



ARIAS•U.S. Practical Guide | Chapter VI: Streamlined Arbitration Procedures

If conducted in the usual fashion, arbitration may not be cost-effective when small amounts are in dispute and the parties do not otherwise have a substantial stake in the issues to be arbitrated. In appropriate cases, the Panel should consider streamlined alternatives to traditional arbitration. The following alternatives are suggestions to consider in arriving at a more efficient resolution of the issues before the Panel so that the cost of the arbitration is commensurate with the amount in controversy.

6.1 ORGANIZATIONAL MEETING BY TELEPHONE:

The Panel should consider holding the Organizational Meeting by telephone, and completing the necessary paperwork by mail, fax, and/or e-mail.

COMMENT A:

Parties that agree to a streamlined approach will also usually agree to an early telephonic Organizational Meeting, particularly if the parties are familiar with all the Panel members. At the meeting, the umpire should take detailed notes and circulate a draft summary of the meeting and any schedules or other items agreed upon to all involved for comments before finalizing them.

COMMENT B:

If the parties do not agree to a telephonic Organizational Meeting, the Panel should consider holding the Organizational Meeting at a later, rather than sooner, date so that parties can resolve certain issues, such as discovery, before the Organizational Meeting and present them to the Panel if the parties cannot resolve them on their own.

6.2 STREAMLINED DISCOVERY:

The Panel could direct the parties to serve and respond to discovery requests (if the parties anticipate needing them) before the Organizational Meeting, so that the Panel can address any discovery issues at the Organizational Meeting.

COMMENT:

If the parties agree to a streamlined discovery procedure, the Panel should consider, for example, an exchange of claims files within a week of the Organizational Meeting, with follow-up discovery requests to be authorized by the Panel only. The Panel should also consider whether to permit depositions, and whether to limit the number and/or duration of any depositions to be taken.

6.3 STREAMLINED HEARING:

The Panel should consider whether a streamlined hearing procedure would serve the parties' best interests: for example, submission of the dispute to the Panel on the briefs alone or with briefs and oral argument, but no live testimony. It may be feasible in some instances to hold a telephonic Organizational Meeting, followed by the exchange of relevant files, followed by a hearing (attended by counsel and the lead representative of each party) at which the Panel attempts to resolve the matter; and if it cannot, the process so narrows the issues for discovery and briefing that no further evidentiary hearing is required.