

Alternative Dispute Resolution (ADR)/Conflict Prevention Program
(Natural Resources, CORE PLUS (EEO and Workplace),
and Contracting/Acquisition program areas)

BUREAU DIRECTION

Implementation of National ADR Policy - All States, appropriate Centers, and the WO shall continue to provide necessary resources to meet statutory, regulatory, and policy mandates including the Bureau's national policy requirements set out in the FY '07AWP and the FY '08 PTA. States shall implement national ADR policies by incorporating ADR processes and strategies at appropriate stages of natural resources decision-making, employee actions, and contracting/acquisition, where applicable.

National ADR Policy Implementation Needs - States are encouraged to identify, on a continuing basis, any ADR policy implementation need for resources through the State's PTA feedback and to the national ADR/Conflict Prevention Program staff. Needs that were unanticipated and thus arise during the year should be identified to the national Program staff as well.

Use of ADR: States' Natural Resources ADR – In addition to continuing participation in on-going ADR and conflict prevention processes, all States shall participate in, and document, at least one new ADR process to prevent or manage a conflict where the potential or actual conflict would allow for ADR.

Natural Resources ADR Activities Case and Data Updating/Documentation – **Bureau ADR activities:** States shall establish and maintain up-to-date case files to document current and historical (past 3 years) information on ADR process within the State, including conflict prevention processes, situation assessments, negotiations, mediations, joint fact findings, and community-based stakeholder working groups. **Office of Hearings and Appeals and Court Orders and Notices:** In addition to establishing and maintaining case files on ADR activities, the States shall ensure that files/records are established and maintained containing up-to-date information on Orders and Notices from the Interior Board of Land Appeals through the ADR case referral program, from the Hearings Division, and from the Courts (Court-ordered mediations). Information should include case name and description of activities associated with the case and the Order/Notice.

All information from case files and files/records shall be available for State-wide tracking by the State's Natural Resources ADR Advisor or another person designated by the State. If tracking is assigned to another person, the Natural Resources ADR Advisor shall notify the Bureau Dispute Resolution Manager with the name of the State lead for ADR tracking...ADR information shall be tracked by data entry in the national ADR database or through another tracking system and kept up-to-date.

States' Representation on the Bureau's ADR Advisory Council - As Bureau policy, all States shall ensure they are represented on the Bureau's ADR Advisory Council. Thus, all States shall designate an ADR Manager-Advisor, a Natural Resources ADR Advisor, and a CORE PLUS (EEO/Workplace) ADR Advisor to participate on the ADR Advisory Council. A replacement shall be designated as soon as an ADR Advisor transfers to another position or assumes other duties. Please e-mail your State's new nominee(s) to Paul Politzer, the Bureau Dispute Resolution Manager.

National Natural Resources ADR/Conflict Prevention Evaluation in the Bureau – States shall prepare for a national TPR or other evaluation of ADR/Conflict Prevention in the States.

Interagency Creeks and Communities Policy/Strategy – States shall ensure support of the Creeks and Communities policy/strategy and are encouraged to consider the services of the National Riparian Service Team to assist in the resolution of cases involving riparian-wetland conflicts with national/regional/local impacts and/or consider the opportunity for field-based coaching and mentoring in the principles and policies of riparian-wetland conflict management.

CORE PLUS Implementation – All States shall implement CORE PLUS when the Department completes development of the process (ADR in EEO and CORE), including nomination of employees as CORE PLUS Neutrals in accordance with national procedures established during and following development of the CORE PLUS process.

CORE PLUS Training – All States shall ensure that CORE PLUS Neutrals and those nominated to become CORE PLUS Neutrals attend DOI-mandated training to be offered by the Department in accordance with national procedures.

