

applicable contract warranty provisions. Any FAA contract disputes against the contractor based on gross mistakes amounting to fraud or latent defects shall be filed with the ODRA within two (2) years of the date on which the FAA knew or should have known of the presence of the fraud or latent defect.

(d) A party shall serve a copy of the contract dispute upon the other party, by means reasonably calculated to be received on the same day as the filing is received by the ODRA.

(e) With the exception of the time limitations established herein for the filing of contract disputes, the ODRA retains the discretion to modify any timeframe established herein in connection with contract disputes.

[76 FR 55221, Sept. 7, 2011, as amended by Doc. No. FAA-2017-0075, 82 FR 14429, Mar. 21, 2017]

§ 17.29 Informal resolution period.

(a) The ODRA process for contract disputes includes an informal resolution period of twenty (20) business days from the date of filing in order for the parties to attempt to informally resolve the contract dispute either through direct negotiation or with the assistance of the ODRA. The CO, with the advice of FAA legal counsel, has full discretion to settle contract disputes, except where the matter involves fraud.

(b) During the informal resolution period, if the parties request it, the ODRA will appoint a DRO for ADR who will discuss ADR options with the parties, offer his or her services as a potential neutral, and assist the parties to enter into an agreement for a formal ADR process. A person serving as a neutral in an ADR effort in a matter shall not serve as an adjudicating DRO or Special Master for that matter.

(c) The informal resolution period may be extended at the request of the parties for good cause.

(d) If the matter has not been resolved informally, the parties shall file joint or separate statements with the ODRA no later than twenty (20) business days after the filing of the contract dispute. The ODRA may extend this time, pursuant to § 17.27(e). The statement(s) shall include either:

(1) A joint request for ADR, or an executed ADR agreement, pursuant to § 17.37(d), specifying which ADR techniques will be employed; or

(2) Written explanation(s) as to why ADR proceedings will not be used and why the Adjudicative Process will be needed.

(e) If the contract dispute is not completely resolved during the informal resolution period, the ODRA's Adjudicative Process will commence unless the parties have reached an agreement to attempt a formal ADR effort. As part of such an ADR agreement the parties, with the concurrence of the ODRA, may agree to defer commencement of the adjudication process pending completion of the ADR or that the ADR and adjudication process will run concurrently. If a formal ADR is attempted but does not completely resolve the contract dispute, the Adjudicative Process will commence.

(f) The ODRA shall hold a status conference with the parties within ten (10) business days, or as soon thereafter as is practicable, of the ODRA's receipt of a written notification that ADR proceedings will not be used, or have not fully resolved the Contract Dispute. The purpose of the status conference will be to commence the Adjudicative Process and establish the schedule for adjudication.

(g) The submission of a statement which indicates that ADR will not be utilized will not in any way preclude the parties from engaging in non-binding ADR techniques during the Adjudicative Process, pursuant to subpart D of this part.

§ 17.31 Dismissal or summary decision of contract disputes.

(a) Any party may request by motion, or the ODRA on its own initiative may recommend or direct, that a contract dispute be dismissed, or that a count or portion thereof be stricken, if:

- (1) It was not timely filed;
- (2) It was filed by a subcontractor or other person or entity lacking standing;
- (3) It fails to state a matter upon which relief may be had; or
- (4) It involves a matter not subject to the jurisdiction of the ODRA.