

Alternative Dispute Resolution Process - Partnering Program

Introduction

A Partnering Program was developed within the Department of Justice (DOJ), Federal Bureau of Prisons (BOP), that promotes an Alternative Dispute Resolution (ADR) process to be used with all design/build construction contracts for new prisons. The ADR process is called "Partnering."

Objective

The primary objective of Partnering is to encourage the contracting parties to consider and pursue alternative methods for dispute resolution, rather than assuming the traditional adversarial roles during a dispute resolution process. The BOP encourages a strong and productive partnership with its design build contractors. Partnering occurs through a pooling of resources in a trusting atmosphere focused on continuous and mutual improvement. All parties assume responsibility for the success or failure of the program. Partnering also seeks to create a positive team approach for the purpose of successfully completing Government contracts.

The partnership is structured to draw on the strengths of each organization to identify and achieve reciprocal goals. The objective is to achieve effective and efficient contract performance and to achieve project completion in accordance with the contract requirements. The partnership is bilateral in makeup, but participation is voluntary. The Partnering sessions are held off site, at locations mutually agreed upon by the contractor and the BOP. The contractor assumes the cost of all "Partnering" sessions, including but not limited to facilitator's services, rentals, and other costs associated with the location and facilities for the sessions. All sessions and associated activities are mutually planned and scheduled by the contractor and BOP. The contractor's cost associated with Partnering is included in the Contract Sum; contractors' personnel participate at no additional cost to the Government.

Partnering Sessions - Initial Meetings

To implement the Partnering initiative, the contractor sponsors, schedules and conducts a series of Partnering sessions throughout the duration of the construction contract. The sequence of implementation for the Partnering occurs within 10 days after receiving the notice to proceed on the contract. The

contractor is required to submit to the BOP, for approval, a proposed facilitator, experienced in conducting and coordinating Partnering sessions on large construction projects. Once the Partnering facilitator has been selected, the Executive Level Planning Session is scheduled. This initial session takes place within 30 calendar days after the notice to proceed is issued to the contractor. This Executive Level Planning Session is designed to plan the Partnering program for the respective project. Participation in the Executive Level Planning Session includes senior BOP staff from the Design and Construction Branch and Property and Construction Branch, partnering facilitator, as well as senior principals/executives of the design build construction firm, the design build architectural firm and the construction management firm (CMF). The purpose of the initial session is to introduce the Partnering concept, familiarize all parties with the Partnering process, and to plan a specific program for the respective project.

Next, a one day kick-off session is scheduled for the start of the design phase. The design kick-off session focuses on the staff brought on board to carry out the design phase of the work. This session is coordinated with a two day "Initial Design Meeting." Participation in this session includes the contractor and BOP key staff, including but not limited to: Principals/Owners, Senior Administrators, Project Managers, Superintendents, and other representatives of the Subcontractors, the Architect/Engineer (A/E), CMF staff, the Construction Representatives and other BOP project personnel.

The third session is an initial, one day, construction kick-off session which is scheduled at the introduction of the construction phase. This session focuses on all staff brought on board during and after the design phase to carry out the construction phase of the work. Participation in this session includes the Contractor and BOP key staff, including but not limited to: Principals/Owners, Senior Administrators, Project Managers, Superintendents, and other representatives of the Subcontractors, the Architect/Engineer (A/E), CMF staff, the Construction Representatives and other FBOP project personnel.

The agendas for the design phase and construction phase kick-off sessions include such things as those listed below.

- a. Involvement of all parties in strengthening interpersonal communications, with exercises such as active listening/congruent sending and other communication skill building techniques. A self-examination exercise, such as the utilization and discussion of the Myers-Briggs Type Indicator Survey. Strive to develop teamwork with specific team building

exercises such as "ice breaker" exercises for the participants to get to know one another. Also, it is very important that the individuals understand group dynamics. Exercises where the participants solve problems as individuals and then as groups are excellent for achieving this. Team exercises play an important role in order to get individuals to start thinking and working as a team. Exercises designed to contrast competition and cooperation are useful at this point.

