

## **EPA's Alternative Dispute Resolution Program: Avoiding Lawsuits, Mediating Conflicts and Saving Money**

Environmental issues often generate complex disputes among multiple parties and bitter conflicts between governments, communities and businesses. Unresolved disputes can result in litigation, which can be prolonged and costly for all concerned. EPA's Conflict Prevention and Resolution Center, located in the Office of General Counsel, provides an alternative approach to resolving disputes that prevents delays, reduces costs, improves working relationships and allows parties to focus on solving problems rather than litigating. When environmental problems get hung up in disputes, communities bear the burdens of polluted land, air and water.

The Trump Administration's budget proposals would have eliminated the Alternative Dispute Resolution (ADR) program completely. While Congress has provided continued funding, EPA's leadership has cut it back—letting vacancies go unfilled, reducing its budget, and folding the program into an unrelated division.

### **What Would Happen if the Program Were Curtailed or Eliminated?**

Cutbacks in the ADR program, for a small savings in EPA's budget, make the resolution of legal disputes much more difficult. They drive up costs for all concerned, prolong lawsuits and increase tensions between the federal government and residents. While these services are sometimes available privately, they can be costly and must be negotiated with parties involved in disputes.

### **The ADR Program Saves Money for the Taxpayer and Benefits Many Others**

The program has a small staff and provides the services of "third party neutrals," impartial mediators with no financial, official or personal interest in the disputes before them. Its current budget provides a high taxpayer return on the investment. In 2016, the program provided mediators in 145 cases and closed 77—saving time and money for EPA, community members, state and local governments and businesses. The savings from these cases have been estimated at \$10 million for EPA alone.

The benefits of the program are not simply monetary. In addition to reducing expensive litigation, the ADR program helps to convene meetings that assist EPA and stakeholders in working together to solve problems, from facilitating public meetings on controversial rules to coordinating efforts among federal, state and local agencies. It also trains EPA staff on ways to avoid disputes. By resolving disputes that might otherwise drag out, it provides benefits for everyone involved.

### **How EPA's Conflict Prevention and Resolution Center Provides Benefits**

This small center and the outside mediators who conduct the work have helped resolve hundreds of conflicts of all kinds over the years. A few examples reveal the resulting benefits:

- Kettleman City in central California is an agricultural community that is home to 1,400 people, most of them Latino. Its economy is struggling; unemployment was almost 10% in 2016. It is also the site of a hazardous waste landfill, which has been a source of controversy for many years. When the state approved an expansion of the landfill in 2014, a community group filed a complaint with EPA's Office of Civil Rights alleging a violation of Title VI of the Civil Rights Act. Through the

ADR program, EPA provided mediators who conducted personal interviews, held information-sharing sessions and convened face-to-face meetings. Ultimately, the residents and the state reached an agreement and the community group withdrew its complaint—avoiding a protracted process that could have led to court proceedings.

- Superfund cases are notoriously long, drawn out and expensive. The sites often involve complicated technical issues and are expensive to clean up. Additionally, there may be multiple parties potentially responsible for the contamination, which can make negotiations difficult. One example is the Superfund site in Woburn, Massachusetts, that was the subject of the film *A Civil Action*. It is still being cleaned up under a complex settlement overseen by EPA. Recently, a dispute arose over whether the settlement was being properly carried out, which threatened to unravel a much larger set of understandings among the parties. The ADR program provided a mediator who was able, in two days, to end the dispute.
- In 2015, residents of Grenada, Mississippi, became concerned that a cleanup being overseen by EPA was exposing them to dangerous chemicals. In response, EPA proposed to sample the air in their homes. The distrust of the agency made residents reluctant to give EPA access to their homes to conduct the sampling and allow them to analyze the data collected. The ADR program provided a facilitator who helped EPA staff organize a three-day community event and other outreach activities that improved relations with community members. Once the community felt its concerns had been addressed, they allowed the testing to be carried out.

### **Funding for EPA's Alternative Dispute Resolution Program**

FY2016 Baseline Budget: \$1.720 million

FY2017 President's Budget Proposal: \$2.022 million

FY2017 Amount Appropriated: \$1.717 million

FY2018 President's Budget Proposal: \$0

FY2018 Amount Appropriated: \$1.682 million

FY2019 President's Budget Proposal: \$0 million

FY2019 Amount Appropriated: \$1.898 million

FY2020 President's Budget Proposal: \$0 million