

Chapter 3. GETTING FEEDBACK FROM PARTICIPANTS

B. DESIGNING PROGRAMS TO BRING OUT COMMUNITY VIEWPOINTS AND RESOLVE DIFFERENCES

Standard meeting formats are not always successful in bringing out a full range of community viewpoints or resolving differences of opinion. Sometimes participants need other ways to make their views known and to build consensus. The use of special techniques, some of which are costly and must be conducted by professional consultants, may be warranted in such situations.

Agencies can use very specific means to obtain feedback from participants and weigh them along with other people's positions. New techniques such as customer-based analysis help agencies determine the community's needs and what might satisfy those needs. Reliability of results, in terms of substance and statistical validity, depends on the method used.

When people make their views known but are unable to reach consensus on the issues, alternative dispute resolution techniques can help resolve the conflicts. Whether disagreements are settled without outside assistance (for example, by negotiation) or require a third party to mediate depends upon the complexity of the issues, the extent of the stalemate, and the skills and spirit with which all parties enter into the resolution process.

Ways to get direct feedback and resolve differences include:

- Focus groups;
- Public opinion surveys;
- Facilitation; and
- Negotiation and mediation.

FOCUS GROUPS

What is a focus group?

A focus group is a tool to gauge public opinion. Borrowed from the marketing and advertising industry, it frankly regards transportation as a product that can be improved and the public as customers for that product. It is a way to identify customer concerns, needs, wants, and expectations. It can inform sponsors of the attitudes and values that customers hold and why. It can help drive development of policies, programs, and services and the allocation of resources. Focus groups have been used by transportation officials in New York and Illinois as a way to determine public opinions on high-occupancy vehicle (HOV) lane additions and rail transit alternatives.

A focus group is a small group discussion with professional leadership. A carefully-selected group of individuals convenes to discuss and give opinions on a single topic. Participants are selected in two ways: random selection is used to assure representation of all segments of society; non-random selection helps elicit a particular position or point of view. A combination of selection techniques can result in a focus group of people well-versed in transportation issues along with those who are solely consumers of transportation services.

A focus group has these basic features:

- A carefully-crafted agenda, with five or six major questions at most;
- Emphasis on gathering perspectives, insights, and opinions of participants through conversation and interaction;
- Identification of major points of agreement and divergence of opinion;
- Minimal presentation of material to set context and subject;
- Gleaning, not shaping, of opinions or perspectives;
- Eight to twelve participants; and
- Understanding that the participants' role is to give personal insights and perspectives.

Why is it useful?

A focus group leader explores attitudes in depth through follow-up questions. It offers an opportunity to get behind people's expressed attitudes and assess policy directions and program objectives. It is a chance to review allocation of resources. It helps confirm or deny established goals or set new directions.

Informality encourages full participation. The small size of the group lowers barriers to speaking out. A focus group is a place for people to speak out without criticism of their comments. Spontaneity in responding produces fresh information. Participants are not required to prepare for the discussion. Many focus groups have found that participants readily volunteer ideas and comments that have not been recorded elsewhere. For example, focus groups were used in Los Angeles to find out why commuters were not taking advantage of free transit passes.

A focus group supplements other forms of public involvement. It serves the narrowly-defined need for direct and informal opinion on a specific topic. For broad participation from all community residents on the same or other topics, alternative forms of involvement are used.

Does a focus group have special uses?

A focus group provides community input from otherwise unrepresented individuals. Residents from specific areas within an urban region can be heard. Geographically-based opinions and issues can

be more readily defined and discerned. The Colorado Department of Transportation (DOT) used 20 regional focus groups for detailed discussion of issues following a statewide community survey

A focus group can marshal expert opinion on a plan. Project California used six focus groups of engineers, systems analysts, regulatory officials, and other specialists to evaluate guidelines for encouraging technological development, including electric vehicles, intelligent transportation systems (ITS), and the mass transit industry in the State.

An agency can use focus groups to compare opinions. In preparations for Chicago's Downtown Plan, opinions of Loop residents were compared with those of suburbanites; results suggested new directions in commuting and in aligning the proposed downtown light-rail line. Focus groups can also compare opinions that are internal and external to an organization.

Who participates? And how?

Focus group members are selected by the sponsor. Depending on the goals to be achieved, a focus group is heterogeneous (with a variety of people from different backgrounds within a single geographic area) or homogeneous (with separate focus groups for residents, businesses, and institutions, as in, for example, Boston's Back Bay Transportation Strategies project). Members may be randomly selected or invited from previously identified, non-random groups.

Community residents participate by stating opinions. Individuals within the group may react to others' opinions or bring up their own ideas. The facilitator of the group guides discussion to cover all agenda items and assure that all individuals get a chance to speak.

How do agencies use the output?

A focus group produces opinions from local people. For the Massachusetts Turnpike, focus groups helped identify user requests and needs for park-and-ride lots. The output of the group meeting is always recorded in written form for the sponsor's use. In addition to the written document, some agencies use videotapes of the proceedings. Some use mirrored one-way windows to observe the focus group in process.

Focus group information supplements other community input. A purpose for the group is clearly identified beforehand. Its agenda fits closely within the information needs of a larger project or program. Opinions derived from the group inform the larger effort. For Chicago's Downtown Plan, the City used four focus groups—from in-town and the suburbs—to find out what people liked and didn't like about downtown Chicago.

