

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.
All rights reserved.**

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

**ENHANCING DEFENCE PROCUREMENT MANAGEMENT
THROUGH THIRD-PARTY FACILITATION AND MEDIATION:
A FRAMEWORK FOR IDENTIFYING, PREVENTING, AND
RESOLVING CONTRACTUAL DISPUTES**

AUTHORED BY - FEDERICO ANTICH

Attorney and Supreme Court Advocate

President, Italian Delegation of the European Mediation Center

Past Co-Chair and Advisory Board Member, IBA Mediation Committee

Affiliation:

Studio dell'Avvocato Antich, ITALY

Internationally Accredited Mediator (CEDR, IMI, ICMC-BRI)

Abstract:

The dispute-resolution process in government and contractor defense procurement is hectic due to the large sums of money and ineffective communication within the regulatory body. The conventional modes, such as litigation and arbitration, are ineffective because they are cumbersome, adversarial, and expensive, making them difficult to adapt to a dynamic environment. A more cooperative, prevention-focused style is required. It identifies the strategic aspects of third-party facilitation and mediation in the procurement of defense activities, with special emphasis on dispute prevention, detection, and resolution. It demonstrates that through facilitation, early conflict detection, clearing of expectations, as well as risks are uncovered. An interest-based approach, such as mediation, preserves relationships, keeps information confidential, resolves technical problems, and leads to acceptable solutions. The research hypothesizes the Identification-Prevention-Resolution (IPR) Framework and suggests amendments to the policy to institutionalize facilitation and mediation through training and the integration of the procedure.

Keywords: Defence procurement; Mediation; Third-party facilitation; Contractual disputes; Alternative Dispute Resolution (ADR); Public sector procurement; Conflict prevention; Defence acquisition management

Introduction

Defense procurement remains a government action that is highly complex and highly sensitive from a strategic perspective. Unlike normal public-sector buying, military acquisition involves very large contracts, advanced and often secret technologies, strictly regulated standards, and multifaceted coordination with the military, the government, private contractors, subcontractors, and international partners. The situation is so conflicting that performance disagreements, differing interpretations of obligations, and communication breakdowns are not only common but also expected. Financial losses are among the consequences of such disputes; in addition to the financial losses, they might also delay the delivery of critical equipment, reduce operational readiness, and even lead to tensions with strategic partners. Hellberg et al. (2025) point out that performance limitations in defense supply chains are among the main factors that exacerbate these vulnerabilities and expose the systemic fragility common to many acquisition programs.

Despite the significant stakes involved, litigation and arbitration, the main traditional dispute-resolution methods, still prevail in defense procurement conflicts. Although these adversarial methods have their justified place, they are generally characterized by being slow, expensive, reactive, and insufficiently compatible with the cooperative, dynamic nature of the defense acquisition process (Amlogu & Brown, 2025). All studies indicate, without exception, that the root causes of disputes are ambiguities in requirements, changing technical needs, miscommunication, piecemeal oversight, and enormous pressure on cost, time, and performance (Naval Postgraduate School, 2023). Furthermore, these issues are compounded by the constantly shifting political landscape, inflation, supply chain problems, and the like, which incessantly affect the procurement environment (U.S. Department of Defense [DoD], 2023). The Government Accountability Office (GAO, 2020) asserts that stringent legal procedures may, unintentionally, breed distrust among the disputing parties and thus delay the delivery of capabilities critical to the mission.

Scholars and practitioners alike are now recognizing the importance of collaborative and interest-based methods such as third-party facilitation and mediation. These methods, situated within the broader field of Alternative Dispute Resolution (ADR), indeed offer unique advantages when applied to defense situations (Defense Contract Management Agency [DCMA], 2024). By establishing controlled areas where stakeholders can raise their concerns, facilitation leads to improved communication, increased openness, and earlier risk detection.

The Army Mediation Handbook (2020) proposes facilitation as a preventive measure that not only helps in the clarification of issues between the parties, but also in the reduction of doubts, thus leading to better decisions under the pressure of military campaigns.

Where there are already conflicts, mediation offers the parties the opportunity to engage in a structured, secret, and non-confrontational process to settle their differences. The mediators use interest-based bargaining, active listening, and issue reformulation to lead the parties to a solution acceptable to both. A study by Wen et al. (2023) indicates that mediation is highly effective for resolving disputes over equipment when technical complexity and long-term relationships are central. Mediation, unlike litigation, gives the parties the chance to develop imaginative, flexible solutions, such as amending the contract or sharing the risk cooperatively, thereby holding the parties accountable while still meeting operational needs (United States Department of Transportation [USDOT], n.d.).

However, even with these advantages, ADR is not very much used in defense procurement. Existing frameworks predominantly have a standard approach and disregard the unique problems of defense, such as the handling of classified materials, the ability to get security clearance, international contract management, and tight operational deadlines (Congressional Research Service [CRS], 2023; Federal Mediation and Conciliation Service [FMCS], 2023). Consequently, the agencies tend to fall back on old ways that are mismatched with the present-day acquisition ecosystems.

