

# *The U.S. Army Alternative Dispute Resolution Program*



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## *Annual Report to the Secretary of the Army 2008*

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*Submitted by  
The Army ADR Program  
Office of the General Counsel*

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*Army Alternative Dispute Resolution Program  
Annual Report for 2008*

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## EXECUTIVE SUMMARY

The Army ADR Program was established in January 2008 pursuant to a 22 June 2007 memorandum issued by the then Acting Secretary of the Army implementing Army Alternative Dispute Resolution policy. (See Attachment1). In this memorandum SA designated the Principal Deputy General Counsel of the Army as the Army Dispute Resolution Specialist, directed the hiring of an “ADR specialist” to help the ADRS implement the program, and further directed the Assistant Secretaries of the Army for Manpower and Reserve Affairs and Acquisition, Logistics and Technology to provide manpower assistance to the program in the areas of workplace and acquisition disputes. Accordingly, the Army ADR Program Office is headed up by a “Highly Qualified Expert,” who previously directed the Air Force ADR program for workplace disputes. He is assisted by two YA-03 ADR attorneys who are responsible for the ADR program in workplace and acquisition disputes. The two ADR attorney positions are funded by ASA(M&RA) and ASA(ALT) pursuant to Memorandums of Understanding with the General Counsel of the Army. (See Attachments 2 and 3).

The ADR program *vision* is to instill world class conflict management and informal dispute resolution capabilities in all interested Army personnel, thereby reducing the costs of conflict, improving the quality of outcomes, and preserving resources for the Army’s national security mission. The *mission* of the ADR program is to promote and facilitate the use of alternative dispute resolution (ADR) and other informal, collaborative conflict management methods to resolve disputes at the earliest stage feasible, by the fastest and least expensive means possible, and at the lowest possible organizational level, in support of DoD and Army business transformation objectives. The *strategic goals* of the ADR program are to train Army personnel in ADR and negotiation skills; provide Army-wide policies that promote ADR as the first option for conflict management and dispute resolution whenever practicable and appropriate; facilitate the provision of third-party neutral support whenever and wherever required; and identify and eliminate barriers to ADR.

The major focus of the ADR program in 2008 was to determine needs and requirements, through a baseline survey. From this came the realization that training is our most urgent priority, so the focus of the program in 2008 was to establish and deliver ADR training programs for a variety of Army personnel and disciplines, both independently and in collaboration with other established DoD ADR programs. As of the end of 2008, we have in place several training programs in place for attorneys, civilian personnel specialists, acquisition personnel, and Army civilian employees, to increase ADR awareness, teach good negotiation skills using an “interest-based” model, and train a cadre of Army personnel who can serve as third-party neutrals in a broad spectrum of disputes.

In addition to training, the ADR Program Office rendered direct third-party neutral assistance in over a dozen workplace disputes involving HQDA personnel and organizations. It provided substantive guidance to the Army Civilian Appellate Review Agency in rewriting the ADR provisions in the Army’s regulatory guidance for EEO complaints, and provided new ADR language for administrative reconsideration cases for NSPS employees. The office is also engaged in several exciting initiatives with DoD, the Air Force, and the Corps of Engineers to enhance the delivery of ADR services and training that will benefit all Army personnel.

# THE ARMY ADR PROGRAM

## ANNUAL REPORT 2008

### *1. Origins of the Army ADR Program*

The Administrative Dispute Resolution Act of 1996 (ADRA), as implemented by DoD Directive 5145.5, requires the Army to have a policy and program addressing the use of alternative dispute resolution (ADR) in its dispute resolution procedures. ADR is a collective term used to describe generally informal processes, using a neutral third party, to assist parties to a dispute resolve the dispute without resort to lengthy and costly litigation. Common ADR processes include mediation, arbitration, facilitation, and ombuds. Since 1995, before the ADRA became law, it has been Army policy to encourage the use of ADR whenever appropriate. However, the Army lacked a dedicated ADR program to ensure the Army-wide implementation of that policy until 22 June 2007, when the then Acting Secretary of the Army issued a new ADR policy memorandum that not only reaffirmed the Army's commitment to ADR in appropriate cases, but also directed the establishment and resourcing of an ADR program, housed within the Office of the General Counsel (OGC), to implement the policy in workplace and acquisition disputes Army-wide. (See Attachment 1).

Under the 2007 ADR policy, the Principal Deputy General Counsel (PDGC) is designated the Army Dispute Resolution Specialist (ADRS), a function mandated by Section 3 of the ADRA. In addition, the memorandum directed the hiring of an ADR Specialist within OGC to assist the ADRS implement the ADR policy and program, with manpower support from the Assistant Secretaries for Manpower and Reserve Affairs and Acquisition, Logistics and Technology to implement the ADR program in workplace and contract disputes.

The ADR Specialist was hired in the fall of 2007, and assumed his duties as part of the newly established Army ADR Program Office in January 2008. Initial focus of the program office is on facilitating and promoting ADR in workplace and acquisition disputes, and attorneys with extensive experience in ADR in both focus areas were hired during 2008 to begin development of the ADR program in their respective areas. The ADR program director and his professional staff have over 42 years of combined federal ADR experience.

### *2. Army ADR Program Vision, Mission and Strategic Goals*

**A. Vision:** Instill world class conflict management and informal dispute resolution capabilities in all interested Army personnel, thereby reducing the costs of conflict, improving the quality of outcomes, and preserving resources for the Army's national security mission.

**B. Mission:** Promote and facilitate the use of alternative dispute resolution (ADR) and other informal, collaborative conflict management methods in all Army activities, to resolve disputes at the earliest stage feasible, by the fastest and least expensive method possible, and at the lowest possible organizational level, in support of DoD and Army business transformation objectives.

### C. Strategic Goals:

- Establish and sustain an organic Army conflict management and dispute resolution capability at every level through delivery of world-class ADR and negotiation skills training to Army personnel.
- Formulate and implement coherent, consistent Army-wide ADR and conflict management policies that promote ADR as the first option to conflict and dispute resolution whenever practicable and appropriate.
- Facilitate the provision of timely, high-quality third-party neutral and other ADR services to Army field activities whenever and wherever they are required.
- Identify and eliminate barriers to using or attempting ADR through outreach and awareness education at all echelons of each Army command.

