



## AMC DCSPER News Item



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### **Alternative Dispute Resolution Program: We Want to Hear from You!**

#### **AMC's ADR Program and New ADR Pamphlet**

The primary objectives of the AMC ADR Program are to adopt an interdisciplinary approach to address disputes and dispute resolution, to design processes, to enable the parties to foster creative, acceptable solutions, and to produce expeditious decisions requiring fewer resources than formal litigation.

AMC Command Counsel recently published a pamphlet entitled "AMC Alternative Dispute Resolution Program". The pamphlet is designed to educate the AMC work force and our customer community (defense contractors and others) about the advantages of alternative dispute resolution (ADR) processes over traditional litigation.

#### **The ADR Advantage**

ADR works by building a relationship in which the parties seek to solve their own problems and disputes without turning the issue over to a judge or another third-party for a decision. Unlike the parties, the judge has no "stake" in the outcome of the dispute, so it makes sense for the parties to design their own solution. If you compare ADR to traditional litigation before the courts and administrative tribunals, you will note there are several advantages to the use of ADR:

- ADR reduces the cost of litigation
- ADR avoids program delays occasioned by protracted litigation
- ADR recognizes the need for maintaining harmonious relationships--employment or business
- ADR shifts the focus of decision making from a legal to a business or employment perspective.

#### **AMC Commander's Commitment to ADR**

The AMC Command Counsel, Edward J. Korte, is the AMC ADR Senior Advisor, and

our MSC's have appointed their chief counsels to be MSC ADR Senior Advisors. The pamphlet was distributed at the Atlanta XXII Conference in April, and by memorandum from General Wilson to the AMC MSC commanders, HQ AMC deputy chiefs of staff and separate office chiefs in early May. In his memorandum, the AMC commanding general makes it clear that he is committed to ADR and urges his subordinate commanders to have active ADR programs.

### **ADR Program Success**

AMC is a recognized leader in ADR, with one of our programs contributing to the issuance of an Executive Order by President Clinton. In the early 1990s, the number of protests filed yearly with the General Accounting Office (GAO) and the General Services Administration Board of Contract Appeals (GSBCA) by unsuccessful bidders for AMC contracts exceeded 300. The rules of these two tribunals were becoming more formal and judicial. Traditional protest resolution processes used by the GAO and the GSBCA are costly (both money and personnel resources), often result in program delays, interferes with business relationships, and puts the decision in the hands of those with no stake in the outcome. Resolution is based on legal principles and not on business judgment. We had to act.

AMC initiated the AMC-level Protest Program in April 1991, offering bidders an opportunity to avoid costly GAO or GSBCA litigation by filing a protest at HQ AMC. During the period ending in December 1995, 338 AMC-level protests were filed. The average resolution time for the GAO is 75 days; at HQ AMC it is 15 days. The savings in money, personnel resources and avoidance of program delays are immeasurable--to both AMC and the defense contractors. Our ADR program is so successful that it was named one of the "Ten Best Government Procurement Practices" by the Office of Federal Procurement Policy. In October 1995, the President issued Executive Order 12979, directing federal agencies to allow protests to be filed at the agency level--a process modeled after the AMC-level Protest Program.

### **ADR Employment Initiatives**

In the employment arena, AMC has achieved success using an ADR program called Elected Voluntary Alternative DESCOM Discipline (EVADED) also known as Alternative to Traditional Discipline (ATD). Created by the former Depot System Command, this approach recognizes that, unless removal is the penalty, there is a continuing employment relationship with the employee who is disciplined. If the employee and manager can agree to recognize that there is a problem and mutually solve it, there is a greater chance to have a better future relationship than the acrimonious one that often results from adversarial litigation.

The EVADED/ATD ADR process contains the following elements:

- Negotiated with AMC labor unions

- Coverage of specified conduct/performance issues
- Admission of wrongdoing
- Remedy negotiated between the parties--they design the solution
- Discipline is officially recorded
- Waiver of grievance, appeal, complaint rights
- Commitment to future course of behavior, performance and assistance from management

AMC installations and activities are encouraged to adopt their own ADR program initiatives to meet local needs. For example, when CECOM faced an increasing number of performance rating grievances they developed an ADR program with the support and agreement of the labor union, the components of which include:

- Expedited hearing before a panel
- Strict time lines agreed to in advance
- Facilitator clarifies issues
- Avoids costly arbitration
- Resolution by "stakeholders" in the organization

#### **Identifying New, Expanded or Current ADR Programs**

AMC DCSPER has identified Willie (Jay) Jamison, DSN 767-9548, E-Mail: wjamison@hqamc.army.mil, as the AMC point of contact for employment related ADR programs. The Command Counsel point of contact is Stephen Klatsky, DSN 767-2304, E-Mail: sklatsky@hqamc.army.mil. We encourage using an interdisciplinary approach to ADR using personnel, legal, line managers, and union representatives to design approaches that fit local needs. HQ AMC is also a central clearinghouse for ADR related developments and we will be sending out information we hope will be useful to you. We are interested in hearing about your ADR programs so that we can learn from and share your experiences with other AMC organizations.

We want to hear from you!!!

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