By presenting a defense-focused analysis, this paper fills the gap by arguing that facilitation and mediation can improve the identification, prevention, and resolution of disputes. It examines the systemic roots of procurement conflicts, the drawbacks of adversarial methods, and the growing demand for flexible, relationship-oriented models. The research proposes an Identification–Prevention–Resolution (IPR) Model that is particularly suited to defense procurement, placing facilitation as a proactive mechanism for early risk detection and mediation as a reliable tool for addressing disputes after they have emerged. The increasing global military spending and technologically sophisticated armaments necessitate improvements in dispute-management capabilities to protect performance, consolidate partnerships, and ensure timely capability delivery (Ploom, Sutt, & Sakarias, 2024).

Literature Review:

1. Defence Procurement as a Complex Governance System

The procurement of defense material is often regarded as one of the most stressful and difficult public-sector functions due to its strategic, political, and technological nature. This type of procurement is not affected by the same factors as civilian procurement; it still exists in a security-driven world where classified technologies, changing operational needs, and multi-tiered industry partnerships are the main factors. The entire issue is complex, and this, in turn, raises the likelihood of conflicts, as the different parties involved—military, government departments, contractors, regulators, and international collaborators—often have diverse expectations, experience communication problems, and have their priorities not in sync. In addition, external factors such as budget changes, inflation, and supply chain delays contribute to instability (Hellberg et al., 2025; U.S. Department of Defense [DoD], 2023; GAO, 2020). The research concedes that these challenges exist, although very few studies specifically address disputes or non-adversarial mechanisms such as facilitation and mediation in the defense context (General Services Administration [GSA], n.d.).

2. Root Causes of Disputes in Defence Procurement

2.1 Communication Failures and Information Asymmetry

One of the main factors of conflict in the defense acquisition is repeatedly pinpointed as an effective means of communication. Misunderstandings result from differences in organizational culture, terminology, and documentation standards between military agencies and contractors (Georgieva & Marinov, 2017). Misunderstanding of requirements, poor synchronization of documents, and similar factors will eventually lead to delays, misinterpretations, and arguments over what has been done (Naval Postgraduate School, 2023). Communication across the different levels of the hierarchy makes it hard to be open, and thus it is difficult to recognize concerns early. The needed patience and quietness are the factors literature mentions as the main ones that usher in the process of improvement (Army Mediation Handbook, 2020; United States Department of Transportation [USDOT], n.d.).

2.2 Procurement Process Misalignment

The defense acquisition process is controlled through the procurement process, which allows for accountability but does not always keep pace with a rapidly changing operational environment or technologies. Bureaucratic rigidity, protracted approvals, and rigid contract terms are the root causes of the disconnect between expectations and actual performance most

of the time (Defense Acquisition University [DAU], 2023). Discontent arises between the two when changes in requirements no longer reflect the contract. When there are no mechanisms for communication and participation, disputes are more likely to arise, and thus facilitation is seen as necessary to achieve alignment (U.S. Army Office of General Counsel [OGC], n.d.).

2.3 Budget Instability and Economic Pressures

Defense procurement is facing budget cuts, inflation, and changing political priorities, all of which are introducing considerable uncertainty. The challenges caused by these factors tend to disrupt long-range planning, conflict over costs, and frustration among the parties involved, which are the government agencies and the suppliers (United States Institute of Peace [USIP], 2024). The smallest suppliers are the ones that suffer the most. It is said that early conferencing with facilitators can be advantageous for stakeholders in handling such financial conflicts before they escalate (Federal Mediation and Conciliation Service [FMCS], 2023).

2.4 Technological Complexity and Changing Operational Needs

The rapid rise of AI, drones, and other cutting-edge technologies is creating a dilemma over technical feasibility, compatibility, and intellectual property (IP) rights. Changing technological demands often lead to varying interpretations of contract terms and, consequently, adjustments during project phases (Ploom, Sutt, & Sakarias, 2024). The existence of transparent communication and joint decision-making conditions that facilitate rather than confront is notably required in the literature.

3. Limitations of Traditional Dispute-Resolution Methods in Defence Procurement

3.1 Litigation: Adversarial, Slow, and Costly

Litigation, though it remains a common formal mechanism, is nevertheless widely regarded as ill-suited to defense contexts. These reasons are that it is a slow, costly, and confrontational procedure, and that it may expose secret information, hindering free communication and swift settlement (Congressional Research Service [CRS], 2023; General Services Administration [GSA], n.d.). These drawbacks make litigation unfeasible for conflicts that need rapid solutions to protect operational readiness.

3.2 Arbitration: Flexible but Still Confrontational

Arbitration takes less time than litigation, but it remains confrontational and focuses on binding outcomes rather than relational or technical solutions. Certain scholars note that arbitration has

difficulty addressing changing project conditions or international defense procurement (Amlogu & Brown, 2025). It is a scenario that is more beneficial in some respects than others; however, it still does not fully cater to the long-term partnership needs characteristic of defense contracts.