### 3. ADR Program Budget and Manning

A. ADR Program Budget. A major responsibility tasked in the Jun 07 ADR policy memorandum is to submit and execute the ADR program budget. The Army has lagged behind the other Services in execution of a Service-wide ADR strategy in part because of the lack of a dedicated ADR program budget. Our first objective as a new program start-up in the second quarter of FY08 was to establish an ADR Program budget and discrete accounting line in the OGC budget. The ADR Program Office initially requested a \$50,000 plus-up to the OGC FY08 budget during the mid-year budget review in order to accommodate travel and other incidental costs as the program ramped up. For FY09, a \$450,000 unfunded requirement was submitted. Although the discrete funding line for ADR has yet to be established in OGC's annual budget, there should be sufficient funding in FY09 to accomplish our major program initiatives. For the FY10-15 POM, the ADR Program Office has submitted a requirement for \$870,000 in FY10, increasing to \$1.2M in FY15 (See chart below). These amounts compare to the ADR program budgets in the Air Force (about \$1.4M in FY08) and Navy (\$400K in FY08), although the Army is considerably larger with more eligible dispute activity than our Sister Services. ADR program funds are generally allocated to three major function areas: outreach programs to improve ADR awareness and acceptance, ADR training programs, and ADR services support to HQDA and Army field activities. An example of such support would be the procurement or provision of qualified third-party neutrals to assist in resolving specific disputes.

ADR Program Funding Request FY10-15:

FY10	FY11	FY12	FY13	FY14	FY15
\$870K	\$920K	\$990K	\$1.06M	\$1.1M	\$1.2M

B. ADR Program Manning. Current ADR program manning includes the program director, an attorney hired as a "Highly Qualified Expert" under the authority of 5 U.S.C. § 9903. The program director came to the Army from the Air Force General Counsel's Office, where he

directed the Air Force ADR Program for Workplace Disputes for six years. The program director is assisted by two YA-03 attorneys who are responsible for implementing the ADR program in workplace and acquisition disputes. These attorneys are funded by ASA(M&RA) and ASA(ALT), pursuant to Memorandums of Agreement with OGC. (See Attachments 2 and 3). A GS-11 Schedule C attorney and a YB-02 administrative assistant were detailed from the OGC front office to provide additional program support during its stand-up and first year of operation. Longer term, the ADR Program Office is working to add a permanent full-time office manager position to help manage the ADR program budget, training programs, travel, and other administrative responsibilities, and will be looking to add attorneys if necessary as the program grows to embrace additional dispute categories. Finally, OGC will be acquiring an additional permanent attorney position in FY10 to replace the HQE director position (a term position).

#### ***4. ADR in Workplace Disputes***

The ADR program for workplace disputes is focused primarily on resolving disputes that arise among the community of Army civilian employees, although there are potential applications among military personnel as well. Most workplace ADR activity is concentrated in civilian discrimination complaints filed under Equal Employment Opportunity Commission regulations applicable to federal agencies (29 C.F.R. Part 1614), but other areas of opportunity are employee grievances under a negotiated or agency grievance procedure, adverse action appeals (Merit Systems Protection Board), and labor-management conflicts such as allegations of unfair labor practices, bargaining impasses, and negotiability appeals. EEO complaints, the largest category of workplace disputes, already have a well-established ADR component, as the EEOC has since 1999 required all agencies to have an ADR program available at both the informal and formal stages of the administrative complaint process. This has made it possible to work with offices in ASA(M&RA) and IMCOM with functional EEO complaints responsibility to begin integrating OGC guidance regarding Army ADR policy and procedures into existing regulatory vehicles, such as AR 690-600, the EEO complaints regulation, which is currently undergoing revision.

A. ADR Utilization in Army EEO Complaints. As noted, most Army ADR activity in workplace disputes is centered in EEO complaints because of EEOC requirements. Every year the Army reports its EEO complaint activity, including ADR activity, for the previous fiscal year, to the EEOC.<sup>1</sup> Therefore, EEO cases are the only workplace disputes for which reliable and comprehensive ADR data are currently available (a condition targeted for improvement by the ADR Program Office). In FY 2008, the Army reported using ADR in 22% of EEO cases at the informal stage of processing (508 out of 2313 cases), and 20% of its formal complaints (235 out of 1196 complaints closed in FY08). ADR was successful in producing settlements in 65% of the informal cases in which it was used, and 66% of the formal cases. These results, which are comparable to results reported by the Army in FYs 2006 and 2007, suggest that ADR is effective in resolving disputes *when it is used*. However, with participation rates hovering in the 20-to-25 percent range, there is substantial room for improvement. One reason for low ADR participation rates in Army EEO cases is the relatively low ADR offer rate, that is, the percentage of eligible disputes in which ADR is actually offered to the employee. In FY08, for example, the Army offered ADR in 1075 informal cases, less than half of the total caseload of

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<sup>1</sup> EEOC Form 462, Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints, Parts X (Informal Phase) and XI (Formal Phase), 5 Nov 2008 (A copy of the Army's Form 462 for FY08 is available in the Army ADR Program Office).

2313. In formal cases, the Army offered ADR in 340 complaints, less than a third of the 1196 complaints closed last year. We believe these rates can be substantially improved through tighter criteria for determining when ADR is appropriate, better case intake procedures, better and/or more ADR awareness education and training, and better availability of qualified third-party neutrals. Addressing and improving these conditions are all goals of the ADR program.

B. Army ADR Questionnaire for Non-EEO Disputes. To assess ADR activity and attitudes in workplace disputes other than EEO complaints, such as employee grievances and labor-management disputes, the ADR Program Office developed a questionnaire, coordinated it with HQDA stakeholders, and distributed it over the summer of 2008 to every Army installation serviced by a Civilian Personnel Advisory Center (CPAC). A copy of this questionnaire is at Attachment 4. The purpose of this questionnaire, which generated responses from more than half the installations receiving it, is to develop a baseline of current activity from which to formulate and implement the Workplace component of the Army 5-Year ADR Plan, particularly with respect to non-EEO disputes. Approximately 70 Army installations responded to questions regarding the nature and extent of current workplace ADR activity, most common ADR methods utilized in disputes, and the source of neutrals. The results indicate that despite a previous lack of centralized ADR support from an HQDA ADR program office, several installations do have ADR programs for non-EEO workplace disputes, and have been using them successfully. For example, 32% of locations that have one or more unions representing civilian employees have negotiated ADR processes as part of their grievance procedures. This is encouraging, but there clearly is room for expanded usage of ADR in labor-management disputes, and we will coordinate with union stakeholders to ensure program development meets the needs of all invested in workplace dispute resolution. Comprehensive ADR program development for labor-management disputes poses a unique challenge, as there are several hundred separate collective bargaining agreements covering units at Army installations, all of which must be separately negotiated, and that includes ADR provisions in the grievance procedures.

When asked what type of assistance is most needed by the field from the ADR Program Office, the results were aligned with our current ADR program goals. Over 70% responded that ADR and mediation training, and ADR policies, guidance and regulations are the key deliverables to promote and support the increased usage of ADR in workplace disputes. Our ADR and mediation training initiatives are particularly important, as 50% of the responding organizations use Army collateral duty mediators in disputes. Until now, there has been no standardized “Army” approach to training Army personnel to serve as mediators or other neutrals in workplace disputes. With the development of an Army Basic Mediation Course and our briefings and materials designed to promote ADR awareness and stakeholder investment in program development, Army installations now have a resource for developing their local programs and, more importantly, an organic Army source for high quality, standardized training.

