

# Assisted Solutions by Neutrals to Common Construction Project Challenges

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As many of the 2009 Recovery and Reinvestment Act (“stimulus”) funds begin to give way to ground breaking, tunnel boring, and/or other industrial projects throughout the country, many developers, public entities, and others associated with the construction industry are being caught off guard by the reporting requirements and other limitations imposed in those contracts. Most are expected to prepare and submit bids in order to be granted these potentially significant work opportunities and many do so without considering the regular status and budget reports or other obligations tied to these funds. JAMS GEC Neutrals can aid companies who, while ready and qualified to bid the proposed projects, may likely find themselves hampered through the course of actual construction work by the speed needed to prepare and submit bids, contracts and other documentation (bid requirements, plans, engineering) for those projects. With that thought as an impetus, two things stand out: 1) contractual insertions, relating to the various processes which JAMS GEC Neutrals can provide, need to be backed up to the bid or even pre-bid phases in order to have those processes “front of mind” so all contracting players are immediately aware of their requirements; and 2) for these entities which are working at warp speed to meet governmental requirements, as well as for others in the public or private sector doing any large construction project, JAMS has developed a working tool to add to industry education on the work of JAMS GEC specialists. The table below provides a concise handout for meetings or other communications with project architects, developers, owners, and industry leaders. *This table originally appeared in the Fall 2010 issue of **JAMS Global Construction Solutions** newsletter.*

Common Construction Project Challenges	Project Neutrals/ Individual Decision Maker (IDM) Solutions
<p><b>Risk Assessment, Apportionment, Allocation, and Management</b> of issues regarding: design, specific performance, time delay, sole-sourcing, and dealing with impact of force majeure events.</p>	<p>While most construction contracts provide for dispute resolution procedures after claims have arisen, Project Neutrals or Individual Decision Makers are involved from the inception of projects to provide real time resolution of conflicts and challenges, oftentimes resulting in dispute avoidance.</p>
<p><b>Insurance Review and Management</b>, including: understanding multiple layers of coverage ranging from commercial general liability, builder’s risk coverage, contractor’s liability, bonds and sureties, and even Worker’s Compensation.</p>	<p>Dedicated exclusively to the successful, timely, and on-budget completion of the project, JAMS Project Neutrals bring independent and objective oversight to large, multifaceted, and often times complex construction projects. As Project Neutrals, Individual Decision Makers, or part of Rapid Resolution Teams, JAMS neutrals supplement their legal and dispute resolution expertise by marshalling the knowledge and strengths of a variety of specialists (accounting, architectural, engineering, scheduling, etc.) to provide services such as:</p>
<p><b>Quality Control of Project Docs and Regular Inspections:</b> “as built” information such as daily work logs, reports, diaries and timelines to keep project on schedule; supplemental and/or change orders which effect project scope, timeline, or compensation, particularly disputed change orders.</p>	<ul style="list-style-type: none"> <li>• third party review of project documentation and records;</li> <li>• neutral investigations and analysis of claims;</li> <li>• impartial verification of as-bid quantities and prices; and</li> <li>• unbiased schedule analyses to minimize and resolve disputes and claims which can lead to voluminous litigation, cost overruns, and delays to project completion.</li> </ul>
<p><b>Construction Claims and Disputes</b>, including: design errors or omissions, defective construction, delay and disruption, quality control, cost overruns and overcharges, payments, and poor project management generally caused by unclear contract language.</p>	<p>Additionally, Project Neutrals/IDMs can provide support by assisting in negotiations, mediating settlements, and/or adjudicating of all types of construction claims. Early dispute assessment and resolution, which have proved to be both time and cost effective, are keys to the successful use of Project Neutrals/IDMs.</p>