A focus group is tailored to assess public reactions. Because it typically deals with broad policy or program goals and impacts on the community, it does not dwell on technical issues. It helps agencies or organizations understand overall public reactions to programs or policies at a single point in time. For example, in the San Francisco area focus groups were used to obtain commuter perceptions about ridesharing.

Who leads a focus group?

A focus group needs a facilitator. The facilitator is essential to hold the group to the agenda and elicit opinions from each participant. In some cases, the facilitator is essential to keep a single participant from dominating the proceedings. In other instances, opinions may be lost in a sea of anecdotes unless the facilitator firmly steers the group toward the agenda. (See [Facilitation](#).)

A facilitator needs guidance on the agenda and purpose of the focus group. Sample questions for the group can be provided to the facilitator by the sponsor. The sponsor may be present at the group in a non-participatory function or as an outside observer. During a break in the discussion, the sponsor may confer with the facilitator to assure that all agenda topics are covered.

What are the costs?

A focus group is relatively inexpensive compared with the costs and effort involved in administering a full opinion survey. (See [Public Opinion Surveys](#).) It consumes less time in both implementation and analysis. Extensive statistical analysis is not required, because a focus group provides only qualitative information. However, agencies often choose an outside firm to provide a paid, neutral facilitator. Public agencies tend not to pay participants, in contrast with private market research organizations.

A focus group need not be time-consuming. Meetings are seldom longer than two or three hours. For the participants' convenience, it may be held after work hours. Schedules can be tailored to fit needs of participants and the sponsoring agency. If required, a focus group can be organized within a matter of weeks following a decision to proceed. It takes a moderate to long amount of time to select, invite, and confirm participants. The time required to prepare focus group agendas and questions is not major if an experienced facilitator is available to work with the sponsor.

How is a focus group organized?

A focus group is integrated with a larger program. It is used to inform executives and staff of public reactions to ongoing work. Thus, it grows from the needs of the larger work and provides supplemental input and information to it. For example, in Florida focus groups were used to define the preferences of commuters and travel-related businesses for community real-time traffic information.

Policy direction within an agency is required. A sponsoring agency selects the agenda, participants, and facilitator and may designate questions to be addressed by participants. A meeting site must be selected and may need to be on neutral ground if the sponsor is not to be identified.

How is it used with other techniques?

A focus group cannot replace other techniques of public involvement, but it can provide input. It is used to identify concerns and issues prior to implementing a media strategy. (See [Media Strategies](#).) It is used to refine requirements for transportation alternatives and can be repeated at intervals to gauge changes in public opinion. It provides a qualitative supplement to quantitative community surveys. (See [Public Opinion Surveys](#).)

What are the drawbacks?

A focus group provides solely qualitative responses. It is not statistically representative of society at large. While it fits the Intermodal Surface Transportation Efficiency Act's (ISTEA's) requirement of giving people an opportunity to comment on a project, a focus group includes only a sample of the community. As a one-time event, it does not meet Federal standards for continuing public involvement and cannot replace a more formal process that records each participant's comments and presents all of them to the appropriate authorities.

A focus group brings no public consensus. Potentially opposing groups do not deliberate important issues. The goal is to obtain opinions—not disseminate information. Specific viewpoints of individuals or the groups they represent are the principal product of a focus group meeting. Thus, the results are used as a guideline for further thinking and analysis.

For further information:

- Boston Transportation Department (Back Bay Transportation Strategies), (617) 635-3086
- Chicago City Planning Department (Downtown Plan), (312) 744-4142
- Chicago Regional Transportation Authority (South Corridor Transit Study), (312) 917-0700
- Colorado Department of Transportation Long-range Plan, (303) 757-9266
- New Jersey Department of Transportation Long-range Plan, (609) 530-2866
- New York Department of Transportation Region 10, (518) 360-6006

PUBLIC OPINION SURVEYS

What are public opinion surveys?

Public opinion surveys assess widespread public opinion. An agency administers a survey to a sample group of people via a written questionnaire or through interviews in person, by phone, or by electronic media. The limited sample of people is considered representative of a larger group.

Survey results show public positions or reactions to agency actions and gather information for use in the process. Surveys can be formal (scientifically assembled and administered) or informal. For example, in a series of formal surveys, voters in the Puget Sound region (Seattle, Washington) were asked to say how they would vote on various possible elements in a regional transit system. In an informal survey, the Ohio Department of Transportation (DOT) attached a questionnaire to its draft statewide transportation plan, *Access Ohio*, to solicit comments from reviewers. During preparation of Oregon's transportation plan, public opinion surveys were made available in the policy element draft and at public meetings.

Scientific surveys give broadly applicable results. The Puget Sound surveys mentioned above, for example, were based on a random sample of voters carefully chosen to be statistically representative of all voters. Informal surveys tend to bring responses from a self-selected group of people—those who are more personally interested in specific transportation issues than the population at large. However, informal surveys can be designed to reach a broader group than those who attend public meetings.

Why are they useful?

Surveys portray community perceptions and preferences. They can accurately report on what people know or want to know. They test whether a plan or plan element is acceptable to the public as it is being developed, or test an agency's perception of what people are thinking and reinforce decisions made through participatory programs. They can identify concerns before a public vote is scheduled, as was done in the Seattle area.