C. Third-Party Neutral Support to HQDA Organizations. The ADR Program Office has taken advantage of its in-house mediation talent to provide mediation and facilitation services to various HQDA organizations, including the Office of the Administrative Assistant, Human Resources Command, the Army Wounded Warrior Program and IMCOM, to resolve individual and group workplace disputes. This direct customer service is very helpful in building trust and confidence in the ADR Program from our principal clients and customers.

D. National Security Personnel System (NSPS). As a result of changes to the NSPS in the FY 2008 National Defense Authorization Act, DoD and the Office of Personnel Management substantially rewrote the NSPS implementing regulations at 5 C.F.R. Part 9901. Among other things, the new regulation expands the scope of the administrative reconsideration procedure available to challenge performance ratings under the NSPS pay-for-performance rating and compensation system. As originally proposed, the new regulation did not allow for the use of ADR as part of the reconsideration procedure. The Army ADR Program Office proposed the addition of new language to expressly authorize and encourage the use of ADR to resolve reconsideration claims. DoD and OPM adopted this language substantially as proposed in the final rule (see 5 C.F.R. § 9901.413(d)). As a result, the Army has adopted a new policy authorizing use of ADR techniques, such as mediation, in reconsideration cases. This policy is in effect for the 2008 rating cycle.

### ***5. ADR in Acquisition Disputes***

The acquisition ADR program is focused primarily on contract disputes that are or could be heard by the Armed Services Board of Contract Appeals (ASBCA), the Government Accountability Office (GAO), the Court of Federal Claims, or federal district courts. While many of these disputes are already on the dockets of these tribunals, many more are still at the contracting officer stage, or perhaps even earlier, and we are interested in those nascent disputes as well.

Unlike the Workplace ADR program, the Acquisition ADR program attorney position was vacant until the end of September 2008, when a candidate with the right mix of acquisition, litigation, and ADR experience was found. This vacancy delayed implementation of many aspects of the program. Since filling the position, however, we have been aggressively canvassing Army acquisition clients and practitioners to acquire program data that is helping us determine where to target ADR support to be most helpful to Army acquisition activities. As part of this initial effort to establish a baseline of ADR requirements (both in training and program support), the Acquisition ADR Program Office is working on an electronic questionnaire to Army acquisition personnel in early 2009, not unlike the questionnaire we used to establish a baseline for the workplace ADR program.

Our goal in contract disputes is early dispute resolution, by the fastest and most inexpensive method possible. That goal can be achieved through traditional ADR methods such as mediation or other third-party interventions, or through simpler, more direct methods, depending on the case and the forum. For example, trial team litigators in the Contract and Fiscal Law Division (KFLD) have successfully resolved a large number of bid protests before the GAO through unilateral corrective action based on risk analysis. Since GAO bid protests have a short cycle time before decision, unilateral corrective action to resolve the protest is often a more effective path to early resolution than more traditional ADR methods that rely on the intervention of a third-party neutral. On the other hand, contract appeals filed under the Contract Disputes Act can take years to resolve, with escalating transaction and interest costs adding to the settlement costs as well as impeding performance of the contract as the case drags on. These factors make traditional ADR methods utilizing third-party neutrals a more attractive option for early resolution of contract appeals. The ASBCA has for years touted its ADR program, and provides several ADR options using specially trained ASBCA judges unaffiliated with the appeal to serve

as neutrals, free of charge to the litigating parties. Aggressive use of these methods by the Air Force in its ASBCA appeals dramatically reduced cycle times (time from filing to final action on the appeal), which in turn dramatically reduced transaction costs. To achieve comparable results for the Army, we have asked for access to KFLD's case management and tracking data to see if we are properly capturing ADR activity and, if not, how we can improve the process to do so. We have also offered to assist the Division in updating and promoting its ADR guidebook, a very useful practicum for contract litigators that has not been updated since 1997. Finally, we provided KFLD with sample ADR agreements and individual model clauses to assist them in better drafting of ADR agreements, which are the foundation of contract ADR processes.

We have met with ASBCA Chairman Paul Williams and some of his associate judges to search for ways to encourage greater use of ADR in Army contract appeals. One suggestion we made to Chairman Williams, which he indicated he would consider, is for the Board to follow-up its initial invitation to use ADR, made when the appeal is first docketed, with a second invitation later on, such as after pleadings have been filed. We think this is important because many cases that would benefit from ADR do not utilize it at an early stage of the dispute for fear that there is insufficient information to judge litigation risk or to evaluate other factors that would determine whether ADR is appropriate or not. This is unfortunate because ASBCA data have shown over the years that almost every appeal that goes into an ADR process is resolved using that process. Indeed, there are many ways to ensure the parties have sufficient information, even at an early stage of the dispute, to determine that ADR is appropriate. Moreover, inasmuch as the great majority of contract appeals are resolved through negotiated settlements anyway, there is really no reason why the Army should not be agreeing to ADR to resolve contract appeals more frequently than it does.

Since joining the Army ADR team in late September 2008, the acquisition ADR program director has been working with other key customers and stakeholders in the contracting arena, including the Acquisition Law Division in OGC, the Army Contracting Command and Army Materiel Command, to develop regulatory guidance to encourage greater use of ADR in contract disputes. The proposed vehicle would be a change to the Army supplement to the Federal Acquisition Regulation that would require a determination in every contract dispute whether ADR is appropriate or not, utilizing statutory and other well-defined criteria. Actually, this is not a huge stretch from current FAR guidance that generally requires contracting officers to articulate why ADR is not offered to resolve a contract dispute, or why a contractor's request for ADR to resolve the dispute was rejected. Moreover, requiring such a determination in every case is consistent with Army ADR policy that every case be considered for ADR. We anticipate the new AFARS requirement would itself be supplemented by additional procedural guidance to be published by the ADR Program Office after appropriate coordination with affected stakeholders.

## ***6. ADR Training***

One of the specific obligations levied on agencies by the ADRA is to train personnel involved in implementation of the ADR program in ADR and negotiation skills. Since successful implementation of ADR requires at a minimum that all agency personnel be aware of it and have a basic understanding of its value in resolving disputes, we view training as the single most important function of the ADR Program. Training increases ADR awareness, it imparts the

knowledge necessary to identify and remove unnecessary obstacles to use of ADR, and it provides essential skills for third-party neutrals to do their jobs effectively. During 2008, the ADR Program made significant progress in developing an organic Army ADR training capability and collaborating with other established ADR training programs in DoD. This is especially true in the Workplace area, but similar strides are beginning to be made in the Acquisitions area as well.

