



Federal Aviation Administration

Office of Dispute Resolution for Acquisition (ODRA)

In re:)
PILOT PROGRAM FOR ELECTRONIC)
FILING IN ADVERSARIAL) **STANDING ORDER 2012-1**
PROCEEDINGS AND ALTERNATIVE)
DISPUTE RESOLUTION MATTERS)

The Office of Dispute Resolution for Acquisition (“ODRA”), *sua sponte*, issues this Standing Order to establish an Electronic Filing Pilot Process as a convenient and secure method for parties to file and review pleadings and other documents in designated ODRA adjudicatory proceedings and alternative dispute resolution (ADR) matters.

IT IS ORDERED that the following requirements shall apply in all designated adjudicatory proceedings and ADR matters under 14 C.F.R. Part 17:

I. INTRODUCTION

A. Purpose and Authority

Consistent with 14 C.F.R. § 17.55, these standards are adopted to insure a secure and convenient alternative means of filing documents electronically with the ODRA. These standards shall apply to cases designated by the Director of the ODRA with the consent of the parties in adversarial proceedings and ADR matters. This Standing Order may be revised from time to time, if needed, and may be revised and modified by orders entered in specific proceedings/cases.

B. Scope

This Standing Order supplements, but does not supplant or supersede, 49 U.S.C. § 40110(d), 49 U.S.C. § 46110, and the ODRA Procedural Regulation, 14 C.F.R. part 17. This Standing Order governs the requirements for the filing of documents electronically with the ODRA in designated cases.

C. Description

The Electronic Filing Pilot Process established by this Standing Order uses the Federal Aviation Administration's ("FAA") existing Knowledge System Network ("KSN"). The KSN is a proven and familiar web-based system that has been used by the FAA's business partners for both the bidding process and administration of contracts under the Acquisition Management System. A representative using the KSN ("Filing User") will be provided with the appropriate access procedures, and be granted access only to case-specific information, consistent with applicable laws, policies, and ODRA Protective Orders.

II. ELECTRONIC FILING REQUIREMENTS

A. Participation Requirements

Electronic filing must be agreed to by all parties in writing and approved by the ODRA pursuant to 14 C.F.R. § 17.7.

An attorney admitted to the bar may register as a Filing User by completing the "KSN form." By registering as a Filing User, an attorney consents to using the ODRA's electronic filing system for electronic service of all filings.

B. Protective Orders

The ODRA may issue protective orders addressing the treatment of protected information contained in electronically filed submissions associated with proceedings pursuant to 14 C.F.R. §17.9.

III. PROCEDURES

A. Timeliness

Except for scheduled maintenance and unanticipated breaks in service, the KSN is available 24 hours a day, seven days a week. In technical terms, this enables users to submit relevant documents at any time, regardless of the ODRA's normal business hours, and the KSN automatically records the date and time of the filing. This feature, however, does not abrogate the filing deadlines and definitions found in 14 C.F.R. § 17.7.

1. Documents submitted during the ODRA's normal business hours, from 8:30 am to 5 p.m. Eastern Time, are deemed filed on the date indicated by the KSN stamp.

2. Documents submitted at any time indicated by the KSN stamp that is not within the ODRA's normal business hours are deemed filed on the date of the next period of normal business hours.

B. Filing Procedures

During the Pilot Program, filings of initial Protests and Contract Disputes must be accomplished by overnight delivery, hand delivery or by Fax, in accordance with 14 C.F.R. §§ 17.7, 17.15.

Once a case has been designated by the ODRA with the agreement of the parties as an "electronic case," all subsequent filings must be made electronically, except as provided by the ODRA or by exceptional circumstances that prevent a Filing User from filing electronically. 14 C.F.R. § 17.7 (d). The ODRA retains the discretion to discontinue the use of electronic filing in a case for any reason.

Specific procedures applicable to each case designated for electronic filing will be established by the Administrative Judge in charge of the case.

The Administrative Judge may, on a case by case basis, direct either or both parties to provide a courtesy paper copy or CD of filings and/or documents to the ODRA.

Electronic files, as submitted, must contain searchable text (i.e., in native format or portable document format ("PDF") with optical character recognition ("OCR") coding) that is compatible with ODRA software, which includes Microsoft Office 2010, and Adobe Acrobat 9 Professional.

D. Technical Failure

If a filing is deemed untimely as the result of a technical failure of the KSN System, the Filing User may seek appropriate relief from the ODRA. *See* 14 C.F.R. § 17.7 (d).

E. Privacy

If need be, parties may file electronic documents containing redacted information, subject to the terms of any ODRA Protective Order. While parties are free to choose their method of redaction, the ODRA suggests using commercially-available software products with tools that scrub the metadata and other information from the document. Nothing in this Standing Order, however, shall be interpreted as permitting the alteration,

including the removal of metadata, of evidentiary documents once a matter has been filed with the ODRA.

It is the sole responsibility of counsel and the parties to protect any information included in a filing.

IT IS FURTHER ORDERED that failure to comply with this Order and/or procedures identified herein, in addition to the sanctions outlined in a Protective Order in the case of bid protests, may result in the imposition of appropriate sanctions pursuant to 14 C.F.R. § 17.49.

This Order shall become effective on the date executed below.

Dated this 7th day of May, 2012.

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Anthony N. Palladino
Director and Administrative Judge
FAA Office of Dispute Resolution
for Acquisition