



Critical Factors for Selecting a Neutral to Support Alternative Dispute Resolution Methods in the Construction Industry

A. Saeb^{a*}, O. Mohamed^a, M. S. Mohd Danuri^b, N. Zakaria^c

^aDept. of Quantity Surveying, Faculty of Built Environment, University of Malaya, Malaysia.

Received 05 December 2017; Accepted 24 January 2018

Abstract

Alternative dispute resolution methods (ADR) were developed in the construction industry to acquire suitable solutions. These methods are classified based on the role of the third party (neutral). Third-parties can play multiple roles in the ADR process including a facilitative, advisory, determinative or combined. The authorities of the third-party in the types of ADR techniques are different. Despite the importance of a third party in the ADR process, previous studies are not clearly identified factors for selecting them. The purpose of this research is to provide critical factors for neutral to support ADR methods in the construction industry. This research also, highlights the role of neutral in common ADR techniques. Random sampling was used for quantitative data collection. Of the 200 experts invited to fill in the questionnaire, 112 experts participated. To provide critical factors the factor analysis was used. The research found four critical factors for selecting supporting ADR neutrals in construction including; familiarity with legal and technical issues, being accepted by parties, efficiency and fairness. It can be concluded that selecting neutral party using the critical factors is efficient because the selection of a third-party in ADR is based on many variables is very difficult.

Keywords: Construction Claims; Disputes resolution; Neutral; ADR.

1. Introduction

Construction projects are now reaching megaproject size, therefore the structure of construction parties is becoming increasingly complicated and the level of disputes more serious [1, 2]. The success of a construction project depends on the coordinated efforts of the project team members. This is especially crucial when a project is in dispute and therefore the achievement of a satisfactory resolution in the projects is fundamental to the success of the project [3]. Some studies have identified that the inadequate resolution of a dispute will jeopardize the project's success [4]. In the last two decades, the construction industry has been notorious for investigating the nature and growing number of disputes [5] and is known for its continuous efforts in developing more efficient methods for dispute resolution [6]. The large amounts of time and money spent by all parties involved in litigation [7] have led to the innovation of other dispute resolution methods [8 and 9], called Alternative Dispute Resolution (ADR) techniques [10]. The main purpose of ADR techniques is to resolve disputes with the least possible intervention by an outside neutral [11]. In recent years ADR has emerged as a popular means to resolve both public and private disputes [12, 13]. However, the use of ADR is still at its embryonic stage in the many countries [14].

Figure 1. illustrates a continuum of dispute resolution procedures with control over the outcome which is compared with an assumed escalating degree of resolution costs and hostilities. An increase in Neutral authority control of the outcome reduces and increase hostilities.

* Corresponding author: saeb.abdollah@siswa.um.edu.my

 <http://dx.doi.org/10.28991/cej-030965>

➤ This is an open access article under the CC-BY license (<https://creativecommons.org/licenses/by/4.0/>).

© Authors retain all copyrights.