A. Workplace ADR Training. In the Workplace area, we have begun integrating OGC-designed (and in many cases OGC-delivered) ADR training into core Army professional curriculum for two key groups, the Civilian Human Resources Agency (CHRA) and Equal Employment Opportunity (EEO). Examples of this integration include: EEO in Workplace Disputes; the CHRA Basic and Intermediate L/MER Course; OAA/EEO “ADR for Supervisors,” and EEOCCR “ADR for Train the Trainer.” More recently we designed the curriculum for ADR awareness training for CHRA as part of the CHRA “L/MER for Supervisors” course, delivered at the installation level by CHRA instructors. Lastly, we have conducted ADR training for HQDA OAA/EEO in an ongoing effort, “ADR for EEO Specialists” to enhance the skills of specialists in resolving complaints at the lowest possible level.

To expedite the development and delivery of ADR training to Army audiences at the lowest possible cost, the ADR Program Office has partnered with others to either “piggy-back” on their training or develop and deliver training jointly. As an example of “piggy-backing,” we offered instructional support for the Air Force Negotiation and ADR Course (NADRC) for attorneys, held in May 08 at the Air Force JAG School at Maxwell AFB AL, in exchange for 10 Air Force-funded seats for Army attorneys to attend. We have tentatively agreed to participate in the May 09 NADRC, with 20 seats for Army attendees. Another example is an agreement with the Air Force Human Resource Management School at Maxwell AFB AL to deliver a one-week residential basic mediation course to an all-Army audience. This course is scheduled for September 2009.

Examples of collaboration with other services/DoD activities include:

- The ADR Program Office partnered with the Air Force to design and deliver a joint Basic Mediation Course at Ft Wainwright AK in Sep 08. This course provided the post with internal ADR capability for the first time, in both the EEO and L/MER arena, and allows the post to meet AR 690-600 requirements for training EEO mediators. The basic mediation course enables personnel to cross-train colleagues, develop neutrals, and do it all in a very remote location. As a result of the positive feedback the course received, the IMCOM Pacific regional center has requested a reprise of the course for other Pacific installations. We are looking at the possibility of doing this jointly again with the Air Force.
- The ADR Program Office is working with the DoD Center for Alternative Dispute Resolution and the Defense Equal Opportunity Management Institute (DEOMI) to review and update DEOMI’s basic mediation course, which is offered primarily to EEO practitioners from all services and other DoD activities. Our purpose in conducting the review and recommending revisions is to assure that the course provided by DEOMI to Army attendees meets OGC training standards.

B. Acquisition ADR Training. In the Acquisition area, we developed and delivered a two day ADR/negotiation skills seminar to contract litigation attorneys in Sep 08, and based on feedback from participants, are developing additional skills-based training sessions to offer practitioners in the future. We are also leading a DoD effort to collect and catalogue acquisition ADR training programs and materials for use by other DoD activities that do not have internal training resources. Current additional training initiatives for the acquisition community include:

- ADR and negotiation training for contract attorneys in the Contract and Fiscal law Division (KFLD) and in the field. The ADR Program Office has agreed to provide a standard curriculum of ADR and negotiation training to contract attorneys in post legal offices and other field activities as well as the litigators in KFLD. Each course will be taught by a team consisting of the ADR program manager for acquisition disputes and a KFLD attorney, and offered in our offices in Arlington or to audiences at the requesting site.
- Training and ADR support for contract and acquisition personnel. In response to the Gansler Commission report, the Army consolidated most contracting into one command, the Army Contracting Command, housed within Army Materiel Command. To help hone the Army's contract formation and administration practices, particularly with respect to issue identification and dispute avoidance, ACC is partnering with the Army ADR Program Office to conduct a series of one-week ADR workshops for acquisition professionals at five locations (Rock Island, Pentagon, San Antonio, Fort Detrick, and Aberdeen Proving Ground), followed up by ADR consultation and third-party neutral support as needed.

C. General ADR and Negotiation Training. We are working closely with the Judge Advocate General and his staff to expand or introduce training in ADR and associated subject areas for JAG Corps military and civilian attorneys. Our office developed and delivered a well-received presentation examining the interplay between dispute resolution and professional responsibility to OTJAG and U.S. Army Legal Services Agency attorneys. We are also engaged with the TJAG Legal Center and School in Charlottesville, Virginia, in reviewing plans of instruction for several courses for possible inclusion of new training modules focusing on ADR and negotiation skills for new JAGs, SJAs, and senior officers. We have tentatively identified several course offerings, including the Senior Officers Legal Orientation Course, the Basic Course, and the Contract Attorneys Course, where we believe the curriculum would benefit from inclusion of negotiation and ADR modules, even if on an elective basis. In addition, ADR Program Office personnel have taught ADR and negotiation in other courses at the TJAG Legal Center and School, including the Graduate course, the Law of Federal Employment course, the Rule of Law course, and the Federal Litigation course, and we expect to continue providing instruction in these courses in the future.

## ***7. Special Projects/Initiatives***

### **A. U.S. Army Corps of Engineers Institute for Water Resources**

The ADR Program Office is working with the Center for Conflict Resolution and Public Participation, part of the Institute for Water Resources (IWR-CPC), on two projects designed to

promote dispute resolution and collaborative processes. First, we are serving on a working group for the “Collaborative Capacity Development” initiative. IWR-CPC will develop a capacity assessment tool to assist USACE in assessing its corporate capability to foster partnerships and collaborative relationships. Data will be gathered in facilitated workshops across USACE. The results will be used to develop actions to maintain collaborative strengths and identify areas for enhancement of capabilities, particularly for water resource and management.

We are also assisting IWR-CPC with a large initiative to revise and update IWR’s extensive library of publications on ADR, conflict management, partnering, and other dispute resolution and conflict management processes. This series of working papers, case studies and pamphlets, originally published in the 1980s and 1990s, provides a wealth of information on various topics in ADR. Information on ADR processes, guidance on effective preparation for ADR events, and in depth case studies will be updated and supplemented with recent developments in the use of ADR in a wide variety of practice areas.

#### B. Electronic Interest-Based Negotiation Planning Tool (“Negotiation E-Tool”)

We are working with the Air Force ADR Program to develop and field an electronic, web-based tool to facilitate effective preparation for interest-based negotiations (IBN). The negotiation e-tool is based on an IBN model that helps negotiators map out their negotiation strategy in advance, using a simple worksheet approach. Instead of approaching negotiation as an ad hoc exercise, the e-tool borrows on the learning and experiences of others dealing with similar issues to populate the worksheet with options and alternatives that the negotiator may not have considered, thereby offering a greater chance of success in the negotiation. The negotiation e-tool allows the user to learn from others that have negotiated in similar disputes by providing “libraries” of potential topics and ideas for resolution. The tool promotes a corporate capability for more effective conflict resolution by allowing for Army institutional knowledge of negotiation to be shared rather than serve as an isolated event. The tool is currently in development and projected to be available to select Army audiences as part of ADR Program Office negotiation training during 2009.