Surveys can test whether opinions are changing, if repeated after an interval of time. Results can be useful to the leaders of the process or to elected officials and community leaders. Results are used to guide efforts to meet public concerns and develop effective messages for public information and for a media strategy. They give meaningful clues to the likely level of public acceptance of a plan, program, or process. The Puget Sound surveys spanned a five-year period.

Better information enhances an agency's understanding not only of public concerns but also of the process of public involvement. An agency can respond to survey results by providing missing or inadequate information that did not get through to the public or was misinterpreted. This adds to the substantive discussion of issues deemed important by respondents.

Do they have special uses?

Surveys focus public thoughts about a service and provide a context for an opinion. A public opinion survey in Chicago found that public attitudes about transit are not only a function of services received but are also strongly affected by people's feelings about crime, government in general, public civility, and the neighborhoods where a trip begins or ends. Public opinion surveys were distributed at the Delaware DOT's public "exhibits" of progress on a highway project. The surveys helped the DOT determine what attendees thought of ideas under discussion and present project issues in ways that engaged them.

Surveys indicate preferences of segments of the population. In Utah the Wasatch Front Regional Council and the Utah Transit Authority conducted a survey of more than 2,000 individuals to determine transportation preferences for disabled persons. Santa Barbara, California, used a public opinion survey in conjunction with the update of its general plan to identify issues of particular concern to Hispanic and African-American business people and community leaders. Lancaster County, Pennsylvania, used a visual preference survey to determine physical aspects and patterns that residents preferred and to show how those values could be reflected in an overall plan for the area.

Who participates? And how?

Surveys directly involve a relatively small population of a State or region. In turn, that population is involved only in a one-way participatory effort, without the opportunity for give-and-take with the sponsoring agency. For surveys with a randomized sample of the population, chosen in a statistically-valid way, the sample can be stratified to include only people within a specific geographic area, income group, or other category of people from whom information is desired. Although it never replicates the overall population precisely, it remains statistically valid.

Respondents provide a composite view of the larger population. In a scientific, statistically-valid survey, answers are expanded to reflect what the population as a whole might have answered if they had all been asked the survey questions. Informal surveys can never be viewed as the basis for such an expansion. However, large informal surveys can generally indicate the predominant features of public opinion. In an informal survey in Atlanta, nearly 1,500,000 people were reached through an overall media strategy; more than 10,000 people responded by filling out questionnaires on the regional visioning program.

Who leads public opinion surveys?

Public opinion surveys can be led by trained agency staff people. Often, particularly for statistically valid surveys, outside help is appropriate because of the survey's complexity. Professional survey takers also help an agency move expeditiously and achieve the necessary accuracy to assure the public that results are valid and unbiased.

What are the costs?

Informal public opinion surveys are relatively inexpensive. They can be prepared by agency staff and administered at meetings or as part of a document. But they can be useful. The Albany, New York, Metropolitan Planning Organization took a survey to solicit comments on the structure of the public involvement program; the results showed that multiple techniques of public involvement in planning would be the most appropriate course of action.

Scientific surveys are expensive because of the complexity of drawing a sample population or structuring the questions asked. Time is also a significant factor because of survey preparation and administration. Collecting, transcribing, and summarizing data becomes increasingly expensive as the number of questions or size of the sample increases. A carefully-selected sample reflecting many types of interests within the larger population takes additional time and money. Also, a survey cannot stand alone; it must be accompanied by other public involvement techniques, each with its own cost.

How are public opinion surveys organized?

An agency ascertains the need for information and then determines the most appropriate means of getting it. If an agency needs opinions about a planning effort or project that is getting underway, for

instance, it needs to determine whether formal or informal comments are most appropriate. In part, this decision turns on whether the agency wants opinions relatively quickly from known participants (an informal questionnaire) or needs considered opinions from groups that are not ordinarily informed or involved in transportation processes (a more formal questionnaire and sample selection process).

An agency determines the types of questions to be asked. Opinions about the process can be elicited from those surveyed—its overall approach, its progress to date, the direction it is taking, and potential next steps. Also, opinions can be directed toward considering aspects of a project—the corridor characteristics, alternatives under investigation, etc. Whether the questions are asked of known participants or people unknown to the agency, it is important to frame them in a clear, unambiguous manner. Sometimes questions need to be in languages other than English or be accessible to persons with disabilities. (See [Ethnic, Minority, and Low-income Groups](#); [People with Disabilities](#).)

An agency establishes the survey questionnaire. Public opinion surveys are taken in a variety of ways. A simple method is the telephone interview. More elaborate methods, involving printed questionnaires, need extensive preparation and testing to avoid ambiguities or misunderstandings when received by a community respondent.

How are they used with other techniques?

Public opinion surveys supplement other techniques. For example, results of surveys can provide grist for discussion in civic advisory committees, charrettes, or brainstorming sessions. (See [Civic Advisory Committees](#); [Charrettes](#); [Brainstorming](#).) Survey results can be a focus of a video production or a facilitated meeting. (See [Video Techniques](#); [Facilitation](#).) Surveys usually produce quantitative results that can be counterbalanced by the qualitative results obtainable from a focus group. (See [Focus Groups](#).) Public opinion surveys should be conducted so as to be accessible and understandable to people with disabilities. (See [People with Disabilities](#).)

Informal surveys may be included in public information materials, especially if distributed through local newspapers. (See [Public Information Materials](#).)

What are the drawbacks?

Surveys are not interactive. Used in isolation, surveys produce data, not a dialogue between the community and an agency or between groups of people. The information in a questionnaire should be neutral to allow respondents to make up their own minds about a question or concern. Surveys can spread misinformation if poorly or ambiguously drafted.

