

BULLETIN 15

CONSULTANT'S ROLE IN ADR PROCESSES

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The Consultant traditionally exercises the duties of interpreter and adjudicator in any disputes that arise related to the Owner/Contractor agreements. In the past, if efforts to resolve these disputes were unsuccessful, the only other options usually available under the contract were of any adversarial nature. The construction industry has moved towards other forms of dispute resolution, and the CCDC is now (since 1994) issuing contracts which contain provisions for mediation and arbitration. It is foreseen that the use of these forms of dispute resolution will allow speedy, economical alternatives to the traditional legal process.

It must be emphasized that the inclusion in contracts of provisions for mediation and arbitration does not abrogate or remove the Consultant's responsibilities in the management of the contract, nor in the assumption of obligations related to the interpretation of the agreement between the parties. The CCDC foresees the use of experienced construction mediators and arbitrators as being supplementary to the Consultant's administrative and adjudicatory duties, and these additional services will be utilized only if the parties to the contract formally disagree with the Consultant's finding(s) regarding any or all disputes. Once the mediation and/or the arbitration process is underway, the Consultant will be expected to offer full co-operation, knowledge and assistance in the dispute resolution process.

For further information, please refer to CCDC 40, "Rules for Mediation and Arbitration of Construction Disputes".

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