C. Army Wounded Warriors Program. The ADR Program Office, in conjunction with the DoD Center for Alternative Dispute Resolution, is looking at ways the ADR community can support the efforts of the Wounded Warrior Program through its use of ombuds and other facilitators and independent third parties to provide confidential assistance to wounded soldiers and their families and loved ones. Ombuds and other advocates who serve as independent problem-solvers for federal agencies are “neutrals” under the Administrative Dispute Resolution Act, and the services they provide are well-recognized as ADR processes. In 2008 MEDCOM reported over 9,700 individual cases worked on behalf of soldiers, families and loved ones by ombuds at 31 separate installations and Medical Treatment Facilities, and these cases are reported as ADR activities to DoD. In addition, we are looking at other ways we can support the program, whether it be through providing professional mediation or other neutral services, training for ombuds and other facilitators, or simply ensuring that the people providing these essential services get the credit they deserve.

## ***8. Future Direction and Challenges***

### **A. Manning**

With a full-time director and two full-time supporting attorneys to implement the ADR Program in workplace and acquisition disputes, the Army ADR Program Office is sufficiently staffed with attorney talent to begin implementation of a viable, robust ADR program for the Army. Our current challenge is to acquire authorization and funding for a full-time, permanent office manager to provide sustainable administrative and program management support. This need is becoming especially acute as the detailed Schedule C attorney and administrative assistant depart the ADR Program Office in 2009. We have submitted a concept plan to validate this requirement. Over the long term, we plan to add as many as two more attorneys to the ADR program office, one to oversee ADR in environmental disputes (a significant area of activity, especially with the Corps of Engineers), and the other to back up the acquisition, workplace and training programs, as well as additional administrative support in the areas of budget, contract management, IT and web support, and travel.

### **B. Five-Year ADR Plan**

The June 2007 memorandum establishing Army ADR policy directed the development of an Army “Five-Year Plan” for ADR. This plan, which will include two major component plans for workplace and acquisition ADR, will focus on three major objectives. First, our budget and manpower priorities will be to emphasize outreach and ADR training to a multitude of Army audiences, providing direct ADR support to Army customers, including direct third-party neutral support in Army workplace, acquisition, and other disputes, and to promote dispute avoidance through proactive conflict management and negotiation skills programs. By focusing on direct contact with the field through training and third-party neutral services, we fulfill a need for these services while building trust and confidence in, and “brand” recognition of, the Army ADR Program and OGC. This focus will remain particularly strong in 2009 and beyond.

Second, there needs to be a comprehensive mechanism for ensuring access to ADR resources at the levels where disputes arise. Each of the component plans in the five-year plan will address access to ADR in the major focus areas, workplace and acquisition disputes. These plans will be the product of collaboration with major stakeholders at HQDA and in the field. Although specifics have not been firmly set, each plan will address fundamental issues such as the criteria for determining whether ADR is appropriate, where and how to obtain third-party neutrals, standards of practice for neutrals, and any other procedures or requirements that should be uniform throughout the Army.

Third, the plan will chart out the ADR data that need to be tracked and reported, and the methods for doing so. Although the Army has been collecting and reporting ADR data annually to DoD, it needs better and more robust data tracking and reporting to get a more accurate picture of the effectiveness of ADR in resolving disputes. Accordingly, we anticipate the ADR plan to propose metrics that will help us determine from year to year the progress made in making ADR available to disputants, of the degree to which ADR is used to resolve disputes, and the success of ADR to produce favorable outcomes for the parties with fewer delays and at less cost. Thus, for example, we will be looking at metrics that track the number and percentage of disputes in which ADR is made available, the number and percentage of cases in which it is used, the

number and percentage of cases in which a voluntary settlement is reached, the average amount of time to conduct ADR processes, and the level of satisfaction in ADR by its users.

Each component of the five-year plan will take time to develop through collaboration with stakeholders. In addition, we propose that each component plan be implemented in increments to ensure success. We expect to gain approval of and begin implementation of the Five-Year Plan in 2010.

## ***9. Conclusion***

The Army ADR Program had a successful inaugural year with the stand-up of the ADR Program Office in January 2008, followed by the hiring of exceptionally qualified and experienced attorneys to manage and begin growing the program in the areas of workplace and acquisition disputes. During 2008, the Army ADR Program began forging strong relationships with major ADR customers by developing major training initiatives and providing direct third-party neutral support. The Army ADR Program has been aggressive in collaborating with the DoD ADR Program and other DoD and non-DoD ADR programs, in particular the Air Force and Navy. Although many challenges remain, we believe 2008 was a good start; all the fundamentals are now in place to begin building a strong foundation to enable us to meet those challenges as we move forward into the future.

# ATTACHMENT 1



DEPARTMENT OF THE ARMY  
WASHINGTON DC 20310

JUN 22 2007

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Alternative Dispute Resolution Policy

1. This memorandum reaffirms the Army's implementation of the Administrative Dispute Resolution Act of 1990 by Secretary of the Army Memorandum, subject: Implementation of the Administrative Dispute Resolution Act of 1990, dated July 25, 1995. That Act, and Congress' renewal of the legislation through the Administrative Dispute Resolution Act of 1996, encourage the use of Alternative Dispute Resolution (ADR) to reduce the time and costs of settling disputes and empower deciding officials to resolve conflicts more creatively and expeditiously.
2. During the past decade, the Army has used ADR to settle thousands of disputes in a variety of areas, ranging from contract claims to personnel matters. This experience has demonstrated that ADR is an effective tool to resolve disputes quickly and with less cost than traditional methods.
3. Army personnel are urged to use ADR procedures in appropriate cases. The use of ADR techniques may resolve all or part of the issue in controversy. The goal is to resolve disputes at the earliest stage feasible, by the fastest and least expensive method possible, and at the lowest possible organizational level. It is essential that personnel involved in the resolution of disputes receive ADR training and consider ADR in each case.
4. The Principal Deputy General Counsel of the Army is the Army's Dispute Resolution Specialist (ADRS). The ADRS shall:
  - a. Serve as the proponent for establishing and implementing Army ADR policy, guidance, and regulations;
  - b. Submit, manage, and execute the Army ADR Program budget;
  - c. Encourage, develop, and implement ADR initiatives, activities, and training throughout the Army;
  - d. Identify and eliminate unnecessary barriers to the use of ADR;
  - e. Ensure Army personnel are aware of and have access to existing ADR resources;
  - f. Ensure appropriate personnel receive ADR briefings and training;

SUBJECT: Army Alternative Dispute Resolution Policy

g. Prepare a summary report to the Secretary of the Army by September 30 of each year regarding progress made in implementing the Army ADR program in the previous year;

h. Develop a five-year plan for the Army ADR Program;

i. Secure resources necessary to implement the Army ADR policy and program;  
and,

j. Coordinate with the Assistant Secretaries of the Army for Acquisition, Logistics, and Technology; Civil Works; Manpower and Reserve Affairs; Installations and Environment; and Financial Management and Comptroller; The Judge Advocate General; the Command Counsel of Army Materiel Command; the Chief Counsel of the Corps of Engineers; and other appropriate organizations for the development and implementation of the Army ADR program.