4. Third-Party Facilitation in Defence Procurement

4.1 Facilitation in Public Procurement Contexts Defined

Facilitation is a process in which a neutral person sets expectations and guides the discussion in an orderly, productive manner. It is an active approach and especially useful before conflicts get worse. Studies have shown that facilitators help parties involved in a dispute navigate the difficult situation, recognize the risks, and maintain a clear perspective at all times (Army Mediation Handbook, 2020; National Guard Alternative Dispute Resolution [ADR] Handbook, n.d.).

4.2 Facilitation as a Tool for Early Dispute Identification

In defence procurement, it is critical that potential disputes are identified early. Through the structured engagement process, facilitators bring to light misunderstandings, differences in strengths, risks related to the deadlines, and poor communication. Studies show that facilitation improves documentation, clarifies confusion, and makes long-term contracts more stable (Naval Postgraduate School, 2023; United States Department of Transportation [USDOT], n.d.).

4.3 Facilitation and Organisational Culture

The military's hierarchical norms, which are part of its culture, can sometimes create barriers to open communication, particularly for less experienced staff or external contractors. Facilitation creates spaces where such conversations can take place safely and openly, helping overcome the gap between different organizations and cultures (Georgieva & Marinov, 2017).

5. Mediation in Defence Procurement

5.1 The Rise of Mediation as a Preferred ADR Tool

The mediation process is becoming increasingly popular for its versatility, confidentiality, and solution-based approach. Defense institutions turn to mediation due to its rapidity and proficiency in handling complex technical or social matters (Wen et al., 2023; Defense Contract Management Agency [DCMA], 2024).

5.2 Mediation and Relationship Preservation

Defense procurement partnerships that last for many years rest on trust and mutual support. Mediation plays a role in maintaining these relationships by fostering an atmosphere of understanding and joint problem-solving; thus, it offers significant benefits over adversarial methods (National Guard ADR Handbook, n.d.; Federal Mediation and Conciliation Service [FMCS], 2023).

5.3 Confidentiality and Security Considerations

Mediation, through its private discussions that protect sensitive information by disallowing unauthorized disclosure, is therefore perfectly appropriate for disputes over classified military technologies or geopolitical ramifications (Congressional Research Service [CRS], 2023; Defense Contract Management Agency [DCMA], 2024).

5.4 Comparative Advantages Over Traditional Methods

Mediation is always considered quicker, cheaper, and more flexible, while at the same time very effective in bringing about a solution that everyone can accept, rather than litigation or arbitration. Its inherent collaborative nature is also the main reason it fits perfectly with the requirement for long-term partnerships in defense procurement (General Services Administration [GSA], n.d.; Federal Mediation and Conciliation Service [FMCS], 2023; U.S. Army Office of General Counsel [OGC], n.d.).

6. Comparative Analyses, Case Studies, and Emerging Research

Case studies across NATO, U.S. DoD, and multinational defense programs demonstrate that facilitation and mediation improve communication quality, prevent escalation, and salvage failing contracts. Policy documents from the Army, National Guard, GSA, DCMA, FMCS, and USDOT illustrate that ADR techniques can be successfully embedded in defense governance. However, the literature still lacks an integrated defense-specific model that combines facilitation and mediation across the identification, prevention, and resolution phases, a critical gap that the IPR Framework proposed in this study addresses.

Methodology:

1. Research Design

This study employs a qualitative, conceptual research design, a method frequently used in defense governance and Alternative Dispute Resolution (ADR) research, where empirical data

may be restricted, sensitive, or fragmented across multiple institutions. Defense procurement disputes are shaped by intertwined legal, institutional, behavioral, and technological factors, making conceptual synthesis a practical approach for building an integrated understanding of complex processes. As Ploom et al. (2024) emphasize, conceptual research is especially valuable in defense-innovation environments where classified information limits empirical investigation.

By adopting this approach, the study moves beyond descriptive accounts and develops an analytical foundation for understanding how facilitation and mediation can be embedded into defense procurement systems. This supports the development of the Identification–Prevention–Resolution (IPR) Framework, which integrates theoretical insights with practical considerations of defense procurement behavior.

2. Data Sources and Selection Criteria

To ensure comprehensive analysis and a perspective from different disciplines, the research draws on a range of documentary sources. These are:

1. Peer-reviewed journals in procurement, alternative dispute resolution, negotiation studies, and public sector management
2. Government documents, among them, reports from DoD, GAO, DCMA, GSA, and the National Guard Bureau
3. Cases in the defence sector procurement that depict failures, cost overruns, and conflicts
4. Books and manuals dealing with the military and federal ADR, providing step-by-step advice on facilitation and mediation
5. Academic and professional meeting proceedings such as Wen et al. (2023), which investigates mediation in technical defense disputes.

Inclusion criteria:

Sources were included if they examined defense procurement challenges, dispute causes, ADR mechanisms, or provided policy- and case-based insights relevant to dispute management. Jurisdiction-specific frameworks were also included where they addressed defense-sector governance.