NTC-sponsored Natural Resources ADR Training – **Managers and supervisors in the WO:** The WO directorates shall ensure that Division Chiefs, Deputies, and other supervisors having responsibility for renewable and non-renewable natural resources issues and having contact with the public shall take the NTC's "ADR: Advanced Strategies to Prevent/Manage Natural Resources Conflicts." This training, which will be offered in the Washington area, focuses on national policy advice to the States and on interaction with the Bureau's national stakeholders and is mandatory in order to meet the requirements of the Administrative Dispute Resolution Act of 1996. The training also will be open to other interested WO Division Chiefs, Deputies, and Branch Chiefs. Efforts will be made to schedule the training to ensure that resources managers coming to the WO for a scheduled meeting or conference will have the opportunity to take the training at the same time as the WO managers and supervisors. **Supervisors and senior staff in the States:** All States shall ensure that supervisors and senior staff having responsibility for renewable and non-renewable natural resources issues and having contact with the public shall take an NTC's 1-hour on-line or satellite broadcast advanced ADR training. **Natural Resources ADR Advisors:** All States shall ensure that their Natural Resources ADR Advisors have training in basic mediation skills (20-hours) and facilitation to ensure completion of certification requirements. **Other staff in the States:** All States shall ensure that staff that has not received ADR training and who have responsibility for renewable and non-renewable natural resources issues and have contact with the public shall take the NTC's 1-hour on-line or satellite broadcast introductory ADR/Conflict Prevention training.

Matrix of the Bureau's Performance Expectations for ADR Advisors and National ADR/Conflict Prevention Program Staff – Please see table at the end of these ADR directives. The performance expectations for the Bureau's ADR Advisors represent the Bureau's minimum expectations to enable the BLM to fulfill its statutory and policy mandates and to continue the process of accountability and performance measurement in Bureau ADR and conflict prevention activities as required by OMB and CEQ. States are encouraged to include these performance expectations in the performance standards for the Natural Resources ADR Advisors and CORE PLUS ADR Advisors.

Congressional & Related ADR Direction and Policy

The Congress - The Administrative Dispute Resolution Act (ADRA), as amended in 1996, requires Federal agencies to: 1) develop an ADR policy and program; 2) encourage the

use of ADR and examine alternative means of resolving disputes in connection with adjudications, enforcement actions, licenses and permits, contract administration, litigation, and other agency actions; 3) provide training for employees involved in ADR/conflict prevention in the principles and practices of ADR; and 4) establish the position of dispute resolution specialist as a senior agency position (titled Bureau Dispute Resolution Manager (BDRM) in the BLM). Under the Act, the BDRM is responsible for ensuring implementation of the Act in the agency and for developing and implementing the agency's policy on alternative means of dispute resolution and case management. ADR includes negotiation, mediation, facilitation, negotiated rulemaking, joint fact-finding, and the use of ombudsman and conflict coaching. (*P.L. 104-320*). (The Solicitor's Office determined that the BLM is an "agency" under the law and is thus required to conform with the direction in the Administrative Dispute Resolution Act and other legislative authorities relating to conflict prevention and conflict management, including the Contract Disputes Act and Negotiated Rulemaking Act among others.)

Administration policy requires establishment of, and documentation of annual increases in, natural resources ADR capacity and use within the agency under a joint OMB/CEQ Memorandum to Agency heads dated November 2005. The agency's annual report also is required to identify Field natural resources ADR cases. Additional Executive Branch direction has been provided over time through an Executive Order, letters from Attorneys General to Executive Branch agency heads, and a Secretarial memorandum. In addition, the Equal Employment Opportunity Commission (EEOC) has directed each agency to establish or make available an alternative dispute resolution program for EEO cases; the agency must make ADR available during both the pre-complaint and formal complaint stages.

State ADR statutes and Western Governors Association ADR policy - State ADR statutes govern or influence Bureau natural resources ADR activities, and WGA policy is embodied in their resolution on *Enlibra*.

Departmental policy reflects the 1996 ADRA and the findings of the statutory Federal Inter-agency ADR Working Group in directing each bureau to develop an ADR Plan, establish the agency's Bureau Dispute Resolution Specialist as a senior position at a "high enough level in the organization to be visible and have access to upper managers [and] to mirror the ADR staffing in the Secretariat." The Department has directed that each of the bureaus' Dispute Resolution Specialists coordinate and ensure implementation of CORE PLUS in their bureaus.

