TOOL G

ICF Completion Dispute Resolution Options

Purpose: to help two or more municipalities pick the way, or ways, of settling disputes that best suit the work of building or reviewing a framework. You have six broad options:

- Negotiation without third-party assistance
- Facilitation
- Mediation
- Mediation-arbitration (med-arb)
- Arbitration

The questions below help you judge which option fits your negotiation. Use your answers to complete the checklist that follows.

#	Assessment questions
1	How well you get along now is the best guide to how much outside help you will need. Has there been friction over land use and services in the region? Have you worked well together before? Are the people involved likely to work with each other or against each other?
2	How hard the services are to sort out also shapes the help you need. Have you shared services well before? Are these services complicated? Do service levels and costs differ a lot between the parties?
3	What information do you need for the services still open? How will you get it? Do you have the expertise in-house, or will you need contractors or experts?
4	If you cannot agree on some services by the deadline, how will those services be handled?

Something to consider

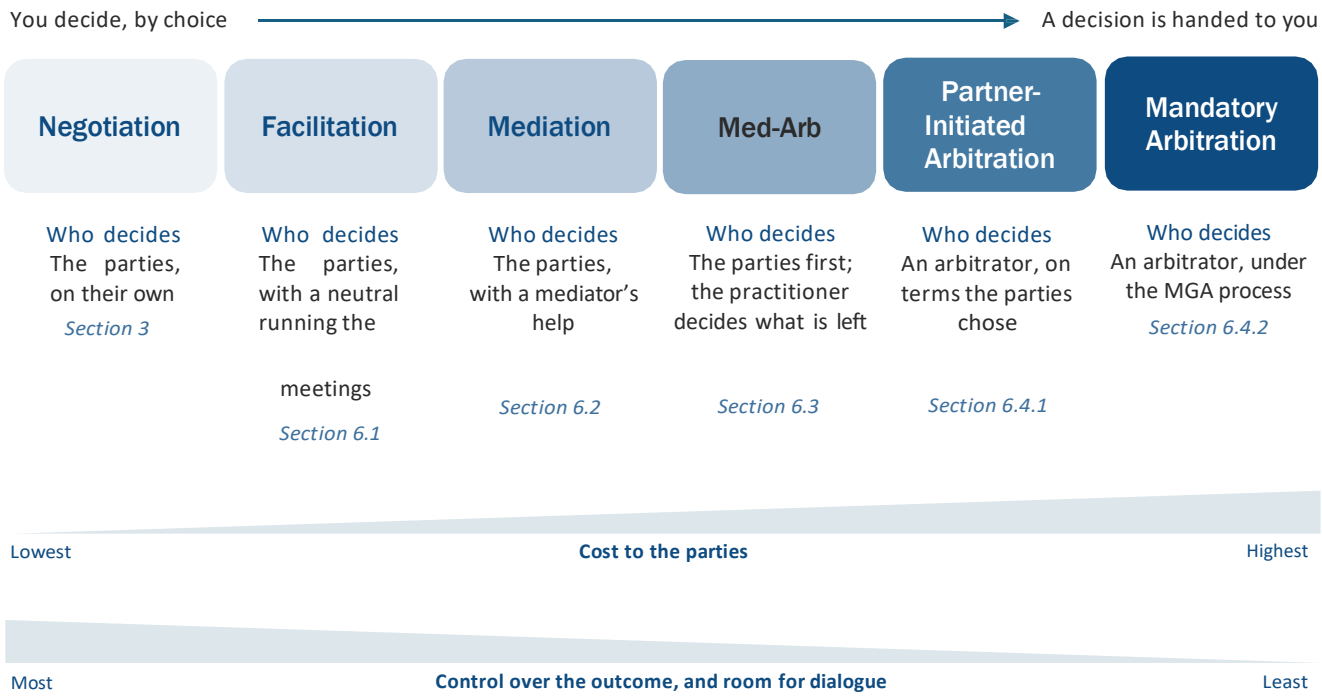
Settle on your dispute process together, at the start of the ICF work. It is the best use of everyone's time and money.

Dispute Resolution Options and Considerations

On your own, read the options and consider the conditions that match your ICF talks. Then agree with the other municipalities on the option, or options, that fit.

Option	Consider this option when...
1. Negotiation without third-party assistance	All of the following apply. The services are simple. Trust is high. You have agreed and worked together before. There are no old disputes over land use, annexation, or services, and no clashes between people.
2. Negotiation with a third-party facilitator	Some or all of the following apply. The services are complicated, or take real skill and staff time to work through. Trust is high, you have worked together before, there are no old disputes, and no clashes between people.  *Tip: a facilitator who can also mediate helps settle issues before they escalate, and makes any move to mediation quick.*
3. Reach agreement through mediation	Some or all of the following apply. The services are complicated or hard to work through. Trust is middling or low. You have clashed over these services before, or over something else between you.  *Tip: engaging a mediator early helps prevent escalation and raises the odds of agreement. Intermunicipal mediation has been used in Alberta for more than 20 years, with a strong record of settlements. Ask for a mediator's report at the outset (see Section 6.2).*
4. Reach agreement through med-arb	The conditions look like mediation, and three more things are true. You expect a service, or part of one, to stay unsettled and need a decision. You are content to let the people who mediated also arbitrate. And you want a quick shift to arbitration if it comes to that.  Tip: interest-based or transformative mediation suits med-arb, because it leaves the evidence to the arbitration stage, which is fairer. Avoid evaluative mediation where one person will fill both roles. Once a mediator has given a view on each side's case, the parties find it hard to see that person as neutral.
5. Reach agreement through partner-initiated arbitration	Any of these apply. You want full control of the arbitration. You want to change the terms the MGA sets. You want to finish before a deadline in law or one you agreed. You need a decision so a service can start before a deadline. Or you do not expect mediation to settle a service.
6. Arbitration required by the MGA	You cannot make or replace an ICF by the deadline that applies, or you have used up your dispute process without settling within one (1) year. The s.708.34 process covers matters that relate to mandatory services. The parties pick the arbitrator, or the Minister does. Arbitration ends if the parties reach agreement at any point.

Spectrum of Dispute Resolution Options



Arbitration covers matters that relate to the 5 mandatory services only (s.708.34), though all services and agreements included in an ICF may be subject to arbitration if agreement is not found. It cannot undo what you agreed to, or rule on what you never discussed.

You can start at any point on the scale, and different services can sit at different points. Early help costs the least.