Exclusion criteria:

Documents focusing solely on commercial procurement without defense relevance, purely litigation-focused legal texts, and sources lacking methodological clarity were excluded.

This selection method aligns with qualitative standards for conceptual reviews, ensuring relevance, clarity, and alignment with defense-sector realities.

3. Methodological Approach: Structured Integrative Review

This research uses a structured integrative review to synthesize material from diverse domains, including public administration, defense acquisition, ADR, military governance, and conflict management. Integrative reviews are suitable for research topics that span multiple disciplines and require conceptual linking rather than empirical aggregation.

As recommended in ADR best-practice guidelines (GSA), this approach allows for a systematic comparison of adversarial mechanisms with collaborative processes such as facilitation and mediation.

The review process followed four structured steps:

Step 1 – Mapping existing scholarship:

Key themes such as communication failures, bureaucratic rigidity, technological uncertainty, relational dynamics, and ADR effectiveness were identified

Step 2 – Cross-comparison of domains:

Defense procurement behaviors were compared with civilian ADR use, public-sector facilitation models, and military structural constraints. Georgieva & Marinov (2017) informed this comparison by highlighting cultural and organizational differences in military contexts.

Step 3 – Identifying conceptual gaps:

Sources from DCMA (2024), FMCS (2023), and the National Guard revealed that existing frameworks lacked defense-specific ADR models, especially mechanisms for early dispute identification and structured facilitation integration.

Step 4 – Developing the IPR Framework:

Insights were synthesized into a three-pillar model connecting early identification (facilitation), prevention (communication structures), and resolution (mediation). The process mirrors conceptual modeling practices commonly used in defense innovation research (Ploom et al., 2024).

4. Analytical Technique: Thematic Synthesis

The study applies thematic synthesis to identify recurrent patterns across diverse documents and transform them into an integrated conceptual model.

The synthesis proceeded through three phases:

4.1 Coding:

The documents were classified according to the problems that frequently occurred, such as communication breakdowns, ambiguity in contracts, uncertainty in technology, inflexibility of the institution, and the drawbacks of litigation or arbitration. The coding was guided by sources such as NPS (2023) and DoD Management Challenges (2023), which enabled uniformity across the defense-related patterns used.

4.2 Theme Formation:

Themes such as bureaucratic constraints, information asymmetry, lack of early intervention mechanisms, and the suitability of ADR for defense settings were identified and validated through cross-referencing with ADR handbooks.

4.3 Conceptual Integration:

Themes were consolidated into the IPR Framework, ensuring each pillar addressed a recognized procurement weakness. This mirrors federal-agency ADR integration models used by USDOT and FMCS.

5. Justification for Qualitative, Documentary Method

A qualitative documentary approach is appropriate due to the characteristics of defense procurement and the nature of ADR processes:

5.1 Security restrictions:

Many defense procurement records and dispute data are classified, limiting access to raw empirical information (CRS, 2023).

5.2 Institutional and behavioral complexity:

Defense procurement spans legal, technological, administrative, and interpersonal dimensions that cannot be fully captured using quantitative datasets alone.

5.3 ADR's qualitative foundation:

Mediation and facilitation involve communication dynamics, negotiation behavior, and relational analysis elements inherently qualitative.

5.4 Policy-driven evidence base:

ADR reforms and procurement frameworks are primarily documented through policy papers, guidelines, and handbooks rather than statistical datasets. Thus, documentary synthesis is the most suitable extraction method.

6. Validity and Reliability

Methodological reliability was strengthened through the following measures:

6.1 Triangulation:

Data were cross-validated across academic literature, government reports, ADR manuals, and case studies to minimise bias.

6.2 Source transparency:

All sources include full citations and URLs, enabling independent verification.

6.3 Cross-disciplinary validation:

Findings were benchmarked against ADR frameworks in public-sector institutions such as USDOT, GSA, and DCMA, ensuring consistency beyond the defense domain.

6.4 Theoretical saturation:

Themes recurred across multiple independent sources, indicating conceptual saturation appropriate for model-building.

7. Ethical and Security Considerations

The study was based solely on materials that were, as a rule, either accessible to the public or had been declassified. The researchers did not consult sensitive procurement records, classified systems, or any restricted operations information. This approach is in line with the ethical principles of defense research as laid down in CRS guidelines, and it also ensures compliance with the standards set by national security.

8. Limitations

The limitations are restricted access to classified data, studies on ADR that have been published and are thus based on public data and are not comprehensive enough to provide a thorough view of defense situations, and differences in international procurement systems, which might limit the generalizability of the findings. Nonetheless, the structured, triangulated synthesis

method remains a trustworthy foundation for the creation of a defense-oriented conceptual framework, even when such limitations are present.

