

Cost Benefit Analysis For Accounting Scenario

The Chart shows the Cost Factors associated with the possible ADR processes that the parties might choose as the most appropriate and cost-beneficial. The numbers used do not need to be exact. They can be ball-parked to give the respective parties a sense of how much it will cost to pursue the dispute through the different dispute resolution alternatives.

Cost Factors →	Internal Resources ⁽²⁾	External Resources ⁽³⁾	Lost Opportunity	Time Value of Money ⁽⁵⁾	Other ⁽⁶⁾	Value/ Amount of Claim ⁽⁷⁾	Chance of Success ⁽⁸⁾	Total Net of Costs
BATNA ⁽¹⁾	40,000	88,000	40,000	-	-	1,405,000	100%	1,237,000
WATNA ⁽¹⁾	40,000	88,000	40,000	16,800	-	1,405,000	0%	(184,800)
Facilitation	10,000	22,000	10,000	1,050	1,000	-	-	-
Mediation	10,000	22,000	10,000	1,050	3,500	-	-	-
Arbitration	40,000	88,000	40,000	8,400	-	1,405,000	see note 8	223,600
Hearing/ Litigation	40,000	88,000	40,000	16,800	-	1,405,000	see note 8	215,200

BATNA/WATNA

Each of Company A and Company B considered its BATNA (Best Alternative To a Negotiated Agreement) & WATNA (Worst Alternative To a Negotiated Agreement), as their costs are usually beneficial in making decisions:

BATNA (Best Alternative To a Negotiated Agreement)⁽¹⁾

Negotiations are usually entered into to produce something of greater value than that available without negotiating. The BATNA becomes the standard against which a negotiated agreement should be measured. BATNAs require development and almost all the Cost Factors will be associated with them. For example, a Company's best alternative might be litigation or a hearing.

WATNA (Worst Alternative To a Negotiated Agreement)⁽¹⁾

The WATNA is not only the opposite of the BATNA but usually clearly identifies the value of, or motivation for, negotiating. The WATNA often assists in establishing a party's "walk away". On the other hand, litigation or a hearing may be a party's worst alternative because there is no guarantee that the party will "win" or be successful.

Facilitation, Mediation, Arbitration and Hearing/Litigation

Identifying the costs of these various alternatives provides the opportunity for practical cost comparison. For example, the average costs for mediation (as outlined in the AEUB's ADR 2002 Annual Report) is \$3500.

Internal Resources (Professional/Support/Clerical)⁽²⁾

Costs associated with having professional internal resources (i.e. engineers, accountants, geologists, senior managers etc.) deal with the dispute which includes collecting and producing all supporting documents and time spent in instructing and managing outside resources (e.g. lawyers, consultants and experts). Wages, Supplies and Transportation directly associated are to be considered as well.

Assumptions for this Scenario:

	In House Accountant @ \$50/hour	In-House Legal Staff @ \$100/hour	In-House Engineer/ JI Rep @ \$100/hour	Total
BATNA @ 20 Days	8,000	16,000	16,000	40,000
WATNA @ 20 Days	8,000	16,000	16,000	40,000
Facilitation @ 5 Days	2,000	4,000	4,000	10,000
Mediation @ 5 Days	2,000	4,000	4,000	10,000
Arbitration @ 20 Days	8,000	16,000	16,000	40,000
Litigation @ 20 Days	8,000	16,000	16,000	40,000

External Resources (Professional/Support/Clerical)⁽³⁾

Costs associated with engaging outside professional resources (i.e. as above, Legal, Experts, ADR service provider, facilitator, mediator, arbitrator). Wages, Supplies and Transportation directly associated are to be considered as well.

Assumptions for this Scenario:

	External Legal Staff @ \$300/hour	External Technical Experts @ \$250/hour	Total
BATNA @ 20 Days	48,000	40,000	88,000
WATNA @ 20 Days	48,000	40,000	88,000
Facilitation @ 5 Days	12,000	10,000	22,000
Mediation @ 5 Days	12,000	10,000	22,000
Arbitration @ 20 Days	48,000	40,000	88,000
Litigation @ 20 Days	48,000	40,000	88,000

Lost Opportunity⁽⁴⁾

Possible costs directly associated with the issues (i.e. loss of production). Costs associated with having to move or assign personnel from normal duties to deal with the disputes which may not add value.

Assumptions for this Scenario:

Opportunity Cost = Cost of In-House Staff

Time Value of Money⁽⁵⁾

Forecast of the costs associated with value in reaching settlement now versus waiting months or years to settle.

	Time Value of Money⁽⁵⁾	Cost	Adjustment
BATNA⁽¹⁾	0%	168,000	0
WATNA⁽¹⁾	5% - 2 Years	168,000	16,800
Facilitation	5% - 6 Months	42,000	1,050
Mediation	5% - 6 Months	42,000	1,050
Arbitration	5% - 1 Year	168,000	8,400
Hearing/ Litigation	5% - 2 Years	168,000	16,800

Other⁽⁶⁾

Any other costs directly associated to the issues.

This is the cost of retaining the facilitator or mediator.

Value/Amount of Claim⁽⁷⁾

This is your estimate of the amount of money that is in dispute. In some disputes it may be difficult to quantify but it is recommended that a number be developed.

Assumptions for this Scenario:

Value of Claim

Allocation of field costs: \$50,000 for 2001 extrapolated to 2004 = \$200,000

Production Allocation Methodology: \$250,000 for 2001 extrapolated to 2004 = \$1,000,000

Use of Consultants: \$20,000 for 2001 extrapolated to 2004 = \$80,000

Engineering Alliance Costs: \$125,000 (single project)

Total Value of Claim - \$1,405,000

Chance of Success⁽⁸⁾

Likelihood of success is expressed in a meaningful numerical form (i.e. %, numerical scale). This percentage value should be assigned by external or internal legal counsel and applied to the amount or value of the claim, as well as, to the BATNA and WATNA. When using this tool, analysis can be made on the basis of each issue, the value attributable for each issue and the chance of success for each issue. When calculating the numbers, recognize that the internal and external costs incurred are not usually recoverable and should be deducted from the amount of the estimated claim that may be recovered, based upon the % factor of success assigned. It is recommended that this analysis be conducted separately by each of the parties prior to the SAM or in caucus

during a SAM. Also recognize the % factor of success allocated by a Company's counsel may be different than the opposing Company's counsel. These numbers are helpful parameters when the parties are negotiating or mediating with each other.

Assumptions for this Scenario:

Chance of Success of Each Claim

	Allocation of Field Costs	Product Allocation Methodology	Use of Consultants	Engineering Alliance
BATNA	100%	100%	100%	100%
WATNA	0%	0%	0%	0%
Facilitation	50%	20%	0%	80%
Mediation	50%	20%	0%	80%
Arbitration	50%	20%	0%	80%
Litigation	50%	20%	0%	80%

Total of Each Claim Based on Chance of Success

	Allocation of Field Costs	Product Allocation Methodology	Use of Consultants	Engineering Alliance	Total Net of Costs
BATNA	200,000	1,000,000	80,000	125,000	1,237,000
WATNA	-	-	-	-	(184,800)
Facilitation	-	-	-	-	-
Mediation	-	-	-	-	-
Arbitration	100,000	200,000	-	100,000	400,000
Litigation	100,000	200,000	-	100,000	400,000