

**ALTERNATIVE DISPUTE RESOLUTION**

**1. PURPOSE**

This Directive:

- a. Provides the Grain Inspection, Packers and Stockyards Administration (GIPSA) policy on Alternative Dispute Resolution (ADR).
- b. Provides employees with information about the ADR program for resolving disputes in the workplace using the proven technique of mediation.

**2. REPLACEMENT HIGHLIGHTS**

This Directive replaces GIPSA Directive 4771.1, dated September 7, 2001.

**3. AUTHORITIES**

- a. Administrative Dispute Resolution Act of 1996;
- b. Negotiated Rulemaking Act of 1996;
- c. Department of Agriculture Reorganization Act of 1994;
- d. Equal Employment Opportunity Commission (EEOC) regulations on federal sector equal employment opportunity (EEO) complaint processing, 29 CFR 1614; and
- e. Departmental Regulation 4710-001, Alternative Dispute Resolution, dated April 5, 2006.

**4. BACKGROUND**

ADR includes an array of techniques used to achieve consensual resolution of disputes, generally with the assistance of a neutral third party ("neutral"). Some ADR techniques are factfinding, mini-trials, and negotiated rulemaking. The use of ADR can benefit GIPSA, its customers, and employees. These benefits include achieving effective and mutually satisfactory resolutions of disputes; decreasing time, cost, and other resources expended in resolving disputes; fostering a culture of respect and trust between USDA and its customers and employees; and increasing customer satisfaction and employee morale.

## 5. POLICY

Traditionally, the established methods available Agencywide to resolve employee disputes are the EEO complaint process, the administrative or negotiated grievance systems, and the GIPSA ADR program. This Directive establishes the use of ADR, more specifically, mediation, as another method to resolve Agency disputes. The ADR program will not replace any of the other established methods, but will give employees, including managers and supervisors, another option for resolving disputes using the proven technique of mediation. This initiative implements the Secretary's policy of ADR and complies with the new Federal regulations requiring all Federal agencies to adopt and implement an ADR program.

It is the policy of GIPSA to prevent conflict(s) whenever possible and, when conflicts do occur, to make every effort to reach the earliest possible, consensual resolution, using ADR as an essential tool toward achieving that goal. The goal of ADR is to achieve effective and mutually satisfactory conflict resolutions to foster a culture of respect and trust among the Agency, its customers, and employees. The use of ADR can decrease time, cost, and other resources expended in resolving conflicts, and increase customer satisfaction and employee morale.

All Agency employees may request use of the ADR process. For those employees who choose to file an informal EEO complaint, the Agency EEO Counselor will offer mediation as an option to resolve the complaint. Mediation is also available for those employees who desire to resolve disputes that do not involve an allegation of discrimination.

Conflict is a normal and inevitable part of working together and necessary for organizational growth and change. Unresolved conflict, however, almost always surfaces again. GIPSA is offering mediation as an option for resolving workplace conflict.

Mediation is the technique of using an acceptable and impartial third party (someone with no stake in the dispute and no decisionmaking authority, called a mediator), to assist parties in resolving disputes. Mediators use facilitation to improve the flow of information in a meeting between the parties to a dispute. Facilitation techniques may be applied to a decisionmaking meeting where a specific outcome is desired (e.g., resolution of conflict or dispute, or clarification of a policy, procedure, or process). The Agency will provide trained mediators/facilitators who are available through several sources, both inside and outside the Department. The Agency's objective is to resolve disputes quickly and at the lowest possible level.

All Agency employees should be committed to managing and resolving workplace conflicts. The Agency is convinced that ADR will enhance the quality of work life by improving communication, strengthening interpersonal relationships, building trust, and enhancing skills that employees need to work together successfully.

All GIPSA employees, including managers and supervisors, should consider using ADR at the earliest stage of a perceived conflict. This is not intended to replace other avenues of redress and will not prevent the exercise of employee rights under the EEO process or the grievance system. ADR is an opportunity to use a process that has proved to be successful in resolving workplace disputes. Employees wishing more information can contact the GIPSA Civil Rights Staff at 202-720-0218.

## 6. DEFINITIONS

**ADR.** A process that incorporates a fact-finding and/or resolution process in addition to the minimum requirement of 29 CFR Part 1614. ADR refers to a variety of dispute resolution techniques that involve the introduction of a neutral third party to assist employees, managers, agencies, and USDA customers in resolving disputes.

**Complaint.** An allegation, formal or informal, that an action or decision in USDA (if an individual complaint) or a policy or practice of USDA (if a class action complaint) which has personally affected an employee, was discriminatory on a prohibited basis.

**Mediation.** An ADR technique that involves a confidential discussion among two or more parties in conflict, with one or more mediators present to facilitate the discussion in an attempt to reach a resolution that is acceptable to all parties. The mediator does not have decisionmaking authority; resolution rests with the parties.

**Neutral Evaluation.** A process in which a neutral factfinder considers the relative merits of the parties' cases. The parties generally provide the highlights of their respective positions in an informal presentation to the neutral, who submits a nonbinding objective evaluation of the case to the parties that often results in more productive future negotiations.

**Grievances.** Requests by an employee, or by a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction relating to the employment of the employee(s) under the control of GIPSA management.

**Facilitation.** Facilitation involves the use of techniques to improve the flow of information in a meeting between parties to a dispute. The techniques may also be applied to decisionmaking meetings where a specific outcome is desired (e.g., resolution of a conflict or dispute). The term "facilitator" is often used interchangeably with the term "mediator," but a facilitator does not typically become as involved in the substantive issues as does a mediator. The facilitator focuses more on the process involved in resolving a matter.

**Third party.** A person other than the principals.

**Disputes.** To call into question, to struggle over.

**Informal Complaint.** All allegations concerning any issue that is presented to an EEO Counselor.

**Formal Complaint.** An allegation that was not resolved in counseling and which has been filed with the USDA for investigation and additional processing.

**7. INQUIRIES**

- a. For additional information on the program, call the Civil Rights Staff at 202-720-9528.
- b. This Directive is available on the Internet at <http://www.aphis.usda.gov/library/gipsa/GIPSA.shtml>

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Administrator