

DRMS-G

January 8, 2003

DEFENSE REUTILIZATION AND MARKETING SERVICE/
DEFENSE LOGISTICS INFORMATION SERVICE/
DEFENSE SYSTEMS INTEGRATION OFFICE
ALTERNATIVE DISPUTE RESOLUTION (ADR) PROGRAM

A. REFERENCES.

1. DLAR 5145.1, Alternative Dispute Resolution (ADR) Program, December 4, 1998.
2. Administrative Dispute Resolution Act (ADRA) of 1996, Pub. L. No. 101-552, as amended by Pub. L. No. 104-320.
3. DoD Directive 5145.5, Alternative Dispute Resolution (ADR), April 22, 1996.

B. PURPOSE. This directive assigns responsibilities and policies for implementation of the Alternative Dispute Resolution (ADR) program and encourages expanded use of ADR within the Defense Reutilization and Marketing Service (DRMS), Defense Logistics Information Service (DLIS) and DLA System Integration Office (DSIO-J).

C. APPLICABILITY AND SCOPE. This directive applies to DRMS, DLIS, DSIO as well as all field activities, and to all issues in controversy, as defined herein. It provides internal policy only and does not confer any rights on parties to an issue in controversy with the Defense Logistics Agency (DLA). Use of ADR for bargaining unit employees will be subject to local negotiation.

D. DEFINITIONS.

1. ADR Working Group. A team established by the Office of Counsel responsible for promoting ADR awareness, education, and training.
2. Alternative Dispute Resolution (ADR). Any procedure (for example, mediation, conciliation, facilitation, fact-finding, use of ombudsman, early neutral evaluation, mini-trials, settlement judge, summary trial with binding decision at the Armed Services Board of Contract Appeals (ASBCA), arbitration, or any combination, thereof) or any other method to which the parties agree for resolving issues in controversy, except the term does not include unassisted negotiations.
3. Alternative Dispute Resolution Specialist. An official designated by the DRMS Chief Counsel, responsible for the development and implementation of the ADR program for DRMS, DLIS and DSIO and its subordinate elements. The ADR Specialist is the person responsible for maintaining the DLA Field Activity ADR program and submitting reporting requirements to the DLA ADR Counsel.

4. Responsible Management Official (RMO). The person responsible for and with authority to take action in which an issue in controversy has arisen, for example, the Contracting Officer, supervisor or other management official having authority to grant relief or decide the issue. The RMO is responsible for ensuring he/she has authority to enter into a final resolution agreement. Policy, authority, and legal consideration shall be coordinated prior to entering into a resolution agreement.

5. Neutral. An individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy. This individual may be a Government employee or someone outside the Government.

6. Issue in Controversy. An issue which is material to a decision concerning an administrative program of an organization, and with which there is a disagreement between the DLA Field Activity and persons who would be substantially affected by the decision, or between persons who would be substantially affected by the decision, or between persons who would be substantially affected by the decision but shall not extend matters specified under the provisions of sections 2302 and 7121(c) of Title 5 (prohibited personnel practices, Hatch Act violations and matters already subject to Collective Bargaining Agreements). Also, this directive does not cover arbitration of grievances under a negotiated labor-management agreement.

7. Shared Neutral. DRMS Office of Counsel (DRMS-G) and the Battle Creek Veteran's Administration Medical Center (VAMC), participate in a program to share neutrals from their respective pool of Federal mediators. The purpose of this program is to provide a source of quality, low-cost mediation services principally for Michigan and surrounding areas within a 150-mile radius. The expense for mediation services will be on the Agency requiring the mediation services (e.g., travel and per diem).

8. Resolution Agreement. Written agreement between parties in a dispute.

E. POLICY.

1. "Early Detection is Early Correction". ADR techniques shall be used as an alternative to litigation or formal administrative procedures to the maximum extent practicable at the earliest stage of a controversy.

2. DRMS, DLIS, and DSI0 shall consider the use of ADR in every situation where unassisted negotiations have not proved effective. This includes the use of ADR as provided for in this instruction and the use of ADR as provided for by the DLAR 5145.1, Alternative Dispute Resolution Program.

3. If parties agree to utilize ADR, their complaint time allotments cease pending resolution. If resolution is not reached, parties can readdress their complaint utilizing formal means (i.e., grievance procedures, EEO complaint).

4. A management decision not to use ADR shall be made by an official at least one level above the deciding official - after consultation with legal counsel. A management decision not to use ADR (whether or not ADR has been specifically requested) shall be explained in writing.

5. While all forms of ADR should be considered and used if appropriate, special consideration shall be given to the use of mediation. This process, in which the parties to a dispute meet in a non-adversarial setting and arrive at their own resolution, with the help of a skilled and certified facilitator, is especially effective for workplace disputes and minor contract disputes.

6. To the maximum extent practicable, Shared Neutrals' facilitators should be used when a DRMS, DLIS and/or DSIO party involved in a controversy request a facilitator/mediator outside of the Federal Center.

F. RESPONSIBILITIES.

1. DRMS-G shall:

- a. Assist DRMS, DLIS, and DSIO Commanders and managers in carrying out their ADR responsibilities, and facilitate the sharing of ADR information and resources through the Federal Center.
- b. Serve as the DLA Field Activity ADR Counsel and/or ADR Specialist.
- c. Administer the provisions of the instructions and furnish guidance and assistance in implementation of ADR practices and procedures.
- d. Establish an ADR Working Group.
- e. Act as the Liaison between the DLA Field Activity and the DLA ADR Counsel.
- f. Develop ADR policies, procedures, and initiatives, coordinating and promoting them with DRMS, DLIS, DSIO, and the field offices.
- g. Monitor implementation, evaluate program execution and results, and submit periodic reports describing DRMS, DLIS, and DSIO use of ADR to DLA.
- h. Determine the appropriate and necessary ADR training.
- i. Represent the DLA Field Activity in the DLA ADR Working Group.
- j. Conduct annual ADR training.
- k. Maintain this directive in a current status and review it biennially.

2. Managers shall:

- a. Ensure ADR techniques are used to the maximum extent practicable, to avoid the unnecessary expenditures of time, money, and resources on litigation.
- b. Take steps to foster greater use of ADR including the elimination of unnecessary barriers.
- c. Provide ADR training to selected personnel.
- d. Coordinate ADR activity with DRMS-G and report ADR results to the DRMS ADR Counsel/Specialist.
- e. Ensure when participating in ADR that coordination has taken place with the Office of Counsel.

G. EFFECTIVE DATE AND IMPLEMENTATION. This directive is effective and implemented upon signature by the applicable DRMS, DLIS, and DSIO authority.

H. INFORMATION REQUIREMENTS. (Reserved for future use.)

/s/

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