5. To assist the ADRS in performing these responsibilities, I am directing the hiring of an ADR specialist within the Office of the Army General Counsel (OGC). In addition, the Deputy Under Secretary of the Army, in coordination with the Assistant Secretaries of the Army for Manpower and Reserve Affairs and Acquisition, Logistics, and Technology, shall identify appropriate personnel to detail to the OGC, for the purpose of facilitating the application of ADR initiatives in the areas of workplace disputes and acquisition.



Pete Geren

Acting Secretary of the Army

Distribution:  
ASA (Civil Works)  
ASA (M&RA)  
ASA (I&E)  
ASA (FM&C)  
ASA (ALT)  
TJAG  
Command Counsel, AMC  
Chief Counsel, COE  
SAGC

## ATTACHMENT 2

### MEMORANDUM OF UNDERSTANDING

- References:
- (a) Section 3 of the Administrative Dispute Resolution Act of 1996, P.L. 104-320, P.L. 104-320, 5 U.S. Code Section 571, *et seq.*
  - (b) Department of Defense Directive 5145.5, "Alternative Dispute Resolution" (April 22, 1996)
  - (c) SECARMY Memorandum, "Army Alternative Dispute Resolution Policy" (22 June 2007)

This Memorandum of Understanding (MOU) is entered into by the General Counsel of the Army (OGC) and the Assistant Secretary of the Army for Manpower and Reserve Affairs, ASA (M&RA), to memorialize their mutual understanding and agreement with respect to the funding and assignment of a YA-905-03 attorney position in the Army Alternative Dispute Resolution Program Office located in OGC.

#### BACKGROUND AND PURPOSE

Reference 1 requires, *inter alia*, that each agency adopt a policy addressing the use of alternative dispute resolution (ADR) processes in informal and formal adjudications, contract administration and litigation. It also requires the head of each agency to designate a senior official to be the dispute resolution specialist (DRS) of the agency, who is responsible for implementing the provisions of the Act and the agency's ADR policy. Finally, the Act requires the agency to periodically train its personnel in the agency's ADR policy, including theory and practice of negotiation, mediation, arbitration, or related techniques.

Reference 2, paragraph 4, requires each DoD Component to "establish and implement ADR policies and programs;" to "use ADR techniques...whenever appropriate;" and to "foster increased use of ADR techniques."

Pursuant to these authorities, the Acting Secretary of the Army (SECARMY) issued Reference 3, designating the Principal Deputy General Counsel of the Army as the Army Dispute Resolution Specialist (ADRS) and directing the hiring of an "ADR specialist" to be located within OGC. The Assistant Secretaries of the Army for Manpower and Reserve Affairs and for Acquisition, Logistics and Technology were tasked to help provide personnel and funding support to OGC for the purpose of facilitating the application of ADR initiatives in the areas of workplace and acquisition disputes.

In accordance with this SECARMY direction, ASA (M&RA) authorized and funded a YA-0905-03 attorney position, located within OGC, to assist the ADRS and the ADR specialist to implement the Army ADR policy and program in the area of civilian workplace disputes, which position was filled effective 17 February 2008.

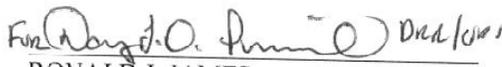
Although the transfer and funding of this attorney position are essential to begin the process of building the Army ADR program in the area of workplace disputes, as contemplated in the SECARMY ADR policy memorandum, the long-term viability of the ADR program requires a dedicated, permanent, full-time manpower authorization to develop and revise Army ADR policy in workplace disputes, to oversee the provision of mediation and third-party neutral

services to Army activities all over the world, and to ensure that Army personnel receive necessary ADR and related training as required by the ADR Act. Accordingly, in order to ensure successful establishment of the Army ADR Program, and to ensure its long-term viability into the future, the parties understand and agree as follows:

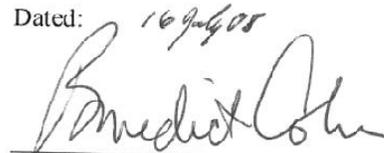
UNDERSTANDING AND AGREEMENT

1. ASA (M&RA) shall continue to provide to OGC and fund, on a recurring, permanent basis, the YA-03 attorney position located in OGC in support of the Army ADR program for workplace disputes. The incumbent of the position shall report through OGC channels and shall be part of the OGC NSPS hierarchy for purposes of NSPS performance ratings and performance based pay determinations. Salary increases and bonuses resulting from performance payouts as determined by the OGC pay pool manager shall be the responsibility of ASA (M&RA).
2. OGC will dedicate the position to implementing and overseeing the Army ADR program for workplace disputes, including equal employment opportunity complaints, employee grievances, labor-management disputes, and other areas related to Army civilian personnel programs. The incumbent in the position shall devote a majority of duty time to supporting and promoting the use of ADR in workplace disputes, including sponsoring and conducting appropriate training programs for ASA (M&RA) and other Army personnel charged with responsibility for managing Army workplace dispute programs.
3. OGC has established the Army ADR Program, and is working to establish a dedicated ADR program budget and accounting line. Once this has been accomplished, ASA (M&RA) will transfer the YA-03 position to OGC as a permanent full-time manpower authorization, but will continue to fund the position as agreed.
4. This MOU shall remain in force and effect indefinitely, and may not be modified, rescinded, repudiated, or otherwise terminated except upon terms mutually agreed to in writing and signed by the parties hereto, their successors, or their duly authorized representatives.
5. This MOU constitutes the entire agreement of the parties. No other agreement express or implied is contained herein.