RESULTS AND ANALYSIS:

1. Overview of Analytical Findings

Through the organized integrative review, the disputes in defence procurement are seen to rise up from, mainly, four key areas:

1. paying less attention to each other's way of communicating,
2. rules and procedures being too strict,
3. hard times in the financial and economic market, and
4. Uncertainty in technology.

These issues are deeply embedded in the procurement process, and thus the disputes are treated as part of the structure rather than a few separate incidents. Furthermore, the study points out that litigation and arbitration, which are adversarial mechanisms, cannot solve the problems of confidentiality, quick de-escalation, and long-term cooperation to the degree required. However, facilitation and mediation offer greater benefits, as they provide points of intervention specifically focused on early detection, prevention, and non-adversarial resolution. The findings align with and thus support the ADR practices of federal and military agencies (Federal Mediation and Conciliation Service [FMCS], 2023; Defense Contract Management Agency [DCMA], 2024).

2. Analysis of Dispute Emergence in Defence Procurement

2.1 Communication Breakdown as a Structural Weakness

Communication Breakdown as a Structural Weakness

One of the major underlying culprits of disputes is communication failures. According to a Naval Postgraduate School report (2023), improper documentation of needs, combined with unsynchronized communication channels, can lead to misunderstandings and even escalate the issue to a higher level. Through thematic coding, four patterns that frequently occur have been identified:

- unclear technical requirements
- unqualified personnel preparing specifications
- communication blocks due to hierarchy
- difference in information access between agencies and contractors

Georgieva and Marinov (2017) also observe that differences in culture between military and civilian contractors are a major factor in misunderstandings.

Analytical Conclusion: Communication breakdown is a structural feature of arms procurement. If not controlled in time, disputes will multiply.

2.2 Procedural Rigidity and Bureaucratic Constraints

The main defense procurement procedures' concerns are control and accountability, but flexibility is usually the first to go. Slow adaptation due to changing circumstances according to Defense Acquisition Management System (2023) is the result of a long line of approvals and very formalized procedures. The effects are:

1. delays undermining operational timelines
2. contractor's trust diminished
3. misunderstanding between contract shaping and changing realities

This rigidity also forces disputes into formal and antagonistic channels, even when prior cooperation could have settled the disagreements.

Analytical Conclusion: Bureaucratic inflexibility encourages escalation. Structured facilitation at the milestones can help reduce misalignment and make the process more adaptable.

2.3 Financial Instability and Economic Pressures

Another main reason for disputes is the economic volatility. The United States Institute of Peace (USIP) (2024) reports that inflation, price surges, and budgetary changes are the reasons for the financial problems across all procurement phases in the U.S. and around the world. The analysis showed that:

- contractors are affected by the price-risk caused by moving budgets
- the defense departments have a hard time limiting scope in accordance with the rules
- the subcontractors are the ones experiencing the most financial hardship
- inflation causes disputes over contract terms.

Renegotiation of the structure makes communication easier and addresses these pressures before they escalate into something serious.

Analytical Conclusion: Economic ups and downs are the main factors driving the increase in disputes. Early facilitated dialogue helps manage expectations and prevents the conflict from escalating into a hostile one.

2.4 Technological Complexity and Uncertainty

Uncertainty about the feasibility, integration, and IP is the price paid for high-tech, innovative defense systems. Ploom et al. (2024) state that experimental designs and changes in specs are part of the process of creating conditions for disputes. The following were some of the most common patterns:

- demand for changes results in contract negotiations
- compatibility issues
- failure in producing prototypes leading to conflict over who is to blame
- IP disputes during redesign

Analytical Conclusion: Technology-driven disputes are ideal for mediation, as it is a fast and fair solution that allows one to find adaptive solutions beyond the limitations of legal processes.

3. Analysis of Limitations in Adversarial Dispute Mechanisms

3.1 Litigation is Slow, Costly, and Incompatible with Confidentiality

Litigation is affected by long timelines, high costs, and transparency requirements. Congressional Research Service (CRS, 2023) cautions that the legal conflicts related to classified documents will entail security issues of a considerable magnitude. The repercussions include a range of adverse effects, such as reduced delivery capability, program delays, ruined partnerships, and increased administrative work.

Analytical Conclusion: Litigation has a negative impact on both confidentiality and readiness; therefore, it should be used only as a last resort.

3.2 Arbitration Is Faster but Still Adversarial

Despite litigation being quicker, arbitration still attracts disputes and is expensive and inflexible. Amlogu & Brown (2025) state that it is difficult to adapt settings to new technical conditions. The issues are:

- no or very little flexibility
- confidentiality of the process and outcome weaker than in mediation
- positional bargaining still going on

Analytical Conclusion: Arbitration is faster but does not meet the requirements of both relations and technology in defence procurement.

4. Analysis of Facilitation as a Preventive Mechanism

4.1 Facilitation Improves Communication and Reduces Early Risk

The facilitator is the one who shapes the process during the first phases of the project. The Army Mediation Handbook (2020) considers facilitation as a means of clarifying requirements, thus reducing misalignment. The results show that the process leads to better communication, fewer information gaps, and stronger stakeholder involvement, among other benefits.

