

SDDOT CONSTRUCTION MANUAL  
PROJECT MANAGEMENT SECTION  
**CHAPTER 10 – CONFLICT RESOLUTION**

**CONFLICT RESOLUTION**

In 2012 representatives of DOT and AGC got together to discuss common issues that both entities are experiencing.

One point that rose to the surface was the common theme that communication skills to resolve major and minor issues in a constructive and efficient manner was severely lacking. Many issues were cited; DOT personnel unable to answer a request for a change, unwillingness to approve or allow a change, perceived revenge, project delays waiting for an answer, varying superintendents and varying levels of decision making authority, contractors lack of preparation for contingencies, lack of capable staff, etc.

To help address this issue, a panel comprised of DOT, legal, and AGC representatives began discussing and defining the issues along with brainstorming potential solutions. Meetings were held over 2 years as panel members formulated the attached documents.

What surfaced was the desire to instill a philosophy and skill set into our personnel. It was determined that we need to give our personnel tools that teach them resolution techniques that don't immediately include DOT and Contractor administration. The age old philosophy of the buck stops at administration needed to change where the conflict is resolved by those parties directly involved with "boots on the ground". A concept of collaboration and mediation were melded together.

Some basic theories needed to be adopted;

1. This process does not replace contract requirements, nor does it replace the Contractors' desire to file a claim.
2. Conflicts are normal, necessary, and an opportunity for learning.
3. The Project Engineer and Contractor Superintendent are expected to work together throughout the process as "owners" of the conflict as (and if needed) the conflict elevates through the DOT administration ladder.
4. DOT administration (Engineering Supervisor, Area Engineer) take on the role of a mediator, with solutions and recommendations coming from the "owners" and not from administration.

**Conflict Resolution through Collaborative Problem Solving Flowchart**

In the heat of conflict emotion, tension, relationships, reputation, and history all can have an impact on how one reacts to conflict. The flowchart is designed to give direction to the owners of the conflict and push aside those items that cloud or influence our ability to think clearly, and focus on resolution. The questions of "What do I need and why?" and "What does the other party need and why?" start the owners down the path of resolution. Additional questions in the flowchart further help direct the owners with questions that resolve the conflict and re-establish productive communication.

The first steps in the attached flowchart under "Project Level Action" show those questions to be asked by the owners of the conflict with the intent that resolution is obtained at that level. If mediation is needed, the second step or "Negotiated Help" involves the Engineering Supervisor whose direction in the process is to mediate and ask those questions that help the owners

resolve the conflict. If needed, the conflict (with owners and Engineering Supervisor) escalates to the Area Engineer where the “Negotiated Help” process is repeated.

#### Conflict Resolution Data Collection Document

The attached Data Collection Document was created as a support document for the Conflict Resolution flowchart. It asks the pertinent questions with intent of the owners having to write down answers that help get them on the way to resolution. When one starts to actually put pencil to paper and answer the questions on the data collection document, rational thinking and problem resolution brain storming take over. It is as much a calming tool since the unknown is replaced with potential, viable options and valuable information such as measurements, cost, implications, and time. This information exchange is often missing at the onset of a conflict, and is needed to help the owners understand the conflict from the other party’s perspective.

The document is not intended to be populated with each conflict great and small, but is another tool in the tool box to assist and train the conflict owners what questions to ask, and how to effectively handle conflict in an efficient, educational, and constructive way.

#### Conclusion

These documents are more a social and educational tool than contractual documents. The thought process that went into this process has the support of the AGC and DOT with a vision that all of our business interactions adopt this work flow. We want staff to consciously or sub-consciously exercise these techniques to improve work relationships, and improve the quality of our projects and the relationships between those who build them.



# Conflict Resolution Through Collaborative Problem Solving



- ❖ **This process does not replace contract requirements. Timely written notice of a potential claim may still be required.**
- ❖ **Conflicts are any disagreement between the Contractor and DOT Representative and are an opportunity for learning.**
- ❖ **Conflicts are normal and expected on most construction projects and are to be discussed as soon as they are known.**

Expectations

1. **The Project Engineer and Contractor Representative are expected to work together to resolve conflicts as close to the project level as possible and continue through this process as "owners" of the conflict.**
2. The Project Engineer and Contractor Representative are both expected to promptly seek information and guidance from the lowest level of "subject matter resource" expertise for the best decision that does not sacrifice project quality and does not impact contract time in an unacceptable manner.
3. Retaliation is a form of Conflict. If the Contractor or Project Engineer believes there has been any form of retaliation, this same process is to be utilized.