b. The BOP and Contractor personnel work independently to list strengths and problems they perceive from previous jobs. Then, together, they can analyze these lists and develop a list of possible problems they might face during the course of the contract.

c. Once a list of potential problems is developed, the BOP and the contractor personnel develop a problem-solving strategy or methodology for the team to use. The facilitator provides an instructional session on problem-solving and the team can choose to use it, modify it, or develop their own. The process is then used by the team throughout the project to deal with problems as they arise. The team develops trial solutions to common construction issues using the selected problem-solving process and the list of potential problems. The trial solutions may only be conceptual at this point, but they serve to reinforce the team approach to solving real life project problems and disputes.

d. Next, the team develops a realistic set of goals for the Partnership that is monitored each month and updated in the stand and deliver sessions every six months. Using the goals developed, an agreement for the members to sign to express their commitment is written. After the workshop, as a strong signal of support, the leaders of each organization sign the agreement and freely distribute copies of the final document to all members. All members of the session are encouraged to display the agreement in construction site offices as a reminder of their commitment to the program.

e. The team then implements the use of an evaluation plan which is probably the most important step of the Partnering process. Without a realistic working plan and methods of evaluating the Partnership, the goals and ideals fostered at the workshop will tend to fade

with time. The plan makes the Partnership a living and breathing entity capable of dealing with "breakdowns." Monthly evaluation of the Partnering process along with follow-up stand and deliver workshops ensure its health. The team reviews the proper procedures and initiatives involved with conducting monthly Partnering follow-up. The desired goals and objectives of the Partnering are reviewed at monthly meetings.

Partnering Sessions - Follow-up Meetings

After the initial sessions are concluded with problem solving strategies developed as well as goals established the teams meet every six months for stand and deliver workshops for the duration of the project. The workshops are conducted off the construction site, in a neutral location agreed upon by the contractor and the BOP. Participation in the stand and deliver workshops include the contractor and BOP senior staff, including but not limited to Principals/Owners, Senior Administrators, Project Managers, Superintendents, and other representatives of the Subcontractors, the Architect/Engineer (A/E), CMF staff, the Construction Representatives and other FBOP project personnel.

These sessions are designed to provide an opportunity for the project staff to deliver a report on Partnering accomplishments and issues related to the construction project. The project team will report on any issue resolution processes pending on the project as well as evaluate the Partnering program. The stand and deliver time is designed to foster team cohesiveness and provide opportunity for goal setting and issue resolution discussions. Senior staff attendance, at the stand and deliver work shops, strengthen the program by showing support. Senior staff are also given opportunity to discuss and interact in any issues that may surface as the project reporting moves forward.

The workshops are conducted with the assistance of the facilitator. The facilitator will work with the project team prior to each session to assist the team in preparing and presenting the program to include goal setting, issue resolution, progress, and evaluation efforts. An Executive Report is developed by the Partnering team and published by the Partnering facilitator after each biannual workshop. The Executive Report includes: a Project Summary, Project Cash Flow Curves, CPM Schedule Major Activity Update, Projected Activities for Next Month. A Matrix of the Partnering goals, progress toward each goal, Partnering issues, issue resolution progress, and a general Partnering update is also provided.

Monthly reports are developed to provide key information about the construction project Partnering program and other related crucial issues. The monthly reports serve as a tool for monitoring, planning, and forecasting. An Executive Summary is also provided by the Partnering facilitator after each Partnering session. The Executive Summary is an analysis of the meetings and a broad overview providing a professional assessment of the project. The Executive Summary addresses any potential areas of concern or issues that may be present or detected at the time of the sessions. Also, a narrative is included with comments and suggestions and/or solutions for any present or potential issues identified during the "Partnering" process.

Partnering Sessions - Close out

A final close out Partnering session is conducted to review the project at completion. The BOP and the contractor's team will review and discuss the projects' overall successes and lessons learned during the project. A final report is developed to provide key information about the construction project, the Partnering program and other related crucial issues.

The BOP believes that using partnering as a form of Alternate Disputes Resolution can not only assist in the elimination of contract disputes and claims, but can be instrumental in achieving even higher goals and standards.