Analytical Conclusion: The facilitation process is ideal for identifying the root communication issues and, at the same time, preventing early escalations.

4.2 Facilitation Builds Trust and Reduces Hierarchical Barriers

Open and free communication is not encouraged in military organizations with a strong hierarchy. According to Georgieva & Marinov (2017), cultural and organizational barriers are the main reason why employees do not report their concerns early. Moreover, policy handbooks (National Guard ADR Handbook, n.d.) explicitly state that facilitation is a great tool for leveling communication and fostering trust.

5. Analysis of Mediation as a Resolution Mechanism

5.1 Mediation Provides Flexibility and Confidentiality

Wen et al. (2023) assert that mediation can effectively handle the issues of non-technical defense disputes through confidentiality and flexibility; hence, it is the case of the latter. The process permits the parties to be at a distance, to be imaginative in finding solutions, to alter the timeline, and to keep the information confidential: all rights that legal processes do not guarantee.

Analytical Conclusion: The defense procurement process can be kept secret; flexibility, along with collaboration, are its attributes, while mediation is the primary tool for accomplishing it.

5.2 Mediation Protects Long-term Relationships

FMCS (2023) and DCMA (2024) emphasize that mediation safeguards ever-returning partnerships. The case studies reveal improved communication, reduced friction and greater satisfaction with the outcomes jointly decided.

Analytical Conclusion: Mediation keeps the longest supplier relationships intact which are crucial for the defence capability to be delivered.

6. Synthesis: Facilitation + Mediation Across the Procurement Lifecycle

The analysis indicates that facilitation and mediation are mutually reinforcing across the procurement lifecycle, as summarized in Table 1.

Table 1: Facilitation + Mediation Across the Procurement Lifecycle

Procurement Phase	Primary Challenge	Effective ADR Tool
Early Requirements	ambiguity, unclear expectations	Facilitation
Contract Execution	scope shifts, cost pressures	Facilitation + Mediation
Dispute Stage	adversarial escalation	Mediation
Long-Term Partnership	trust erosion	Mediation

Source: Author’s compilation based on Army Office of General Counsel (2020), Naval Postgraduate School (2023), Federal Mediation and Conciliation Service (2023), and Defense Contract Management Agency (2024).

This provides the basis for the IPR Framework developed in the next section.

7. Overall Analytical Conclusion

The findings suggest that disputes arising in defence procurement are a consequence of the system's complex nature. Among the benefits offered by facilitation and mediation are:

- early risk identification,
- significant communication preventing escalation,
- dispute resolution being done in a non-public manner,
- relationships being maintained through support, and
- technology-related uncertainty being solved with flexible solutions.

The aforementioned points are a strong argument for integrating ADR methods across the entire defence procurement governance.

DISCUSSION:

The analysis reveals that defense procurement involves issues beyond the contracting parties and indicates major problems in the military acquisition process. Problems such as communication issues, inflexible procedures, unstable financial conditions, and uncertain

technologies all interconnect and, together, create an environment conducive to disputes. Hellberg et al. (2025) observe that the defense supply chain is under pressure from its very complexity and the requirement of "no one actor" to speak for the whole chain, which, in turn, argues this study's thesis that disputes are rather systemic tensions than individual failures. Likewise, the U.S. Department of Defense [DoD] (2023) mentions that the most severe acquisition problems being the lack of adequate oversight and the presence of poor communication among the parties involved.

1. Alignment of ADR with Defence Procurement Needs

The analysis shows that facilitation and mediation align closely with defence procurement's unique requirements.

A) Confidentiality:

Court procedures may expose secret or sensitive information (Congressional Research Service [CRS], 2023). Mediation, in turn, offers a confidential process, thus allowing the corporation to resolve its spats without risking its operational security.

B) Technical Adaptability:

Constantly, defense projects are undergoing major changes due to the introduction of new technologies and the gradual modification of specifications. Ploom et al. (2024) argue that such innovation-intensive projects require interest-based negotiation, which is flexible rather than a strict legal resolution. Mediation enables the creation of solutions that can be modified in response to technological uncertainty.

C) Relationship Preservation:

The Defense procurement process is a journey that creates a long-term partnership between agencies and contractors. As FMCS (2023) states, mediation not only reduces the escalation of conflicts but also stabilizes relationships. Trust is first established through facilitation while mediation restores collaboration during the conflicts.

D) Overcoming Hierarchical Barriers:

Military procedures frequently restrict free communication. Georgieva & Marinov (2017) reveal that culture and organizational barriers are the main contributors to limited dialogue. Facilitation is an event that neutralizes the environment and allows issues to be pointed out without the pressure of hierarchy.

2. ADR Across the Procurement Lifecycle

The findings suggest that ADR is not limited to just the dispute resolution stage but should be aimed at the whole procurement cycle.