A public opinion survey is sometimes difficult to undertake for some stakeholder groups for certain topics. Some people prefer one-on-one discussions of issues that affect them, while others prefer surveys because they do not have time to go to meetings.

Survey results may not reflect the entire community's views, especially in the case of informal surveys.

When are public opinion surveys most effective?

Public opinion surveys can be taken at almost any time during a process. Used carefully and repeated over time, they keep an agency well-informed of changes in public knowledge of a planning effort or project development and people's preferences within that knowledge. For example, the Seattle Regional Transit Project surveyed voters in two "waves" about 18 months apart to determine awareness of the project, overall support, and funding, phasing, and location preferences.

For further information:

- Albany, New York, Metropolitan Planning Organization, (518) 458-2161
- Central Puget Sound Regional Transit Authority, Seattle, Washington, (206) 684-1357
- Delaware Department of Transportation, (302) 739-4348
- Ohio Department of Transportation, (614) 466-7170
- Utah Department of Transportation, (801) 965-4359

FACILITATION

What is facilitation?

Facilitation is guidance of a group in a problem-solving process. The group leader—a facilitator—is neutral in regard to the issues or topics under discussion. The facilitator works with the group as a whole and provides procedural help in moving toward a conclusion. For example, facilitation of community meetings on the proposed Monongahela Valley Expressway between Pittsburgh, Pennsylvania, and Morgantown, West Virginia, led to an agreement by the Pennsylvania Turnpike Commission to divide the project into separate, more manageable segments.

It is managed by the facilitator with the consent of the participants. The goal of both the facilitator and the group is to arrive at a collective decision through substantive discussions.

Facilitation leads toward empowerment and consensus. To the extent that a group is representative of stakeholders, the conclusion is a position or a level of consensus it has jointly achieved.

Facilitation has these basic features:

- Group energies are focused on a task or a limited issue;
- Discussion is structured without controlling what is said;
- Discussion is kept to the topic, with new issues identified and reformulated as they arise;
- Participation in discussion is equalized; and
- The facilitator probes for consensus or agreement on issues.

Why is it useful?

Facilitation brings out all points of view represented in the group. In a small group, a facilitator can encourage discussion from all participants. (See [Small Group Techniques](#).) Sharing viewpoints stimulates discussion. Given a lack of full expression of views, a facilitator can ask hypothetical questions to get discussion moving. (See [Negotiation and Mediation](#).)

Time is often saved through facilitation. Ongoing differences of opinion or stalemate challenge a neutral facilitator. The application of facilitation skills is useful to break a stalemate and allow a group to move toward consensus. In Washington State, completion of I-90 depended on facilitation of agreement between the Department of Transportation and a neighborhood group looking for mitigation of nighttime construction.

Facilitators works for an open process. They ensure that the group is fully aware of the issues prior to discussion of steps to be taken. Facilitators assures that education on technical issues takes place as appropriate and seek out the stances of participants on those issues. They ensure that points are clarified and elicit follow-up on questions. Opinions are respected by facilitators, who assure that all members of the group are respectful of each other's views.

Does it have special uses?

Facilitation indicates a commitment to action. A facilitated meeting takes on an importance a regular meeting does not have. Its designation indicates an agency's commitment to offer a way of overcoming a specific obstacle. Its existence demonstrates a commitment to involving local people in the decision-making process. It demonstrates that the sponsor is open to taking public comment to heart.

Facilitation is flexible. It can be used at almost any time to assist a group in surmounting an obstacle to collaborative decision-making. It can be used to discuss either small or overarching issues. It can be used for comprehensive planning issues, project-level decision-making, policy review, or detailed design.

Who participates? And how?

Representatives of community groups or stakeholders are invited to participate in a facilitated group. A widespread diversity in viewpoints is expected to exist on issues. This diversity must be represented to ensure full discussion. (See [Ethnic, Minority, and Low-income Groups; People with Disabilities](#).)

No special training of participants is required. Many individuals within a group may have a depth of interest in issues being discussed. This interest may range from a broad, long-term view of the issues within a geographic area to a specific and more short-term view of issues surrounding a project or program.

People participate by examining and discussing issues with others in the group. Discussions are in as much depth as available time permits. A facilitator helps a group work within the time available to it. Typically, major points of discussion are recorded by an individual assigned the task. The facilitator may not be able to take minutes; another individual can be assigned the task.

How do agencies use the output?

Facilitation is aimed toward a product, which may be reactions to agency policies or proposals or a consensus on an action to be taken. For example, meetings to develop a regional transit plan for Seattle were facilitated with professional assistance hired by an agency.

Group consensus is used as input to an agency's work. A facilitator's goal is to bring a group together on an action or issue and find points of agreement. She or he may be able to craft a compromise position through give-and-take and over a relatively short period of time.

Who facilitates?

A neutral facilitator is selected by the sponsor to lead the group. The facilitator must be accepted by the group as unbiased, constructive, and fair. She or he is an experienced professional familiar with assisting group discussions via group processes, communication, and conflict resolution skills. The facilitator elicits both facts and opinions and helps the group distinguish between them. It is helpful if the facilitator is also intimately familiar with the subject matter of the discussion.

