

permit assertion of the claim, regardless of when the claimant actually discovered those events. For liability to be fixed, some injury must have occurred. Monetary damages need not have been incurred, but if the claim is for money, such damages must be capable of reasonable estimation. The accrual of a claim or the running of the limitations period may be tolled on equitable grounds, including but not limited to active concealment, fraud, or if the facts were inherently unknowable.

(c) *Acquisition Management System* (AMS) establishes the policies, guiding principles, and internal procedures for the FAA's acquisition system.

(d) *Adjudicative Process* is an administrative adjudicatory process used to decide protests and contract disputes where the parties have not achieved resolution through informal communication or the use of ADR. The Adjudicative Process is conducted by a Dispute Resolution Officer (DRO) or Special Master selected by the ODRA Director to preside over the case in accordance with Public Law 108-176, Section 224, Codified at 49 U.S.C. 40110(d)(4).

(e) *Administrator* means the Administrator of the Federal Aviation Administration.

(f) *Alternative Dispute Resolution* (ADR) is the primary means of voluntary dispute resolution that is employed by the ODRA. See Appendix A of this part.

(g) *Compensated Neutral* refers to an impartial third party chosen by the parties to act as a facilitator, mediator, or arbitrator functioning to resolve the protest or contract dispute under the auspices of the ODRA. The parties pay equally for the services of a compensated neutral, unless otherwise agreed to by the parties. An ODRA DRO or neutral cannot be a compensated neutral.

(h) *Contract Dispute*, as used in this part, means a written request to the ODRA seeking, as a matter of right under an FAA contract subject to the AMS, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or for other relief arising under, relating to, or involving an alleged breach of that contract. A contract dispute does not re-

quire, as a prerequisite, the issuance of a Contracting Officer final decision. Contract disputes, for purposes of ADR only, may also involve contracts not subject to the AMS.

(i) *Counsel* refers to a Legal Representative who is an attorney licensed by a State, the District of Columbia, or a territory of the United States to practice law or appear before the courts of that State or territory.

(j) *Contractor* is a party in contractual privity with the FAA and responsible for performance of a contract's requirements.

(k) *Discovery* is the procedure whereby opposing parties in a protest or contract dispute may, either voluntarily or to the extent ordered by the ODRA, obtain testimony from, or documents and information held by, other parties or non-parties.

(l) *Dispute Resolution Officer* (DRO) is an attorney and member of the ODRA staff. The term DRO can include the Director of the ODRA.

(m) *Interested party*, in the context of a bid protest, is one whose direct economic interest has been or would be affected by the award or failure to award an FAA contract. Proposed subcontractors are not "interested parties" within this definition and are not eligible to submit protests to the ODRA. Subcontractors not in privity with the FAA are not interested parties in the context of a contract dispute.

(n) *Intervenor* is an interested party other than the protester whose participation in a protest is allowed by the ODRA. For a post-award protest, the awardee of the contract that is the subject of the protest will be allowed, upon timely request, to participate as an intervenor in the protest. In such a protest, no other interested parties will be allowed to participate as intervenors.

(o) *Legal Representative* is an individual(s) designated to act on behalf of a party in matters before the ODRA. Unless otherwise provided under §§ 17.15(c)(2), 17.27(a)(1), or 17.59(a)(6), a Notice of Appearance must be filed with the ODRA containing the name, address, telephone and facsimile (Fax) numbers of a party's legal representative.

(p) *Neutral* refers to an impartial third party in the ADR process chosen