

C-5 ALTERNATE DISPUTE RESOLUTION PROCEDURE

LC and LA are both interested in the timely, efficient, and fair resolution of disputes. Based on the mutual desire for a system of resolving disputes that meets these goals and the objectives of the Air Force Public/Private Competition Program, LC and LA agree to the use of the following procedures under this contract for disposition of disputes. However, in no way shall these procedures restrict the LA Contracting Officer from effectively administering this contract.

A. Partnering

LC and LA will develop the use of partnering for dispute avoidance. Partnering is used to build an environment that encourages open communication and fosters the achievement of mutual goals. This process should assist both parties in identifying and solving problems before they become issues in controversy.

B. Dispute Resolution Board

Controversial issues that LA and LC mutually agree cannot be resolved internally may be submitted to the C-5 Dispute Review Board (DRB). The DRB will consist of three independent members who are employees of neither LA nor LC. The DRB members will provide an independent evaluation of entitlement, which shall include the basis for any recommendations. LC and LA agree that the DRB's written opinions will be admissible in any appeal under the public/private guidelines arising between LC and LA related to or arising under this contract.

1. Board Membership:

- a. LC and LA will each propose a list of three candidates at the grade level of GS-15/Colonel that they nominate for DRB membership. LC and LA will each select one member from the other party's list. The two selected members of the DRB will then select the third member of the DRB. The DRB chairperson will be selected by the three-member board.
- b. Board members must be neutral, act impartially, and not have any official, financial, or personal conflict of interest to any dispute issue before or during their service on the DRB, unless such interest is fully disclosed in writing to LC and LA and they both agree that the individual may serve on the DRB. (See FAR 33.201).
- c. Should replacing a DRB member become necessary, the replacement member shall be appointed in the same manner as the original member. The selection of a replacement DRB member shall begin promptly upon notification of the need for a replacement and shall be complete within two weeks.

2. Operation of the DRB:

- a. The DRB shall formulate its own internal operating procedures.

b. Either LC or LA may request the DRB review any controversial issue arising under or related to this contract which has not been resolved through negotiations. All requests to the DRB shall be submitted in writing to both the DRB and to the other involved party. The request for review of the issue shall clearly state the specific issue(s) in full detail.

c. LC and LA shall have 15 days after mutually agreeing that they are at an impasse to submit position papers to the DRB with copies provided to the other interested party. The position paper shall provide a comprehensive statement of the specific facts regarding the parties' positions on the issues in the case. Position papers must be reviewed by counsel for LC and LA who must agree that the parties' proposed resolutions of the dispute are consistent with law, rules, and regulations. The counsel review takes place prior to submittal to the DRB. The DRB will not be used to resolve legal or regulatory disputes. Unless specifically agreed to by the other involved parties prior to the submission date, no position paper shall exceed three double-spaced pages.

d. When an issue is submitted to the DRB it will be presented at a convened meeting as agreed by everyone after compliance with subparagraph "c" above. The review shall be conducted at a neutral location. The party requesting the review will present its position first, followed by the other party. During the review, LC and LA shall each be provided the full opportunity to present all of their evidence, documentation, and testimony. The DRB members may ask questions, request clarification, or ask for additional data. Copies of all information provided to the DRB by one party shall be provided to the other party. Summary/minutes of the meeting will be prepared by DRB administrative support.

e. After the review is concluded, the DRB shall meet to formulate its recommendations. The DRB's recommendations, complete with explanations of its reasoning, shall be submitted to LC and LA as a written report. The recommendations shall be based on the pertinent provisions of the contract, applicable laws and regulations, and the facts and circumstances involved in the issue. It is important for the DRB to express clearly and completely the logic and reasoning leading to the recommendation, so that both parties fully understand it. The goal is for the DRB's recommendations to be issued within two weeks of the issue being formally presented to the DRB.

f. After issuance of the DRB's recommendations, LC and LA have two weeks to accept or reject the recommendations and reach a final settlement. (This does not include the administrative time which may be required for preparing any contract modification.) Notwithstanding the DRB's recommendations, LA and LC may at any time settle their dispute on terms other than the DRB's recommendations. This provision takes precedence over the disputes process contained in "Procedures" for Depot Level Public/Private Competition (PPC) dated 20 Dec 97 and revised 10 Sep 98, up to this point. Recommendations that have not been accepted or issues that have not been resolved by the end of this period shall revert back to the disputes process, in which case the PCO will issue a final decision, as defined in the "Procedures" unless an extended settlement period is agreed to by both parties.

g. Position papers, exhibits, and oral arguments made by LC and LA to the DRB, as well as the written opinions of the DRB, shall not be confidential and shall be admissible in any

subsequent appeal between LC and LA arising under or related to this contract. All requests by LC for contract price adjustment shall be subject to audit by the Defense Contract Audit Agency (DCAA). None of these processes shall alter the terms of the contract, nor the requirement for the appropriate certifications.

3.1 Termination of Board:

If at any time either LC or LA becomes dissatisfied with the Alternate Dispute Resolution Procedures, this document will become void. Should this happen, the withdrawing party shall notify the other party and the board members, at which time the Public/Private Competition Dispute procedures would become the only recourse to settle disputes.

4. Changes:

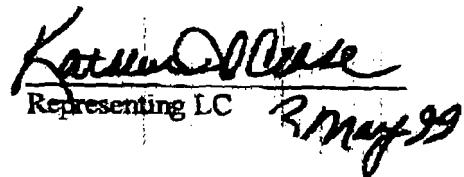
Any change to the contents or procedures set forth in this document must be concurred with by both LC and LA.

EFFECTIVE DATE: 1 May 99

Approved by:



Representing LA



Representing LC

R. May 99