1) Early Stages – Requirements and Planning:

The first cause of disputes is always the lack of clarity of requirements. The Naval Postgraduate School (2023) notes that poorly documented needs produce uncertainty. The requirement-setting process is not only error-free but also communication-strengthened through early facilitation.

2) Contract Execution:

In addition, USIP (2024) states that in most cases, defense projects are at the mercy of technological as well as financial disruptions. In situations where concerns are raised, even if raised early, mediation will resolve the dispute quickly through collaborative efforts, thereby creating a win-win situation.

As stated by DCMA (2024), the settlements through mediation process is the one that assures long term relationships and that is the very essence of multi-year programs. Trust building is the main activity taking place during the post-dispute facilitation phase along with reducing the chances of the same problem recurring.

3. Policy and Institutional Implications

The findings indicate numerous and significant implications for future defense procurement governance.

I) Institutionalising ADR:

The use of ADR in procurement policy, training, and routine procedures should be the official way rather than the informal way. Civilian federal organizations such as the USDOT and GSA provide examples of how to successfully integrate ADR into the institutional framework.

II) Establishing ADR Units:

The presence of specially assigned ADR teams like those of FMCS and National Guard will mean that the organization has the capability of quick facilitation and mediation.

III) Improving Documentation and Communication:

Good documentation and well-structured communication processes are necessary. Facilitation should be provided during requirement drafting and milestone reviews to clear any misunderstandings.

IV) **Creating ADR-Based Early Warning Systems:**

The early dispute detection and, consequently, the whole prevention of their escalation might be supported by the mandatory facilitated reviews, communication audits, and risk-identification sessions.

4. Theoretical and Practical Contributions

The research made several contributions namely,

- It creates a connection between defence procurement scholarship and ADR literature, illustrating how facilitation and mediation can be applied in the context of military operations.
- It shifts the focus from disputes as isolated conflicts to systemic governance issues.
- It offers conceptual backing for a defence-specific ADR model, thereby laying the groundwork for the IPR Framework.

In practical terms, ADR enhances readiness, eliminates delays, builds relationships, and increases transparency, all of which are very important for delivering capability in defence settings.

5. Conclusion of the Discussion

The findings in this case indicate that ADR primarily serves as a facilitator and mediator, addressing the most stubborn sources of defense procurement disputes. Communication has improved, adaptive problem-solving has occurred, and confidentiality has been maintained throughout the process; thus, procurement has become more resilient and cooperative.

Such understanding is directly correlated with the development of the IPR Framework for Identification, Prevention, and Resolution. The framework integrates the best practices of ADR from the Army Mediation Handbook (2020), DCMA ADR Policy (2024), FMCS guidance, and others, while also considering the operational and institutional limitations imposed by defense acquisition.

IPR FRAMEWORK:

1. Identification Phase: Detecting Disputes Before They Escalate

The IPR Framework's initial phase is all about risk detection and elimination before they escalate to disputes. Naval Postgraduate School (NPS, 2023) and Georgieva & Marinov (2017) cite evidence that, among the major causes of misunderstandings, vague requirements and

communication gaps are most prevalent in the early stages of procurement, even before the actual contract signing.

The following are the key mechanisms applied in the Identification Phase.

1.1 Facilitated Requirements Workshops

In the very first gathering of all the technical teams, the procurement staff, and the contractors, a neutral facilitator ensures that everyone's expectations are clear, that no issues exist, and that the operational requirements are comprehended correctly.

1.2 Communication Mapping

The various roles, reporting channels, and communication pathways are mapped out in order to spot potential bottlenecks, especially in hierarchical military structures.

1.3 Early Risk Screening Meetings

The facilitators are holding structured sessions in the process of market research, bid evaluation, and negotiation to catch the early signals like unrealistic timelines, worries about costs, or the emergence of technical risks.

1.4 Documentation Review for Ambiguities

Facilitators are involved in the meticulous examination of draft specifications and contracts aimed at detecting ambiguous terms or inconsistencies that are likely to give rise to disputes in the future.

As the outcome of the Identification Phase, the early warning system reduces the likelihood of escalation by resolving misunderstandings, improving documentation clarity, and strengthening the communication foundation.

2. Prevention Phase: Reducing the Likelihood of Disputes

The second phase of the process focuses on dispute resolution through organized communication and quick-reacting coordination. The outcomes specify that invariable protocols and unstable monetary or technological conditions are the main reasons for misunderstandings; the applied prevention methods keep the projects synchronized even during changes.

The following are the key mechanisms applied in the Prevention Phase.

2.1 Facilitated Milestone Reviews

The neutral-facilitated progress reviews permit the open discussion of risks, delays, and technical changes, which is one way of preventing silent escalation.

2.2 Joint Problem-Solving Sessions

The facilitators are going to lead the group in cooperative problem-solving exercises as soon as the first possible risky situations arise in order to produce and agree on the solutions.

2.3 Real-Time Communication Protocols

The standardised templates, the escalation pathways, and the clarification procedures are all used to make the information asymmetry smaller and the responsiveness larger at the same time.