In this capacity, a facilitator does not express a personal opinion. Neutrality is maintained at all times. If an opinion is requested, it can be given, but prior to offering the opinion the facilitator announces that she or he is stepping out of the neutral role. At no time should a facilitator make a decision for the group. The "what I'm hearing" technique brings discussion back to the agenda and checks on whether people are in agreement.

A facilitator leads the meeting in an informal manner. Humor is helpful in providing a relaxed atmosphere. A positive attitude is essential, as is uncritical recording of ideas from participants.

What are the costs?

Facilitation requires agency support staff. Minutes must be taken. A site for the meeting must be selected. Agency representatives typically attend to provide responses to participants' questions. In

some instances, an agency needs to carefully explain its position or analysis, requiring staff to be available.

Material needs are minimal, but a quiet meeting room is mandatory. A flip chart is essential to write down participants' comments. Background information must be prepared as appropriate so that participants can quickly grasp the issues. Written materials dealing with contextual issues may be needed at hand to supplement information provided to the participants at the meeting.

How is facilitation organized?

The sponsor determines the need for facilitation. A divisive issue may call for facilitation. For example, the Virginia Department of Transportation (DOT) used a facilitator to work on resolving potential conflicts with neighborhood organizations. The sponsor selects a neutral person for the role, sometimes from within the agency but more usually from an outside source.

The sponsor determines the meeting's agenda and schedule. An agenda may cover one or more issues to be discussed. The sponsor meets with the facilitator to discuss the agenda and approach to be taken within the meeting. A site is selected, typically in a space that participants perceive to be neutral.

The facilitator conducts the meeting. The sponsor does not attempt to control the direction of the meeting once it is underway. The facilitator conducts the meeting toward its stated goals and may add questions to elicit responses from individuals. A facilitator records participants' comments on a flip chart or butcher paper without editorializing.

How is it used with other techniques?

Facilitation supplements other techniques. A facilitator can assist an established civic advisory committee to progress toward its goals. (See [Civic Advisory Committees](#).) Facilitation is a requirement for a charrette or a focus group and can also be used in brainstorming or visioning sessions. (See [Charettes](#); [Focus Groups](#); [Brainstorming](#); [Visioning](#).) It is typically used in a collaborative task force. (See Collaborative Task Forces.) Facilitation can be used in discussions associated with transportation fairs. (See [Transportation Fairs](#).) Video can be used to record facilitated proceedings. (See [Video Techniques](#).) In Idaho, facilitators helped with both focus groups and a civic advisory committee working on the initial efforts in a regional long-range plan.

What are the drawbacks?

Facilitation must be done by a neutral person. When a group perceives that a facilitator is biased, it feels manipulated by an agency. In practice an impartial person may need to be sought from outside an agency—which raises the expense of conducting a meeting. A respected community member is often an appropriate choice.

There is a limit on the number of interests that can be facilitated in a meeting. The sponsor of the process must recognize these limits in establishing the group.

Opponents may refuse to consider each other's ideas, despite the presence of an experienced facilitator. People who feel they are being controlled or patronized are likely to withdraw from full participation. Agency staff who feel that the process is leading nowhere may not respond appropriately to questions from participants.

Time constraints work against facilitation. A short meeting may not provide enough time for a full discussion of the issue at hand. Participants feel short-changed if insufficient time is allotted to discussion of a controversial issue.

For further information:

- Idaho Department of Transportation, (208) 334-4444
- Maine Department of Transportation, (207) 287-3131
- Pennsylvania Turnpike Commission, (717) 939-9551
- Virginia Department of Transportation, (804) 786-2935
- Washington State Department of Transportation, (206) 440-4696

NEGOTIATION AND MEDIATION

What are negotiation and mediation?

Negotiation and non-binding mediation are alternative dispute resolution (ADR) processes designed to resolve a conflict between parties unable to reach agreement. ADR procedures aim to resolve conflict before it moves toward the courts. Agency staff can use some ADR procedures; others require outside experts, often called third-party neutrals. In some ADR procedures such as binding arbitration, third parties make decisions. Binding procedures, however, are not appropriate to transportation planning and project development. This report deals only with *non-binding* techniques.

The major ADR procedures suited to transportation decision-making are negotiation, facilitation, and non-binding mediation.

- ***Negotiation is the process of bargaining between two (or more) interests.*** It can be conducted directly by the concerned parties or can take place during the mediation process. In negotiation, the concerned parties meet to resolve a dispute. In Nevada and California, after a suit was filed against the Lake Tahoe-area Metropolitan Planning Organization (MPO), environmentalists, developers, and other participants negotiated in workshops and small meetings to develop mutually acceptable environmental standards and long-range plans. The city of Salamanca, New York, negotiated with representatives of the Seneca Indian Nation to reach consensus on steps to provide economic development opportunities for the tribe. (See [Small Group Techniques](#).)
- ***Facilitation refers to skilled leadership focused on meeting process and organization.*** Agency staff or third parties can facilitate. Because it is broadly applicable to public involvement situations other than dispute resolution, facilitation is presented in this volume as a separate technique. (See [Facilitation](#).)
- ***Mediation uses a trained, impartial third party to help reach consensus on substantive issues at disagreement*** among conflicting parties in public involvement. A mediator can be from within or outside an agency but must be neutral and perceived as such by all parties. While mediation can be binding or non-binding, only non-binding mediation is considered here. Non-binding mediation generally has the following characteristics:
 - A neutral third party, impartial and unaligned with any side of the conflict, is appointed to find consensus; the third party has no decision-making authority;
 - All interested parties are included, by agreement;
 - The parties are asked to participate voluntarily;
 - Opportunities are offered for local people, as well as officials or leaders, to be heard;
 - Community people receive responses to their suggestions or concerns;
 - The parties work toward reaching consensus; the third party makes suggestions for possible compromise positions and otherwise helps the parties negotiate;
 - If agreement is reached, it is usually considered a commitment on both sides;
 - Written agreements, memoranda, meeting minutes, or reports are usually included; and
 - Sessions are typically confidential and often protected by State statute as such.

