

National Roster of Environmental Dispute Resolution and Consensus Building Professionals

CHOOSING AN APPROPRIATE NEUTRAL

The following steps provide a framework for collaborative process sponsors and participants to consider when identifying and selecting neutrals.

1. Identify what the neutral will do and the expected outcome of the process

Consider **what the participants would like the neutral to do**, e.g., conduct an assessment and issue a report, facilitate the exchange of information and create a record of input, assist with building a consensus recommendation, mediate an agreement that will resolve a highly contentious dispute, conduct a negotiated rule-making.

2. Identify Selection Criteria:

Consider which of the following are necessary, desirable, or not desirable:

- Assistance that is **internal to or outside of** your agency/organization or stakeholder group, particularly the effect of this choice on perceived or actual neutrality, ability to understand the context, and ability to handle confidentiality
- **Location** of the practitioner (Is a “local” the best or someone from “outside” better? Someone who has worked in the region before? Someone who will not have to travel?)
- **Experience** with or ability to handle a **situation or process of this type**, size, scope, complexity
- **Experience** with similar types of **substantive issues** (e.g., superfund, endangered species, etc.)
- **Experience, skill, or training** in similar **processes or contexts** (e.g., court connected, high public visibility)
- **Education or professional experience/background** in a particular subject (e.g., certain sciences, law)
- A particular **style/approach** (evaluative/directive to facilitative) or some **personal characteristic** (communication, flexibility, etc.) or references/**reputation** for competency, neutrality

Other selection criteria considerations:

- **“Special” requirements**, such as **language skills** and/or interpretation, **technical support**
- **Logistics and costs** (fees, travel, other)
- **Cultural differences or disabilities** that will need to be acknowledged and dealt with (think of cultural differences more broadly than ethnicity, for example: professional cultures--lawyers and scientists; gender; social cultures-rural and urban; generational culture; etc.).
- General **availability** to take on the project
- **Any conflicts of interest**
- Whether a **team of neutrals** is desirable given size of the group, complexity of issues or other factors. (Note that independent neutrals often form teams for particular work; some hourly fee structures include work as a team, some neutrals charge individually for each member of the team).

3. Gather Information About Practitioners

- **Identify** what **sources** are available for finding practitioners, such as, rosters, contracts, professional networks, community resources, court connected lists, state dispute resolution offices, and web searches or other advertisements. Identify what is required for listing with rosters, contracts, or other listing services.
- Once you have a “list” of possible candidates, **identify what information** the process participants **want from candidates**, such as a resume, case descriptions, additional materials, fee information, information regarding the neutral’s availability for the project, and references.
- **Identify how the information will be gathered** (e.g., a Request for Qualifications, a short email request, a phone conversation to each candidate). It is helpful to request and compile the same information from each candidate so that a meaningful comparison can be made.

4. Choose Candidates to Interview and Prepare for the Interviews

- **Determine how interviewees will be selected.** As examples, a designated group or sub-committee can select (through a facilitated process or without facilitation), a “score/rank” and/or “strike” list can be used to choose interview candidates.
- Determine how well any particular candidate might **meet the selection criteria**.
- Determine who will contact **references** and what questions will be asked of them.
- **Determine who will participate in** and/or be present at **the interview** and how questions will be asked. As examples, questions can be asked by one person from a script, or each person can ask questions in “rounds”. Determine what **questions** should be asked and how much time is needed/allotted. (See the list of Possible Interview Questions on Page 4).

5. Interview Candidates and Select the Neutral

- **Determine how the neutral(s) will be selected.** As examples, a designated group or sub-committee can select (through a facilitated process or without facilitation), a “score/rank” and/or “strike” list can be used to choose interview candidates or assist in choosing the neutral.
- **Determine how well** any particular **candidate meets** the selection **criteria and** what the feedback from **references** indicated.
- Did the practitioner seem to have a grasp of the essentials of the situation, use impartial language, ask good questions, listen well, give good advice on how to proceed, appear patient and flexible, describe a style/approach likely to succeed in the situation, seem to “resonate” with the group, and use the interview opportunity to set a collaborative tone?

Information about the U.S. Institute and the Roster of ECR Practitioners is available from:

www.ecr.gov and/or

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Possible Practitioner Interview Questions

- Tell us about yourself and your background
- How would you describe your style, approach, and philosophy of (mediation or whatever) process?
- What steps/tasks/approach would you take in this process?
- Please tell us about your experience or familiarity with:
 - Applicable substantive issues, e.g., endangered species, water rights
 - similar political, economic, social, and legal issues
 - working with parties and situations similar to this; how long the process took; the outcome
 - resolving disputes involving multiple governmental entities (with constituents), their attorneys, and citizens
 - disputes in which there is public and press interest and with conducting sessions in an open/public forum
 - resolution of court connected disputes
 - broad public controversies
 - economic/lifestyle/culture in (location of the dispute)
- What has been your experience with co-mediation (facilitation)? What would be the advantages and disadvantages in this case?
- What staff, if any, will be assisting you and how will you handle logistics?
- Are there any potential conflicts of interest?
- Confirm or request fee and time availability information.
- How much do think this will cost?
- What questions do you have for us?