Dated:

  
RONALD J. JAMES  
Assistant Secretary of the Army  
(Manpower and Reserve Affairs)

Dated:

16 July 05  
  
BENEDICT S. COHEN  
General Counsel

# ATTACHMENT 3

## MEMORANDUM OF UNDERSTANDING

- References:
- (a) Public Law 104-320, the Administrative Dispute Resolution Act of 1996, 5 U.S. Code Sections 571, *et seq.*
  - (b) Department of Defense Directive 5145.5, "Alternative Dispute Resolution" (April 22, 1996)
  - (c) SECARMY Memorandum, "Army Alternative Dispute Resolution Policy" (22 June 2007)

This Memorandum of Understanding (MOU) is entered into by the General Counsel of the Army (OGC) and the Assistant Secretary of the Army for Acquisition, Logistics and Technology, ASA(ALT), to memorialize their mutual understanding and agreement with respect to the funding and assignment of a YA-905-03 attorney position in the Army Alternative Dispute Resolution Program Office located in OGC.

### BACKGROUND AND PURPOSE

Section 3 of the Administrative Dispute Resolution Act, Reference (a), requires each federal agency to, *inter alia*, adopt a policy addressing the use of alternative dispute resolution (ADR) processes in informal and formal adjudications, contract administration, litigation and other dispute resolution procedures; designate a senior official to be the dispute resolution specialist (DRS) of the agency, who is responsible for implementing the provisions of the Act and the agency's ADR policy; and to periodically train its personnel in the agency's ADR policy, including theory and practice of negotiation, mediation, arbitration, or related techniques.

Paragraph 4 of DoD Directive 5145.5, Reference (b), requires each DoD Component to "establish and implement ADR policies and programs;" to "use ADR techniques... whenever appropriate;" and to "foster increased use of ADR techniques."

Pursuant to these authorities, the Acting Secretary of the Army (SECARMY) issued Reference (c), designating the Principal Deputy General Counsel of the Army as the Army Dispute Resolution Specialist (ADRS) and directing the hiring of an "ADR specialist" to be located within OGC. The Assistant Secretary of the Army for Acquisition, Logistics and Technology (ASA(ALT)) was further tasked to help provide personnel and funding support to OGC for the purpose of facilitating the application of ADR initiatives in the areas of acquisition disputes.

In accordance with SECARMY's directive, ASA(ALT) agreed to fund a YA-0905-03 overhire position, located within OGC, to assist the ADRS and the ADR specialist to implement the Army's ADR policy and program in the area of contract disputes. This position was filled effective 28 September 2008.

Although the funding of this attorney position is essential to begin the process of building the Army ADR program in the area of contract disputes, as contemplated in the SECARMY ADR policy memorandum, the long-term viability of the ADR program requires a dedicated, permanent, full-time manpower authorization to develop and revise Army ADR policy in contract disputes, to implement this policy with respect to Army contract disputes, to facilitate the availability of third-party neutral services for Army disputes, and to ensure that

Army personnel receive necessary ADR and related training as required by the ADR Act. Accordingly, to ensure successful establishment of the Army ADR Program, and to assure its long-term viability into the future, the parties understand and agree as follows:

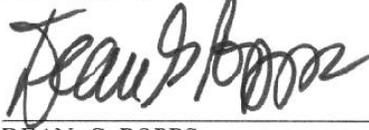
UNDERSTANDING AND AGREEMENT

1. Within 60 days of the execution of this MOU, OGC will submit a concept plan that includes the establishment of the acquisition ADR position as a permanent full-time authorization on the OGC Table of Distribution and Allowances (TDA), with associated funding from ASA(ALT) to continue pursuant to this MOU until the concept plan is approved and a permanent authorization for this position is established and its accompanying funding from a permanent funding source takes effect.
2. Until OGC obtains concept plan approval, which will provide a permanent TDA authorization and realign funding for the acquisition ADR YA-03 attorney position, ASA(ALT) shall continue to provide to OGC and fund, on a recurring basis, the salary and training expenses for the YA-03 attorney position located in OGC in support of the Army ADR program for contract disputes. The incumbent in the position shall report through OGC channels and shall be part of the OGC NSPS hierarchy for purposes of NSPS performance ratings and performance based pay determinations. Salary increases and bonuses resulting from performance payouts as determined by the OGC pay pool manager shall be the responsibility of ASA(ALT).
3. OGC will dedicate the position to implementing and overseeing the Army ADR program for contract disputes involving the Army at both Headquarters and at field activities, including Contract Dispute Act claims and bid protests, and other informal dispute resolution efforts. The incumbent in the position shall devote most of his or her duty time to supporting and promoting the use of ADR in contract disputes, including sponsoring and conducting appropriate training programs for ASA(ALT) and other Army personnel charged with acquisition-related responsibilities.
4. This MOU shall remain in force and effect until OGC obtains approval of their concept plan which will establish a permanent authorization and realign funding as described in paragraph 1 above. The MOU will not be modified, rescinded, repudiated, or otherwise terminated without six months notice by either party except upon terms mutually agreed to in writing and signed by the parties hereto, their successors, or their duly authorized representatives. This MOU will automatically terminate upon approval of the concept plan and realignment of funds.

Memorandum of Understanding – OGC and ASA (ALT)  
Page 3 of 3 Pages

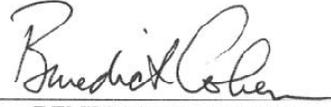
5. This MOU constitutes the entire agreement of the parties. No other agreement express or implied is contained herein.

Dated: DEC 18 2008



DEAN G. POPPS  
Principal Deputy to the Assistant Secretary  
of the Army  
(Acquisition, Logistics and Technology)

Dated: DEC 19 2008



BENEDICT S. COHEN  
General Counsel

## ATTACHMENT 4

### WORKPLACE DISPUTES ADR QUESTIONNAIRE

The Office of the General Counsel of the Army has established an Alternative Dispute Resolution (ADR) Program Office to implement Army ADR policy as set forth in a Secretary of the Army memorandum dated 22 June 2007 (Enclosure 2). ADR is a term used to describe a variety of approaches to resolving disputes instead of litigation or other adversarial proceedings. Common ADR processes in workplace disputes include mediation, facilitation, early neutral evaluation, fact finding, peer review, ombuds, and other voluntary procedures (See Enclosure 1 for definitions of these and other ADR processes). ADR is frequently used to resolve workplace disputes because it is much faster, cheaper and more flexible than traditional adjudication, giving both management and the employee more options for mutually satisfactory outcomes. Army ADR policy requires each dispute to be considered for ADR, and encourages its use whenever practicable and appropriate. The mission of the Army ADR Program is to implement this policy by helping all Army activities build and sustain their own ADR programs.

We developed this questionnaire to help us determine whether Army locations are using ADR in their workplace dispute programs, how it is being used, and how to improve its availability and usefulness. We are especially interested in workplace disputes outside the Equal Employment Opportunity complaint system, such as employee grievances, appeals, and labor-management disputes, because there is no Army-wide data system for collecting this information as there is for EEO complaints. Therefore, the primary target for this questionnaire is the installation CPAC or its functional equivalent. However, some of the questions are more general in nature or include EEO as well, inviting responses from other activities with an official interest in workplace dispute issues. Therefore, we ask that responses to the questionnaire be coordinated between the CPAC, EEO and Legal offices before being returned to us. **Participation is voluntary**, but the more responses we get, the better we can build an Army ADR program that enhances your dispute resolution efforts.

