

(2) Recommend to the Administrator that the entire contract dispute be dismissed; or

(3) With delegation from the Administrator, dismiss the entire contract dispute.

(d) An order of dismissal of the entire contract dispute, issued either by the Administrator or by the Office of Dispute Resolution for Acquisition where delegation exists, on the grounds set forth in this section, shall constitute a final agency order. An Office of Dispute Resolution for Acquisition order dismissing or striking a count or portion of a contract dispute shall not constitute a final agency order, unless and until such Office of Dispute Resolution for Acquisition order is incorporated or otherwise adopted in a decision of the Administrator or the Administrator's delegatee.

(e) Prior to recommending or entering either a dismissal or a summary decision, either in whole or in part, the Office of Dispute Resolution for Acquisition shall afford all parties against whom the dismissal or summary decision is to be entered the opportunity to respond to a proposed dismissal or summary decision.

Subpart D—Alternative Dispute Resolution

§ 17.31 Use of alternative dispute resolution.

(a) The Office of Dispute Resolution for Acquisition shall encourage the parties to utilize ADR as their primary means to resolve protests and contract disputes.

(b) The parties shall make a good faith effort to explore ADR possibilities in all cases and to employ ADR in every appropriate case. The Office of Dispute Resolution for Acquisition will encourage use of ADR techniques such as mediation, neutral evaluation, or minitrials, or variations of these techniques as agreed by the parties and approved by the Office of Dispute Resolution for Acquisition. The Office of Dispute Resolution for Acquisition shall assign a DRO to explore ADR options with the parties and to arrange for an early neutral evaluation of the merits of a case, if requested by any party.

(c) The Default Adjudicative Process will be used where the parties cannot achieve agreement on the use of ADR; or where ADR has been employed but has not resolved all pending issues in dispute; or where the Office of Dispute Resolution for Acquisition concludes that ADR will not provide an expeditious means of resolving a particular dispute. Even where the Default Adjudicative Process is to be used, the Office of Dispute Resolution for Acquisition, with the parties consent, may employ informal ADR techniques concurrently with and in parallel to adjudication.

§ 17.33 Election of alternative dispute resolution process.

(a) The Office of Dispute Resolution for Acquisition will make its personnel available to serve as Neutrals in ADR proceedings and, upon request by the parties, will attempt to make qualified non-FAA personnel available to serve as Neutrals through neutral-sharing programs and other similar arrangements. The parties may elect to employ a mutually Compensated Neutral, if the parties agree as to how the costs of any such Compensated Neutral are to be shared.

(b) The parties using an ADR process to resolve a protest shall submit an executed ADR agreement containing the information outlined in paragraph (d) of this section to the Office of Dispute Resolution for Acquisition within five (5) business days after the Office of Dispute Resolution for Acquisition conducts a status conference pursuant to § 17.17(c). The Office of Dispute Resolution for Acquisition may extend this time for good cause.

(c) The parties using an ADR process to resolve a contract dispute shall submit an executed ADR agreement containing the information outlined in paragraph (d) of this section to the Office of Dispute Resolution for Acquisition as part of the joint statement specified under § 17.27.

(d) The parties to a protest or contract dispute who elect to use ADR must submit to the Office of Dispute Resolution for Acquisition an ADR agreement setting forth:

(1) The type of ADR technique(s) to be used;