12-7-2014

## Project Level Action

*Discussed the same day the conflict is known or promptly at a mutually agreed time:*

The Project Engineer and Contractor Representative talk to:

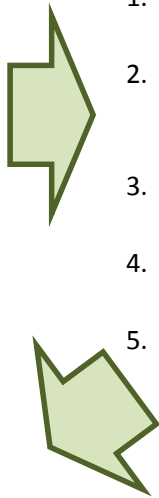
1. **Define the Problem:**
  - ✓ What is the problem and its impacts?
2. **Discuss Needs:**
  - ✓ What do I need and why?
  - ✓ What does the other party need and why?
  - ✓ Restate the other person's understanding before discussing options.
3. **Discuss Options:**
  - ✓ What alternatives have subject matter resources provided?
  - ✓ What other alternatives exist that do not impact quality or schedule in an unacceptable manner?
4. **Develop Solutions:**
  - ✓ Can we agree on a solution? If so, immediately document agreement with each other (Ex: letter, email, change order, data collection document... no-texting).
  - ✓ **If we are not able to reach agreement, why not? Seek negotiation help.**

## Negotiation Help

*Joint Communication with Prompt Follow Through:*

The Engineering Supervisor will help the Project Engineer and the Contractor Representative explore solutions by:

1. Scheduling a joint conference call or in-person meeting the same day negotiation help is sought or promptly, at a mutually agreed time.
2. Asking questions and encouraging each participant to talk openly about the situation, needs, and options including impacts to the Construction Schedule. *(At the Engineering Supervisor's discretion, the item may be immediately raised to the Area Engineer)*
3. Involving subject matter resources when technical assistance is needed and sharing the reasoning learned from them.
4. Encouraging listening by repeating his or her understanding of what has been said and the reasoning for saying it.
5. And empowering the parties to agree on a solution within a reasonable amount of time.



**If a solution is not reached with the Engineering Supervisor's assistance, why not? Seek DOT Area Engineer and/or Contractor Management Action.**

## DOT Area Engineer and/or Contractor Management Action

*Discussed the day after the conflict arises or as mutually agreed...*

1. Either the Project Engineer (*with concurrence from the Engineering Supervisor*) or the Contractor Representative may request a joint teleconference or joint in-person meeting. The meeting should include the Engineering Supervisor and depending on the situation, either the Area Engineer or the Contractor's Management Representative or both.
2. The Area Engineer or the Contractor's Management Representative will attempt to assist the parties using the same tools employed by the Engineering Supervisor and will give consideration to the time it may take to resolve the item.
3. Depending on the outcome, the parties may begin the process of mutually entering information into the Data Collection Document (*Monetary, Schedule, Resources & Other Impacts*) for use by any of the parties as they move forward with a potential Change Order, Claim, or Other Option.

**NOTE: The Project Engineer and Contractor Representative will stay involved with each progressive step and will open the discussion each time.**



# Conflict Resolution Data Collection Document

A Non-Binding Information-Gathering Tool to Help Negotiations



See page 2 or reverse side for guidance.

To be completed by the **Contractor's**  
project-level representative:

To be completed by the **DOT's**  
project-level representative:

<b>1. What is the conflict?</b>	<b>1. What is the conflict?</b>
<b>2. Anticipated/potential impacts</b> <i>(cost, time, personnel, equipment, other)</i>	<b>2. Anticipated/potential impacts</b> <i>(cost, time, personnel, equipment, other)</i>
<b>3. What do I need (and when do I need it)?</b>	<b>3. What do I need (and when do I need it)?</b>
<b>4. What does DOT need (and when can I provide it)?</b>	<b>4. What does the Contractor need (and when can I provide it)?</b>
<b>5. Proposed solutions</b>	<b>5. Proposed solutions</b>
<b>6. What alternatives exist?</b>	<b>6. What alternatives exist?</b>

## **Data Collection Document (Page 2) – Guidance**

1. A “conflict” is any disagreement between the Contractor and the DOT related to the project. Conflicts may include, but are not limited to, disagreements concerning contract price, time, change orders, other written or verbal orders, directions, instructions, interpretation of contract terms, plans, specifications, site conditions, perceived retaliation, or any combination of the above.
2. This document is a tool to be utilized in the event of a “conflict” whenever the project level representatives decide it can be useful.
3. This document is to be completed by project level representatives of both the Contractor and the DOT.
4. This is an information-gathering tool only, and is not binding to either party.
5. The project level representatives of both the Contractor and the DOT will be responsible for completing and utilizing this document, both before and after they seek negotiation help.
6. This document should be promptly provided to any individuals whose help is sought during conflict negotiations.
7. Additional guidance for resolving conflicts may be found on the “Conflict Resolution Through Collaborative Problem Solving” flowchart.