For purposes of this questionnaire the generic term "Location" means any post, fort, installation, direct reporting unit, district or regional office, activity, or other organization that manages civilian personnel.

1. Your Location:
2. Your (or other Point of Contact) name and duty email/phone:
3. Who has primary responsibility for ADR services at your Location? (If no one, leave blank.)

Location	
Name	
Email	
Phone	

4. Does your Location have an ADR Program or ADR Policy for Workplace Disputes (other than EEO complaints)? If so, please attach your policy if available. Yes No

Please indicate which organizations the ADR program/policy covers:

5. Other than binding arbitration as part of a negotiated grievance procedure, are there any ADR processes that have been negotiated with the union(s) at your Location? Yes No  
N/A (No union)

(Question # 5, continued)

If you checked "yes," please specify which union(s) with whom you have negotiated an ADR process and provide a copy of the ADR provision(s) with your response:

6. If an employee accepts an offer of ADR in a dispute (other than EEO), is management required to participate?  Yes  No  N/A (No ADR procedure)

7. Including EEO complaints, what are your sources for ADR neutrals, such as mediators? Check all that apply.

- Federal Mediation and Conciliation Service
- DoD Roster of Neutrals
- Investigations and Resolutions Division (CPMS/IRD)
- Other Agency Shared Neutrals Program (specify agency/program)
- Contracted neutrals
- Army civilian/military collateral duty neutrals
- Other (specify):

8. Including EEO complaints, does your activity pay for mediation or other third-party neutral services? Yes  No

If yes, what is (are) the source(s) of the funding for these services?

If yes, what is the average cost (actual or estimated) per case for mediation and/or other 3<sup>rd</sup> party neutral services?

9. Of the following, which ADR processes do you use for **non-EEO** workplace disputes? Check all that apply. (**Note:** do not include binding grievance arbitration in the "other" category)

- Ombuds
- Conciliation
- Facilitation
- Mediation
- Early Neutral Evaluation (Fact-Finding)
- Peer Review Panels
- Non-Binding Arbitration
- Factual Discovery
- Other (specify):
- N/A (Do not use ADR)

10. If you checked "Ombuds" as one of your selections in Question 9, please describe how the ombuds is utilized in resolving workplace disputes. Otherwise, skip to Question 11.

11. Does your Location provide ADR training for employees? (If you answer yes, answer below and Questions 12 and 13; if you answer no, skip to Question 14)  Yes  No

If yes, how often is ADR training conducted?  Don't Know

If yes, when was ADR training last conducted?  Don't Know

12. What type of ADR training is provided by your Location? Check all that apply.

- Negotiation (Interest-based Negotiation or Bargaining)
- Mediation
- Facilitation
- ADR Awareness
- Mediation Advocacy
- Partnering
- Consensus Building
- Other (Specify)

13. Who provides the ADR training for your Location? Check all that apply.

- HR
- EEO Office
- Servicing Legal Office
- Outside Vendor
- Other Agency (FMCS, FLRA, EEOC, etc...)
- Other (Specify)

14. In the table below, please identify the number and types of workplace disputes in which ADR was utilized at your Location during FY 2007. If you **did not** track or otherwise **cannot** report workplace dispute and/or ADR data for any of the disputes listed in the table below, please indicate here  and proceed to Question 15. Otherwise, please follow the instructions below for entering data into the table.

For each category of dispute on the left hand side of the table, please specify in the spaces provided the total number of cases that were initiated or otherwise processed in FY 2007, the total number of cases in which ADR was employed, the total number of ADR cases that were resolved (i.e., settled or claim was withdrawn), the ADR method most frequently employed for disputes in that category (click the box to activate a drop-down list to select the ADR method), and the primary source of neutrals for each category (click the box to activate a drop-down list to select the source).

Dispute Category	Total # of disputes in FY 2007 (if known)	# of disputes that used ADR	# of disputes resolved by ADR	Principal ADR method employed (click box for choices)	Primary source of neutrals (click box for choices)
Negotiated Grievances				Mediation	FMCS
Agency Administrative Grievances				Mediation	FMCS
Unfair Labor Practice Allegations				Mediation	FMCS
MSPB Appeals				Mediation	FMCS
Collective Bargaining Disputes				Mediation	FMCS
Other Workplace Disputes				Mediation	FMCS

15. Can military personnel at your Location use the local ADR process?  
Yes                      No                      N/A (Don't know, or no military personnel present)

If yes, please specify the type(s) of disputes (e.g., military equal opportunity complaints) in which ADR is used, and the ADR technique(s) employed.

16. Does your Location or activity have any ADR best practices or "Lessons Learned" to share?  
Yes                      No

If yes, please describe:

17. Do you obtain feedback or other customer satisfaction data from ADR participants? Yes    No

If yes, what information do you request, how do you collect it, and what do you do with it? (If you have a feedback form or survey, please include with or attach to your response.)

18. Based on your knowledge of your Location, its missions and functions, including the processing of civilian employee workplace disputes, which function listed below do you think is the BEST choice for coordinating ADR activities in both EEO and non-EEO workplace disputes at your Location? Select only one.

- EEO Office
- HR/CPAC
- Servicing Legal Office
- Garrison Commander or designee
- Other (Specify)

19. How can the Army OGC ADR Program Office provide support to your Location to meet your ADR Program Goals? Select the most important.

- Guidance/Regulations
- Outreach
- ADR/mediation training
- Funding support for neutrals
- Other (specify)

20. Additional comments:

Please save your completed questionnaire under the name of your Location and send it by email, together with any attachments, to **Linda Myers**, Deputy ADR Director, at [linda.myers5@us.army.mil](mailto:linda.myers5@us.army.mil), Phone 703-696-5263; or to **Peter Dickson** at [peter.dickson@us.army.mil](mailto:peter.dickson@us.army.mil), Phone 703-696-5360. If you prefer, you can fax it to us at 703-696-5239. DSN prefix for all phone numbers is 426. **PLEASE RETURN YOUR COMPLETED QUESTIONNAIRE NO LATER THAN THURSDAY, 31 JULY 2008!** Direct any questions or comments about the questionnaire to Ms. Myers or Mr. Dickson.

Thank you for taking the time to participate. We know your time is valuable, so we really appreciate your taking a few moments to help us chart the future of the Army ADR Program. Your responses, and those of your colleagues, will be used to help us design an ADR program that best serves the needs of you and your commanders. Although we may share aggregate anonymous response data with other offices that have an official interest in ADR, individual completed questionnaires will not be disseminated.