Bureau policy – Vision for ADR in the Bureau: BLM natural resources management and a workplace where increased effective use of conflict prevention, management, and resolution principles results in: 1) enhanced land use management and improved conditions on the ground, 2) strengthened and more durable relationships with the public and collaboration in appropriate stages of the decision making processes; and 3) strong relationships among employees. **Mission:** 1) To serve communities and contribute to improved multiple use management of resources and lands through proper development, use, conservation, and protection in support of the Directorate, the States, and the public through use of ADR principles and strategies; 2) To provide expertise, guidance, and support to Bureau management and staff in ADR principles, policies, and strategies with the intent of strengthening BLM decision making and enhanced relationships with stakeholders, employees, and contractors; 3) To foster the use of conflict prevention or conflict management and resolution principles through early communication and

involvement between BLM and local and Tribal communities, States, other stakeholders, and the public; 4) To ensure opportunities for members of the public seeking assistance in conflict prevention, management, and resolution through enhanced Bureau ADR expertise; and 5) To ensure internal and external opportunities for prevention and/or early resolution of potential and existing conflicts and disputes. **Strategic goals:** 1) To continuously enhance BLM's capacity, capability, accountability, and transparency in ADR and conflict prevention processes on the ground; 2) To develop national ADR policy initiatives and legal frameworks that help to ensure savings of scarce budget resources through faster, less expensive, and non-contentious or less contentious decisions through reduction in the number of traditional challenges in Bureau decision making; 3) To build on Bureau ADR transparency and evaluation; national consistency in ADR quality assurance, information, and case reporting; and ADR program oversight; 4) To strengthen the BLM's ADR information base; and 5) To provide a CORE PLUS implementation framework in all States. **ADR in the Bureau is defined as** including the following processes and strategies: negotiation; community-based stakeholder working groups; mediation; facilitation; joint fact finding; situation assessments; and public involvement, community outreach, visioning, consensus building, and deliberative dialogue.

ADR and Conflict Prevention Principles in the Bureau – The BLM's ADR/Conflict Prevention Program policies and legal framework for natural resources reflect a spectrum beginning with conflict prevention ("upstream ADR"), spanning through conflict management (after a conflict has arisen - "downstream ADR") and ending with conflict resolution. Natural resources ADR processes in the Bureau include community outreach/early communication and involvement; negotiation; community-based stakeholder working groups, mediation, facilitation, and joint fact-finding. Strategies include situation assessments, among others.

EEO and Workplace Disputes, including Grievances - The BLM is committed to providing its employees with a work environment that enables them to deliver quality service for the lands we sustain. To do this, employees must have access to effective and efficient mechanisms for resolving EEO and workplace disputes. In addition to the traditional administrative adjudication processes, every BLM employee must have the opportunity to utilize an ADR process to resolve the EEO or workplace dispute. The CORE process will continue to be available for workplace disputes until new Departmental and bureau policy is developed.

While there are numerous forms of ADR currently being used in the Federal sector, in accordance with BLM policy, mediation is the preferred ADR process used to resolve EEO disputes and must be conducted in accordance to Title 29 Code of Federal Regulations (CFR) 1614 and EEOC Management Directive (MD) 110 (EEOC MD-110). BLM encourages the use of mediation to resolve disputes as early in the process as possible; however, it is available at any stage of the complaint process.

Mediation is the preferred ADR technique for grievances. Although mediation is not mandatory, it is strongly encouraged. (*Source: A Supervisor's Desk Guide to Conflict Resolution (September 2003)*).