Mediation and facilitation have some similarities but are not the same. Facilitation is similar to mediation in that participants work toward mutual understanding with the help of a leader. However, facilitation works toward building consensus within a meeting, right from the beginning of the process, while mediation is usually employed when an impasse is reached.

Why are they useful?

Sometimes consensus-building efforts lead to an impasse. This is especially true for controversial or complex projects. In such cases, both agencies and participants need another means to determine which way to go.

Mediation and negotiation take a problem-solving approach rather than an adversarial one. The process helps participants:

- Resolve differences without court suits;
- Facilitate agreement and address primary concerns of involved local residents, abutters, and/or interested groups;
- Work together to ease implementation of a plan or project;
- Obtain agreement without an agency imposing an unpopular or polarizing decision; and
- Deal directly with a project proponent or agency as an equal participant.

Mediation helps reach consensus on controversial transportation plans and projects. It is often used in construction disagreements with contractors. Outside the field of transportation, examples of how mediation has been used range from child custody disputes to conflicts over siting hazardous waste or energy facilities. In transportation, the Pennsylvania Department of Transportation (DOT) has used mediation for several years. As one example, for Philadelphia's new interstate Route I-476, an outside consultant worked to develop agreements between community people and the agency regarding environmental and mitigation issues that had stalled the project.

Mediation and negotiation provide a structured, semi-formal, and orderly way for people to find agreement. They require no one to commit to an outcome that may be unpredictable. The consensus reached through them is non-binding on participants.

Alternatives to mediation and negotiation are more costly and time-consuming. A dispute resolution process can avoid time wasted in unproductive or acrimonious debate at meetings, litigation, major redrafts of plans when they are nearly complete, or staff effort spent rebuilding agency credibility.

Do they have special uses?

Negotiation is especially useful in informal situations—to resolve differences among parties, avoid engaging a broader group with local disputes, or address several aspects of a dispute simultaneously. Negotiation can be brought into a process at any time but is most effective before polarization. In Hampton, Virginia, a negotiation process to find consensus on a new connector road was established. Participants were trained in the steps of the process. When the staff was further trained in facilitation and collaborative methods, consensus-building became a regular element in Hampton's planning efforts.

Mediation, by contrast, has a special and distinctive use: it is generally employed when a process has reached an impasse or major breakdown. Mediation has been employed in transportation projects and long-range planning studies where profound disagreement has occurred. In the Boston, Massachusetts, Central Artery/Tunnel Project, the process resolved an impasse over a critical river crossing design, leading to adoption of an alternate plan. In Fort Worth, Texas, a mediator was hired after local groups and residents filed suit over the findings of an environmental impact study for expansion of I-30. The process resulted in more highway options, which were broadly supported within the community and carried forward into further study.

Who participates? And how?

It is essential to include all potential stakeholders in establishing a dispute resolution process. Stakeholders may include neighborhood residents, local business people, abutters, regional interest groups, public officials, and agencies. Failure to include all pertinent interests undoes consensus. A person or group whose position has been ignored can challenge the legitimacy of the process. Parties need to be identifiable and willing to participate. All participants must feel some pressure to agree and must have concluded that they cannot do better by steam rolling each other or going outside the transportation process by, for example, appealing to the political process.

Parties in a dispute resolution process can appoint or elect representatives in order to avoid large, unwieldy meetings. This requires that groups be sufficiently well-organized to identify leaders who can speak for the group credibly. In Silver Spring, Maryland, representatives of project opponents and proponents, the county, and a developer came to the table to resolve a dispute involving a proposed downtown shopping and office development. The size of the small, representative group helped to resolve the issues quickly.

The representative process requires a high degree of cooperation and trust in selecting individuals to serve. A strong neighborhood group in Minneapolis, Minnesota, served as the focus of leadership meetings with police and other agencies to address drug and crime problems in disadvantaged neighborhoods. Churches represented many residents and created a focus for consensus building in the Binghamton, New York, downtown revitalization project, and in the Fredericksburg, Virginia, homeless shelter program.

Mediation usually consists of a series of meetings. Negotiation can consist of one or more meetings among parties. All participants are accorded equal status in the process and are encouraged to present their views on each issue. For maximum success and effective participation, the process must strive for:

- Regular and timely opportunities for participation;
- An on-going commitment from each participant to attend meetings;
- Full and honest expression of issues and concerns;
- Complete willingness to listen to other participants; and
- Agreement on the process and basic guidelines for managing it.

