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DFAS 5145.5-R

**DEFENSE  
FINANCE AND  
ACCOUNTING SERVICE**

**ALTERNATIVE DISPUTE RESOLUTION**

FOREWORD

Alternative Dispute Resolution (ADR) allows DFAS to offer methods, in addition to existing formal complaint processes, which can resolve issues in a less costly and time-consuming manner to the mutual satisfaction of the parties. The use of ADR techniques can also improve the relationship between the parties to the dispute.

I urge you to be creative in finding ways to include ADR in as many functional areas as possible. The use of ADR techniques can make DFAS a more efficient and productive organization.

/signed/  
Richard F. Keevey  
Director

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REFERENCES

- (a) The Administrative Dispute Resolution Act of 1996, Pub. L. 104-320, codified at 5 U.S.C. §§ 571-584
- (b) DoD Directive 5145.5, "Alternative Dispute Resolution," April 22, 1996
- (c) Executive Order 12988, "Civil Justice Reform", February 5, 1996
- (d) Report of the National Performance Review, "Creating a Government That Works Better & Costs Less", September 7, 1993
- (e) Chapter 71 of title 5, United States Code, "The Federal Service Labor-Management Relations Statute"
- (f) Executive Order 12871, "Labor-Management Partnerships", October 3, 1993

DEFINITIONS

(a) Alternative Dispute Resolution. Any technique (such as mediation, conciliation, facilitation, arbitration, mini-trials, or any other method to which the parties agree) for resolving issues in controversy, without resort to litigation in either an administrative or judicial forum.

(b) Deciding Official. The person responsible for taking the action in which an issue in controversy has arisen.

(c) Dispute Resolution Specialist. The senior official within DFAS responsible for the development and implementation of DFAS policies on the use of alternative means of resolving disputes.

(d) Issue in Controversy. An issue which is material to a decision, and with which there is a disagreement between the agency and person who would be substantially affected by the decision, but shall not extend to matters specified under the provisions of 5 U.S.C. §§ 2302 and 7121(c). An issue in controversy may also involve any work related disagreement between DFAS employees.

CHAPTER 1  
INTRODUCTION

A. PURPOSE AND SCOPE

1. The purpose of this regulation is to authorize the use of alternative dispute resolution (ADR) techniques within the Defense Finance and Accounting Service (DFAS). This regulation provides internal guidance only and does not confer any additional rights on parties to an issue in controversy with DFAS.

2. This regulation is applicable to all DFAS organizations, and can be used for all issues in controversy, as defined herein.

B. POLICY

The goal of ADR is to resolve disputes to the mutual satisfaction of the parties in a timely and cost-effective manner. ADR may be used to resolve the entire issue in controversy or to resolve a portion of the issue in controversy.

C. RESPONSIBILITIES

1. The Director, DFAS will review and approve ADR programs for use within DFAS, and ensure that sufficient resources are provided for training and program implementation.

2. The General Counsel, DFAS will serve as the DFAS Dispute Resolution Specialist (DRS). The DRS is responsible for administering the provisions of this regulation and furnishing guidance and assistance in its implementation. This designation is delegable. The DRS will monitor the implementation of DFAS ADR programs, evaluate the programs' execution and results, advise on training opportunities, and coordinate the procurement of third party neutrals from sources outside the Federal Government. All ADR programs and any changes to those programs must be coordinated by the DRS prior to their submission to the DFAS Director for approval.

3. Deputy Directors at DFAS Headquarters, Center Directors, Operating Location Directors, and other functional Directors will implement this regulation within their organizations for the functional programs assigned to them. Applicable bargaining obligations will be satisfied before implementation of a program or a change to a program.

D. CONSIDERATIONS PRIOR TO THE USE OF ADR

1. The use of ADR may not be appropriate in the following circumstances:

a. A definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent.

b. The matter involves or may bear upon a significant question of Government policy that requires additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency.

c. Maintaining uniformity in individual decisions due to special policies is of importance, and such a proceeding would not likely reach consistent results among individual decisions.

d. The matter significantly affects persons or organizations who are not parties to the proceedings.

e. A full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record.

f. The agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere with the agency's fulfilling that requirement.

2. Alternative means of dispute resolution authorized by this regulation are voluntary procedures which supplement, rather than limit, other available agency dispute resolution methods.