

(3) With a delegation from the Administrator, dismiss the entire contract dispute or enter a summary decision with respect to the entire contract dispute.

(e) An order of dismissal of the entire contract dispute or summary decision with respect to the entire contract dispute, issued either by the Administrator or by the ODRA, on the grounds set forth in this section, shall constitute a final agency order. An ODRA order dismissing or striking a count or portion of a contract dispute or entering a partial summary judgment shall not constitute a final agency order, unless and until such ODRA order is incorporated or otherwise adopted in a final agency decision of the Administrator or the Administrator's delegatee regarding the remainder of the dispute.

(f) Prior to recommending or entering either a dismissal or a summary decision, either in whole or in part, the ODRA shall afford all parties against whom the dismissal or summary decision would be entered the opportunity to respond to a proposed dismissal or summary decision.

§ 17.33 Adjudicative Process for contract disputes.

(a) The Adjudicative Process for contract disputes will be commenced by the ODRA Director upon being notified by the ADR neutral or by any party that either—

(1) The parties will not be attempting ADR; or

(2) The parties have not settled all of the dispute issues via ADR, and it is unlikely that they can do so within the time period allotted and/or any reasonable extension.

(b) In cases initiated by a contractor against the FAA, within twenty (20) business days of the commencement of the Adjudicative Process or as scheduled by the ODRA, the Product Team shall prepare and submit to the ODRA, with a copy to the contractor, a chronologically arranged and indexed substantive response, containing a legal and factual position regarding the dispute and all documents relevant to the facts and issues in dispute. The contractor will be entitled, at a specified time, to supplement the record with additional documents.

(c) In cases initiated by the FAA against a contractor, within twenty (20) business days of the commencement of the Adjudicative Process or as scheduled by the ODRA, the contractor shall prepare and submit to the ODRA, with a copy to the Product Team counsel, a chronologically arranged and indexed substantive response, containing a legal and factual position regarding the dispute and all documents relevant to the facts and issues in dispute. The Product Team will be entitled, at a specified time, to supplement the record with additional documents.

(d) Unless timely objection is made, documents properly filed with the ODRA will be deemed admitted into the administrative record. Discovery requests and responses are not part of the record and will not be filed with the ODRA, except in connection with a motion or other permissible filing. Designated, relevant portions of such documents may be filed, with the permission of the ODRA.

(e) The Director of the ODRA shall assign a DRO or a Special Master to conduct adjudicatory proceedings, develop the administrative adjudication record and prepare findings and recommendations for the review of the ODRA Director or the Director's designee.

(f) The DRO or Special Master may conduct a status conference(s) as necessary and issue such orders or decisions as are necessary to promote the efficient resolution of the contract dispute.

(g) At any such status conference, or as necessary during the Adjudicative Process, the DRO or Special Master will:

(1) Determine the appropriate amount of discovery required;

(2) Review the need for a protective order, and if one is needed, prepare a protective order pursuant to § 17.9;

(3) Determine whether any issue can be stricken; and

(4) Prepare necessary procedural orders for the proceedings.

(h) Unless otherwise provided by the DRO or Special Master, or by agreement of the parties with the concurrence of the DRO or Special Master, responses to written discovery shall be