The measurement of success for this PEP will be the development of a Chapter for the Partnering Field Guide focused on the Integrated Dispute Resolution System policies and procedures related to issue resolution, and ultimately, claims prevention, accepted by each of the six Chapter 6 Departments.

Concept Approved By:	Performance Measures Co-Chair Signatures	Date
Education and Training subcommittee Co-Chairs	Bijan Ahmadzadeh SF Municipal Transportation Agency 	6/27/17
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