**ADR/Conflict Prevention Program
ADR Advisory Council's ADR Advisors
MATRIX
of**

The Bureau's Performance Expectations by Project and Responsibility/Role

Project/ Responsibility	Roles in Policy and Program Activities			
	ADR/Conflict Prevention Program Staff (Bureau Dispute Resolution Manager and WO ADR staff)	ADR Manager- Advisors	Natural Resource (NR) ADR Advisors	STATE/CENTER CORE PLUS ADR Advisors
Statutory and Policy Authority for ADR in BLM: Administrative Dispute Resolution Act and related legislation providing for ADR; DOI and National Bureau ADR policy	National lead- Bureau Dispute Resolution Manager is responsible for ensuring national conformance with ADR statutes and national ADR policies; represents the Bureau with the Department and other agencies on BLM ADR statutory responsibility/policy; National ADR champion; provides briefings within the Directorate.	State co-lead- May advise, coordinate with, and/or assist State NR ADR Advisor, CORE PLUS ADR Advisor, and contracting/acquisition staffs; assists State in implementing ADR statutes/policy; ADR champion with State management and staff; may provide briefings within the State.	State co-lead- May consult/coordinate with the State ADR Manager-Advisor; assists State/Center natural resources programs in implementing ADR statutes/policy; State/Center ADR champion with natural resources programs; may provide briefings within the State/Center.	State co-lead- May consult/coordinate with the State ADR Manager-Advisor; assists State HR and EEO in implementing ADR statutes/policy; State/Center ADR champion in HR and EEO programs within the State/Center; may provide briefings within the State/Center.
Bureau ADR Plan; National ADR/Conflict Prevention Strategic Plan	National lead- Develops, updates, and maintains the strategic plan; provides briefings within the Directorate.	State lead- May coordinate with the State NR ADR Advisor and CORE PLUS ADR Advisor; may review, or ensure review, and may provide feedback; provides briefings within the State.	State co-lead- May coordinate with the State ADR Manager-Advisor; reviews and provides feedback to the WO ADR staff; may provide briefings within the State/Center.	State co-lead- May coordinate with the State ADR Manager-Advisor; reviews and provides feedback to the WO ADR staff; may provide briefings within the State/Center.

Project/ Responsibility	Roles in Policy and Program Activities			
	ADR/Conflict Prevention Program Staff (Bureau Dispute Resolution Manager and WO ADR staff)	ADR Manager- Advisors	Natural Resource (NR) ADR Advisors	STATE/CENTER CORE PLUS ADR Advisors
OMB/CEQ ADR (Environmental Conflict Resolution) Policy Implementation	National lead- Bureau Dispute Resolution Manager is responsible for ensuring national conformance with OMB/CEQ ADR policy mandates; serves as BLM point of contact and represents the Bureau with the Department and other agencies on BLM OMB/CEQ policy implementation.	Support- May advise, coordinate with, and/or assist State NR ADR Advisor on obtaining Statewide information and on obtaining/ providing input for the annual reporting requirement.	Support- May consult and/or coordinate with the State ADR Manager-Advisor; provides Statewide natural resources input to the ADR staff for the annual reporting requirement.	N/A
CORE PLUS Policy and Implementation in the Bureau	National lead- Oversees and coordinates DOI CORE PLUS policy implementation in the Bureau in accordance with the DM in coordination with HR and EEO; develops BLM CORE PLUS policy as a coordinated effort among ADR staff, HR, and EEO; National CORE PLUS champion together with HR, EEO.	State co-lead- May advise, coordinate with, and/or assist the State CORE PLUS ADR Advisor in facilitating development and implementation of CORE PLUS within the State; State CORE PLUS champion within the State; may provide briefings within the State.	N/A	State lead- Develops and implements, or ensures development and implementation of, CORE PLUS within the State/Center; State CORE PLUS champion in HR and EEO programs within the State/Center; provides briefings within the State/Center.
Natural Resources ADR Cost Effectiveness Study Phase 2: ADR vs. litigation, appeals, protests	National lead- Develops assumptions, measures/metrics, and parameters for the study; conducts the analysis; analyzes the information and develops study.	Support- As appropriate, may advise/coordinate with the State NR ADR Advisor on obtaining State ADR, litigation, appeals, and protest data.	State lead- Obtains and provides the State's natural resources data needed for the study as requested.	N/A