An agency sponsors and/or participates in a mediation or negotiation process. Agency staff members develop and use negotiation and consensus-building skills as a regular part of their public involvement practice. Agency staff people also are potential third-party mediators, although they should not serve in situations where their neutrality on the issues is in question. Effective professional negotiators focus on meeting the parties' underlying interests. By doing so, they open up many areas for creative resolution. Amateur negotiators commonly understand negotiation as the hard-nosed exchange of positions in which one party starts low, the other high, and each tries to give as little as possible in the process of reaching an agreeable middle ground. Professional negotiators avoid this win-lose approach and strive for win-win solutions. The Pennsylvania DOT has on-call mediation consultants who are called in as necessary. Its project engineers are aware that they can request assistance on an as-needed basis from agency headquarters when projects begin to encounter obstacles, and that expert consultants can be assigned to resolve conflicts, if approved by agency officials.

How do agencies use the output?

The goal of all dispute resolution is to reach a publicly-supported decision by addressing and resolving pertinent concerns. Thus, the result should be consensus on a course of action, including the possibility of not going ahead with a plan.

Producing long-term results requires on-going leadership. While many uses of dispute resolution center around a particular plan, sometimes mediation and negotiation are used as needed over a longer period of time to keep a process moving forward. For 23 years, a mayoral advisory board in Indianapolis, Indiana, has used negotiation and mediation by group leaders to resolve competing community objectives regarding allocation of resources and to foster economic growth and civic expansion.

Mediation can resolve impasses over controversial projects. In Chapel Hill, North Carolina, a third-party mediator (who was also a local architect versed in design concepts) worked with neighbors, city officials, and business people to develop a consensus design for a new McDonald's restaurant opposed by the community.

Mediation or negotiation can be used in addressing priorities for capital improvements. In New Jersey, mediation of a State Department of Transportation road widening project in Montgomery Township successfully resulted in a plan using staggered phases of implementation spread over several years.

Mediation has helped in developing policies for new regulations by bringing opposing sides together and avoiding obstacles and potential disputes. The U.S. Environmental Protection Agency often uses a mediator to develop consensus over regulations among a range of public and private interests, for example in the areas of water and air quality.

Who leads these techniques?

In mediation, an outside party or someone from within an agency serves as a third party, provided she or he is neutral and is perceived as such by all parties. The individual should have the following qualifications:

- Training in dispute resolution;
- Experience from many possible fields—including public involvement, law, business management, planning, and training;
- No stake in the outcome;
- A relationship of trust with all parties to a dispute;
- Strict impartiality and fairness; and
- Ability to make suggestions and to find areas of agreement.

A mediator frequently creates a draft working document that is modified through discussions with all parties to reflect developing points of consensus.

A skilled mediator should be able to work on a single issue on a short-term basis, with the possible option to remain involved as a monitor of future activity or implementation. In Eugene, Oregon, the mayor hired an experienced mediator to assist in developing more positive relationships between city agency staff and minority community residents. After a two-day process filled with frank and open discussion, strong relationships were formed between previously unconnected staff and community people.

Negotiation is led by agency staff or management. The chief qualification is a good understanding of interest-based negotiations—whether from training or experience.

Trained consensus-builders and mediators are available throughout the United States. Agency staff can also be trained to develop their facilitation, negotiation, and consensus-building skills. The North Front Range Transportation and Air Quality Council—the MPO for Fort Collins, Colorado, area—hired a consultant to train the staff in mediation and consensus-building.

How are these processes organized?

The first activity of any mediation or negotiation is conflict assessment. The third party or agency staff needs to address such questions as: is the conflict resolvable? and what are possible resolution approaches?

Further preparation is crucial. In beginning a process it is essential to:

- Identify essential participants;
- Afford all participants an equal standing;
- Structure sessions to encourage participation;
- Find a neutral location for meetings, probably not in an agency's headquarters;
- Achieve consensus among participants on the agenda;
- Find convenient times for meetings; and
- Provide sufficient time between sessions to do follow-up work and analysis;

A successful negotiation might be completed in a very short time—as little as an hour for a very specific issue with a small number of stakeholders, where generally positive, trusting relationships are already in place.

For a complex mediation, many months may be required, and large complex transportation issues involving many stakeholders may take a year or two or more. A meeting every two to four weeks for two to four hours is a common scenario. Time between sessions is often needed for staff to modify plans or conduct additional analysis to respond to participants' concerns.

In mediation, the work varies but usually includes the following steps:

- Open the discussion and outline the process;
- Agree on the scope of effort and roles of participants;
- Reach consensus on the agenda among participants;
- Review the ground rules (one person speaks at a time, etc.);
- Ask all sides to present their viewpoints, perceptions of the issues, and reasons for the dispute;
- Help people express their concerns;
- State all the issues;
- Review any points of agreement that can be determined;
- Develop several alternative scenarios to bridge the gap between the disputing parties;
- Work with all sides to develop a solution to the dispute; and
- Document elements of project alternatives, funding priorities, or other decisions agreed upon by the various interest groups.

In negotiation, the process is more flexible but usually involves the following steps:

- Identify underlying interests, as contrasted to positions;
- Develop alternative scenarios to meet underlying interests;
- Combine or further refine scenarios to meet as many interests as possible; and
- Select a scenario via consensus.

Sometimes participants do not feel comfortable meeting in the same room with their opponents. In such cases, the third party meets individually with participants outside the group to work out an agreement step-by-step. The mediator carries proposals between nearby conference rooms until the issues are resolved. In a significant historic example, President Carter carried draft documents between Prime Minister Begin and President Sadat—in different cottages at Camp David—to obtain a formal Middle East peace agreement. In this less open method, strict confidentiality must be pledged by all participants at the outset and followed throughout the process. In some situations, use of a third party

follows stringent confidentiality principles, although the resulting agreement becomes a public document or is available to anyone who is interested.

