



Dispute Resolution Board Australasia Inc

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DRBF Region 3 Advanced Training Workshop

Saturday, 20 June 2015

Session 6: Fee Structures for DAB Members (Ron Finlay)

Costs of a DAB

- Overall cost of a DAB (0.1 – 0.2% for \$100m Project)
- \$150 – 200K for three person per annum
- No increase for \$1.0bn Project
- Cost of insurance against disputes

Fees Issues

- Normal Project DAB monthly / meeting fees
- What's included in a DAB monthly (non-meeting) fee:
 - Reviewing monthly reports, minutes and the like
 - Conferring, exchanging emails etc with DAB members
 - Routine communications regarding meetings, dates, etc
 - (Arguably) a non-compete covenant for term of DAB Agreement
- What's included in a DAB monthly meeting fee:
 - Same as a non-meeting month (reading, preparation, conferring)
 - Preparing (Chairman) and approving Agenda
 - Preparing (Chairman or delegate) and approving Minutes
 - Travel to and from meeting site / place
 - Site inspection
 - DAB Meeting (including other meetings if appropriate and agreed)

- What's included in a separate fee for Determination and other services:
 - Usually by hourly rate
 - Determinations (full fees for reviewing submissions, any "hearing", preparation of Determinations, meetings with fellow DAB members)
 - Advisory opinions
 - Facilitated workshops
 - Special (non-routine) DAB meetings
 - Special DAB teleconferences
- Fee structures for DAB Members: Alternatives:
 - monthly retainer concept (non-compete)
 - daily / monthly fee concept for DAB meetings
 - hourly/daily rates for determinations
 - all hourly/daily rates
- Do all DAB members have to charge the same fees?
- Annual or CPI or fixed percentage (e.g. 2.5%) increase for multi-year projects
- Expenses to be spelt out (including mode of travel)
- Sub-consultants
- Right for parties to negotiate fees – when, who, how?
- Fees can be a basis for non-selection / non-appointment
- Market forces
- Liability - joint and several: what does this mean in practice?
- Agreement should specify who pays (100% or 50%). This may change over time.
- Vendor number / Purchase Order number
- Invoicing issues:
 - billing entity with an ABN
 - GST applicable?
 - how and when to bill?
 - who to bill?
 - verification of expenses
- Payment issues
- Use of a DAB Member's service company as a party to the DAB Agreement.
- FIDIC experiences
- USA experiences