Project/ Responsibility	Roles in Policy and Program Activities			
	ADR/Conflict Prevention Program Staff (Bureau Dispute Resolution Manager and WO ADR staff)	ADR Manager- Advisors	Natural Resource (NR) ADR Advisors	STATE/CENTER CORE PLUS ADR Advisors
ADR Manual, Policy Guidance, and Policy Guides	National lead- Completes and processes the natural resources ADR/Conflict Prevention manual, policy guidance on IBLA's ADR Case Referral program, and policy guides; establishes a team to develop Bureau CORE PLUS policies based on the DM in coordination with HR, EEO, and the ADR Advisory Council.	State co-lead- May advise and/or consult or coordinate with the State NR ADR Advisor; may review, or ensure review, and may provide feedback.	State co-lead- May consult and/or coordinate with State ADR Manager-Advisor; reviews drafts, circulates drafts within the State, obtains and consolidates all State comments, and provides the State's comments to the national ADR/Conflict Prevention Program staff.	State co-lead- May consult and/or coordinate with State ADR Manager-Advisor; participates in the development of Bureau CORE PLUS policy.
National Ombudsman and National Conflict Coaching Policy for the Bureau and the public (Workplace CORE PLUS policy developed by the national ADR/Conflict Prevention Program Staff is only for non-EEO related national policy matters; CORE PLUS dispute prevention or resolution in EEO is the responsibility of EEO in the Bureau).	National lead- Completes national policy framework for the Bureau's National Ombudsman and National Conflict Coaching programs (natural resources, CORE PLUS, contracting/acquisition) and for the public (natural resources); conducts advisory role on national policy as part of the responsibilities of the national ADR/Conflict Prevention Program.	State co-lead- May advise and/or coordinate with the State NR ADR Advisor and/or CORE PLUS ADR Advisor on requests for ADR-based resolution from within the State; may work with the national ADR/Conflict Prevention Program staff.	State co-lead- May consult and/or coordinate with the State ADR Manager-Advisor; may work with the national ADR/Conflict Prevention Program staff on requests from within the State for ADR-based resolution; ensures appropriate, close coordination with managers in State/Field offices.	State co-lead- On CORE PLUS in workplace ADR/meditations, may consult and/or coordinate with the State ADR Manager-Advisor; may work with the national ADR/Conflict Prevention Program staff; ensures close coordination with State/Field office managers as appropriate.

Project/ Responsibility	Roles in Policy and Program Activities			
	ADR/Conflict Prevention Program Staff (Bureau Dispute Resolution Manager and WO ADR staff)	ADR Manager- Advisors	Natural Resource (NR) ADR Advisors	STATE/CENTER CORE PLUS ADR Advisors
National ADR Case Tracking ADR activities in databases and/or files	National lead – Manages and maintains national natural resources databases; obtains information on State natural resources ADR cases and Orders and Notices; conducts national analyses; provides analyses, input, and briefings to the Directorate; and develops Bureau responses to the Department and OMB/CEQ.	Support – May assist, consult, or coordinate with State NR ADR Advisor (or other State-designated responsible staff) and CORE PLUS ADR Advisor; advises on/facilitates, as appropriate, the gathering of State natural resources ADR information and the establishment and maintenance of case data in the database and/or files.	State lead- Unless otherwise assigned, tracks information on ADR activities based on State case files and files/records as follows: 1) ADR processes involving conflict prevention processes, situation assessments, negotiations, mediations, joint fact-findings, and community-based stakeholder working groups; 2) Orders and Notices from IBLA, the Hearings Division, and the Courts..	State lead – Gathers, enters, and maintains, or ensures gathering, entry, and maintenance of, accurate, up-to-date, and complete State/Center/ Directorate CORE PLUS case data in current database and then in new Departmental database once developed.
Natural Resources ADR Training Conducted through the NTC	National lead- Sponsors and oversees development of Bureau ADR training; participates in training.	Support- May provide advice and input on training; may attend training as appropriate and feasible.	NTC lead- NTC Natural Resources ADR Advisor co-leads oversight and development; provides scheduling, contracting, and delivery. NR ADR Advisors review and provide input.	Support- May attend training as practical and feasible.
BLM ADR websites	National lead- Maintains and updates external website and finalizes internal website.	Support- May review and provide feedback.	State co-lead- Reviews and provides feedback.	State co-lead- Reviews and provides feedback.
Promulgation of national credentialing policy: Natural Resources ADR Advisors & Facilitators	National lead Develops/promulgates national credentialing policy with the ADR Advisory Council.	Support- May review policy and provide input.	Support- Reviews policy and provides input to the ADR Staff.	N/A