What helps people change their positions?

Guiding participants toward finding shared and compatible interests is an effective method. Usually participants take strong positions assumed to be “the only answer” to addressing their needs or wants. Often, however, alternatives exist that still respond to the party’s interests but are easier for other parties to accept or consider.

Identifying interests begins with asking questions. Asking participants why they feel a certain way clarifies basic needs and desires that have not yet been articulated. Breaking down general interests into specific elements helps focus the areas of disagreement. Suggesting alternative choices also works. Figuring out why people have made certain choices is a first step toward finding different ways of fulfilling their interests that may be more compatible with the other party’s needs.

Working toward consensus by identifying interests rather than establishing positions is a key skill that leads to effective cooperative decision-making and consensus-building. Using professionals and seeking information and strategies from books and other resources helps make ADR processes successful.

How are negotiation and mediation used with other public involvement techniques?

Negotiation is part of an overall public involvement process and of many individual techniques. Collaborative task forces have consensus-building as a major goal and often use negotiation as an integral element of their activities. (See [Collaborative Task Forces](#).) Practitioners who have honed their dispute resolution skills use them informally in day-to-day work with participants and other planning team members to help foster coalitions and move toward consensus.

Written materials are required to provide information about issues or plans under discussion in mediation and negotiation, as in other public involvement techniques. Disputes are often overcome by providing adequate information or targeted materials that respond to the needs of individual participants or groups. (See [Public Information Materials](#).)

What are the drawbacks?

A dispute resolution process such as mediation or long-term negotiation sometimes involves a large number of interests, adds time to a process (particularly when it follows a failed previous effort), and requires significant management and organization. A think tank on welfare issues in Shelby County, Tennessee, consisted of representatives of 65 members of the clergy, businesses and business organizations, providers of social services, and community organizations. A one-year negotiation and consensus-building effort was required for the group leader to gain commitments and guiding principles from this large group of agencies and organizations.

Hiring a mediator or a trained negotiator is usually much more expensive than using in-house personnel. The advantage is a more skillful mediation and/or negotiation and an improved process, along with a clearer position of neutrality. Sometimes a participant serves as a third party if she or he is regarded as impartial by others.

Mediation may require special preparation for participants. Some groups may not be sufficiently well-organized to participate; for example, neighborhoods with no leadership. All participants, including less powerful interests, must have equal standing within the process. Consideration must be given to

participants' range of knowledge and experience with the subject matter. Special printed material and briefing sessions are often necessary to give all participants an equal level of basic knowledge and understanding so they can participate effectively in the dispute resolution process.

Participants are not always pleased with the results of mediation. Failure occurs when mediation is undertaken after people have dug in their heels and view compromise or any alteration in their position as “losing.” Sometimes conflicts occur among people’s basic values, such as accepting certain environmental impacts. If a large power imbalance among interests exists, mediation may raise expectations among the less powerful that cannot be fulfilled.

For various reasons, consensus may unravel. Poor attendance suggests a lack of trust or “buy-in” to the process. If participants drift away over a long dispute resolution process, consensus may be weak and difficult to sustain in action. Even strong consensus unravels if agreements are broken, priorities are not followed, or principles are forgotten.

Agencies often fear the challenges and sparks that arise with many competing interests. Residents, local officials, interest groups, and agency staff may have long histories of hostility. Finding ways of defusing such antipathy and developing a fruitful mediation process is a challenge. A skilled third party’s role is to effectively deal with hostility and make the outcome a success. Agency staff with strong negotiation skills also help to create a more positive working relationship.

Are mediation and negotiation flexible?

Mediation and negotiation have considerable flexibility. The processes:

- Are useful in long-range planning and project development;
- Resolve either major or minor conflicts;
- Are effective with either small or large groups;
- Take place in different-size municipalities or regions;
- Apply in a variety of settings—between groups or within groups;
- Work in homes, offices, or specially-designed facilities or conference settings; and
- Take place over a range of time frames—short- or long-term.

Choosing the most appropriate dispute resolution technique depends on the circumstances and characteristics of the dispute, the participants, and the dispute resolution strategy.

When are they used most effectively?

Mediation is most effective when other less formal consensus-building fails and an impasse has been reached. Negotiation is most effective before an impasse is reached.

Mediation and negotiation must be part of a participatory process that includes such regular activities as working group meetings, hands-on discussion sessions, and timely responses to comments and concerns. Attempts to reach consensus by addressing concerns early helps prevent an impasse. Consensus-building generates trust that agencies will cooperate to reach a mutually satisfactory solution or agreement. Through mediation, agencies find help in reaching agreements, but they are still ultimately responsible for making final decisions.

For further information:

- American Arbitration Association Headquarters, (212) 484-4000
- City Manager's Office, Fort Worth, Texas, (817) 871-6111
- Community Mediation Centers—American Bar Association, (202) 331-2661
- Greater Indianapolis Progress Committee, Indianapolis, Indiana, (317) 286-3160
- Harvard Law School, Program on Negotiation, (617) 495-3100
- National Institute for Dispute Resolution, (202) 466-4764
- Pennsylvania Department of Transportation, (717) 772-2563
- Program for Community Problem Solving, (202) 626-3183
- Society of Professionals in Dispute Resolution, (202) 783-7277
- University of Virginia Institute for Environmental Mediation, (804) 924-1970