The Plan for the Settlement of Jurisdictional Disputes in the Construction Industry
History of the Plan

- 1920’s there was a National Board
- 1930’s BCTD decided cases directly
- Late 30’s-40’s – National Referee decided cases
- 1947 – LMRA - §10(k) – NLRB decides disputes unless a voluntary procedure exists
- 1948 – National Joint Board to satisfy §10(k)
- 1970’s – Impartial Jurisdictional Disputes Board
1984 – Present Plan

- Called Plan because no more Board
- Cases heard by independent arbitrators
- Some amendments through the years
  - Canadian disputes processed in Canada
  - Substantive changes effective in 2008
- Current book - Green Book
  - Set-up of Book
    - Procedural Rules
    - Plan
    - Agreements & Decisions of Record
  - Online – www.bctd.org/Field-Services/Plan-for-the-Settlement-of-Jurisdictional-Disputes.aspx
Sponsoring Organizations

- Seat on JAC – Say on How Plan Works
- Building Trades
  - Affiliated International and National Unions
  - Affiliated Local Unions
- Employer Associations
  - Mechanical Contractors Association
  - National Electrical Contractors Association
  - North American Contractors Association
  - Sheet Metal and Air Conditioning Contractors National Association
  - The Association of Union Contractors
Joint Administrative Committee

- Oversees operation of Plan
- 4 General Presidents
- 4 from Employer Associations
- Chairman (President of the BCTD)
- Vice-Chairman (Designated by Employer Associations)
- Appoints U.S. and Canadian Administrators
- Appoints Arbitrators – Knowledgeable about construction industry
Plan Administrator

- **Processes cases**
  - Requests must come from contractors or Internationals

- **Makes original assignment determinations**
  - Not a decision on the merits
  - Decision can be appealed to Arbitrator

- **Discretion to refer to arbitration appeals from recognized Local Boards**
  - New York
  - Chicago
Processing of a Jurisdictional Dispute

- Union, Contractor or Association notifies Administrator of Dispute
  - Name & location of project
  - Unions involved
  - Responsible contractor
  - Whether the parties are stipulated
  - Whether parties have met or attempted to meet at local level in effort to resolve the dispute
  - Whether the Unions have agreed to voluntary mediation through the FMCS
Processing of a Jurisdictional Dispute

- Administrator notifies affected Unions within 2 days
- Internationals have 5 days to resolve
  - If FMCS mediation selected
  - Mediator has 3 days to resolve dispute
  - No settlement – party files notice to arbitrate
- Administrator sends out list of arbitrators
- Parties have 3 days to return arbitrator selection form
Processing of a Jurisdictional Dispute

- Upon selection of arbitrator
  - Hearing held within 7 days in D.C. or Canada
  - Only one representative from each party may attend hearing
  - Hearing informal and expedited

- Arbitrator must issue decision within 3 business days after case is closed

- Arbitrator’s decision is final and binding
  - No appeal on the merits
Processing of a Jurisdictional Dispute

- No back pay or damages for misassignment of work
- No independent action allowed for back pay or any other damages based on arbitrator’s decision
- Fees and expenses of arbitrator paid by the losing party or parties, unless not all parties are stipulated
- Administrative fee of $500
  - Charged to employers not members of one of the sponsoring employer organizations
Criteria to be Applied by Arbitrators

Article 5, Section 8

- Agreements between crafts
- Established trade practice in the industry and prevailing practice in the locality
  - If a decision of record covers the work
  - See if prevailing practice in the locality in the past ten years favors one craft
    - If it does, decision based on the prevailing practice in the locality
- If none of the above, the Arbitrator shall not ignore the interests of the consumer or the past practices of the employer
Criteria to be Applied by Arbitrators

