



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
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IN REPLY
REFER TO

J-33
PROCLTR 01-05

APR 12 2001

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT; Alternative Dispute Resolution (ADR) and Contracting Officers' Final Decisions
(DLAD Section 33.2 11)

The purpose of this PROCLTR is to provide supplemental policy concerning ADR. Specifically, it requires that language about ADR be included in contracting officers' final decisions, unless the proper official has determined ADR to be inappropriate in accordance with Defense Logistics Agency (DLA) Directive 5145.1, Alternative Dispute Resolution, Section E3 (available via DLAPS or from your Office of Counsel). The Defense Energy Support Center (DESC) has followed this policy for some time now; we are hereby expanding it for use at all DLA activities.

Contracting officers should, of course, consider use of ADR even before a claim is filed, and certainly should consider it before a final decision is issued. But in some cases, a contractor may reject ADR, and including this language again in the appeal rights section of final decisions gives them another opportunity to select this option. This is particularly helpful for the consideration of contractor counsel who may not have been involved in earlier stages of the dispute process, and may increase the likelihood that ADR will actually be used. Additionally, including ADR in the final decision documentation will help systematize ADR in DLA, increasing the ADR program's effectiveness. It also highlights for the Armed Services Board of Contract Appeals (ASBCA) or the Court of Federal Claims DLA's willingness to use ADR, increasing the chance that ADR could later be used to resolve the dispute. The attached coverage should thus further advance DLA and DoD policy on ADR, and benefit both contractor and contracting officer in addressing contract disputes.

The coverage set forth in the Attachment will be incorporated into the electronic DLAD upon signature, and is effective immediately. The point of contact is Ms. Mary Massaro, J-336, who can be reached at DSN 427-1366 ((703) 767-1366), or via email addressed to mary_massaro@hq.dla.mil.

WILLIAM J. KENNY

Executive Director

Logistics Policy and Acquisition Management

Attachment



PART 33

PROTESTS, DISPUTES, AND APPEALS

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SUBPART 33.2 - DISPUTES AND APPEALS

33.209 Suspected fraudulent claims.
33.211 Contracting officer's decision.
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SUBPART 33.2 - DISPUTES AND APPEALS

33.211 Contracting officer's decision.

(a)(4)(v) Language about alternative dispute resolution (see FAR 33.214) shall be included in the contracting officer's final decision, unless the proper official has determined ADR to be inappropriate in accordance with DLA Directive 5145.1, Alternative Dispute Resolution, Section E3. Add a sentence substantially as follows to the end of the paragraph regarding the contractor's appeal rights: "Subject to the appeal time frames specified above, you may request that this dispute be resolved using alternative dispute resolution procedures."