- Arbitrator must set forth the basis for his decision
  - Explain why higher-ranked criteria were not applicable
- If criteria not explained in decision, JAC may grant appeal and send case to new Arbitrator
- Decision only applies to job in dispute
- Agreements of record are applicable to the parties signatory to such agreements
- Decisions of record are applicable to all trades
Enforcement of Decisions

- Any party may seek court enforcement of decision or ruling.
- Decision may be enforced only if all parties are stipulated to the Plan.
- Stipulation:
  - All affiliated Building Trades
  - National, International and Local Unions
  - Contractor members of a stipulated association
  - Through a clause in cba
  - Separate signed stipulation form
Work Stoppages and Other Impediments to Job Progress

- Strictly prohibited – Definition includes:
  - Filing of grievance under cba or local plan not recognized by BCTD
    - Exception: Failure to hold pre-job conference
  - Filing action with NLRB or Court
- All parties must be stipulated to the Plan
- Internationals given 24 hours to correct
- Administrator selects arbitrator
- Arbitrator holds hearing within 24 hours if violation still exists
Work Stoppages and Other Impediments to Job Progress

- Sole issue: whether work stoppage or other impediment has occurred
- Decision issued within 3 hours after close of hearing
- Losing party pays arbitrator’s fees and expenses
- Any party to the dispute may seek court enforcement of the decision
  - Losing party pays attorney’s fees and court costs
U.S. CASES PROCESSED
2005 – 2014

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U.S. Cases Processed By Type of Case
2005 – 2014

- Original Assignment Cases
- Jurisdictional Disputes
- Impediments to Job Progress
U.S. Jurisdictional Disputes
Processed/Arbitrated

Jurisdictional Disputes Cases
Jurisdictional Disputes Arbitration Decisions
U.S. Original Assignment Cases Processed/Determinations Issued

- **Original Assignment Cases**
  - 2005: 6
  - 2006: 7
  - 2007: 9
  - 2008: 16
  - 2009: 16
  - 2010: 9
  - 2011: 16
  - 2012: 10
  - 2013: 8
  - 2014: 6

- **Original Assignment Determinations**
  - 2005: 1
  - 2006: 3
  - 2007: 6
  - 2008: 10
  - 2009: 9
  - 2010: 6
  - 2011: 8
  - 2012: 3
  - 2013: 6
  - 2014: 4
U.S. Impediment to Job Progress Cases Processed/Arbitrated

Impediment to Job Progress Cases

- 2005: 16
- 2006: 22
- 2007: 10
- 2008: 39
- 2009: 51
- 2010: 29
- 2011: 19
- 2012: 27
- 2013: 14
- 2014: 16

Impediment to Job Progress Arbitration Decisions

- 2005: 3
- 2006: 3
- 2007: 3
- 2008: 3
- 2009: 4
- 2010: 3
- 2011: 4
- 2012: 3
- 2013: 4
- 2014: 2
CANADIAN CASES PROCESSED
2005 – 2014
Canadian Cases Processed By Type of Case
2005 – 2014

- Original Assignment Cases
- Jurisdictional Disputes
- Impediments to Job Progress
Canadian Jurisdictional Disputes Processed/Arbitrated

Jurisdictional Disputes Cases
Jurisdictional Disputes Arbitration Decisions
Canadian Original Assignment Cases
Processed/Determinations Issued

- 2005: 2 cases, 1 determination
- 2006: 1 case, 0 determinations
- 2007: 2 cases, 0 determinations
- 2008: 1 case, 0 determinations
- 2009: 1 case, 0 determinations
- 2010: 0 cases, 0 determinations
- 2011: 2 cases, 1 determination
- 2012: 0 cases, 0 determinations
- 2013: 0 cases, 0 determinations
- 2014: 0 cases, 0 determinations

Legend:
- Blue bars: Original Assignment Cases
- Purple bars: Original Assignment Determinations
Canadian Impediment to Job Progress Cases
Processed/Arbitrated

- Impediment to Job Progress Cases
- Impediment to Job Progress Arbitration Decisions
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