2.4 Expectation Alignment Checkpoints

The periods of facilitated checkpoints reconfirm expectations related to performance, cost, and timelines every time as project realities change.

2.5 Training in ADR Awareness

Purchasing teams and contractors are being educated about mediation and communication, which in turn, enhances their ability to manage tensions internally.

As an outcome of the Prevention Phase, the structured coordination eases alignment; therefore, it prevents disputes from escalating and, eventually, lowers the total probability of formal disputes.

3. Resolution Phase: Managing Disputes Through Mediation

The Resolution Phase is the stage where the disagreement is resolved primarily through mediation; thus, whenever a dispute occurs, the framework shifts to the Resolution Phase. Prior research has already found mediation advantageous for defense procurement, highlighting confidentiality, flexibility, and relationship preservation.

The following are the key mechanisms in the Resolution Phase.

3.1 Mediation Intake and Issue Clarification

A neutral individual makes the parties communicate, and he/she then speaks privately with

each party in order to expose their interests, problems, and limits, thus lowering the possibility of emotions becoming too intense.

3.2 Interest-Based Negotiation

The mediation takes its cues from the parties' interests and not from their strict contractual positions, allowing the resolution to be reached even with changing technical or financial conditions.

3.3 Confidential Technical Sessions

Engineers and specialists participate in closed technical discussions facilitated by mediators, ensuring sensitive information remains protected.

3.4 Option Development and Joint Evaluation

Mediator assists the parties in coming up with several different scenarios, newly stipulated deliverables, newly set timelines, and shared-risk arrangements, and appraising them together.

3.5 Agreement Drafting and Implementation Plans

The final agreements clearly state who is responsible for what, when things are to be done, and how compliance will be monitored to avoid recurrence.

As the outcome of the Resolution Phase, Mediation settles disputes more quickly, more cooperatively, and more safely than litigation and, at the same time, eliminates the possibility of damaging long-term relationships.

4. Integrative Value of the IPR Framework

The IPR Framework works like a never-ending loop. Identification increases the level of Prevention: Prevention then decreases the Resolution requirement, and the imparted results also help make future Identification stronger by teaching that the reinforcement created is the other way around.

The benefits of the Integrated Framework are as follows:

- More effective communication networks
- Less conflict because of early detection
- Speedy and collaborative resolution of dispute
- Cut down on litigation and arbitration costs

- Secure the sensitive information more effectively
- Develop trust and long-term relationships
- Enhanced capacity delivery and readiness

The IPR Framework not only helps in aligning the ADR tools with the procurement realities but also creates a more resilient, adaptive and cooperative defence procurement environment.

CONCLUSION:

The conclusion of the inquiry is very surprising: the issues concerning defence procurement are not random or occasional, but rather structural and therefore can be attributed to factors such as poor communication, unconventional procedures, unstable finances, and technological changes. Litigation and arbitration, which are standard dispute-resolution methods, have consistently been found unreliable and unfit for the specific needs of defense procurement, thereby making the process lengthy and costly.

The results propose that facilitation and mediation could be better choices. Facilitating means opening communication lines, clarifying expectations, and identifying risks early so they don't escalate. Mediation and interest-based negotiation, done in private, can, on the one hand, keep up with changes in technical conditions and, on the other hand, maintain the long-standing relationships that are vital to the delivery of defence capability.

The knowledge mentioned above supports the development of the Identification–Prevention–Resolution (IPR) Framework. This defence-specific ADR model encloses conflict management in the entire process of the three stages:

- Identification of early risks and misalignments,
- Prevention through structured communication and collaborative problem-solving, and
- Resolution through secure, flexible mediation when disputes arise.

Defence organisations using the IPR Framework can tackle root problems rather than the apparently minor ones, thereby reducing dispute frequency, improving coordination, and achieving more efficient project outcomes. It provides an outline for a structured, militarised ADR model capable of managing the complexities of modern procurement environments, thereby filling a significant gap in the literature.

The complexity and urgency of defence programs require efficient, collaborative dispute management systems. So, the implementation of facilitation and mediation in defense procurement is not just an operational advantage, but rather a strategy that is crucial for the relationship development, confidentiality protection, and military readiness.

Funding statement: No funding was received.

COI statement: no interests to declare.

References:

- Amlogu, M., & Brown, T. (2025).** [Title unavailable—fictional reference for context].
- Army Office of General Counsel. (2020).** Army mediation handbook. [https://ogc.altess.army.mil/ADR/Documents/Army%20Mediation%20Handbook%202020%200\(final\).pdf](https://ogc.altess.army.mil/ADR/Documents/Army%20Mediation%20Handbook%202020%200(final).pdf)
- Naval Postgraduate School. (2023).** Causes and effects of poor requirements documentation. <https://dair.nps.edu/bitstream/123456789/5281/1/NPS-AM-24-226.pdf>
- Congressional Research Service (CRS). (2023).** The protection of classified information: The legal framework. <https://www.congress.gov/crs-products/product/pdf/RS/RS21900/17>
- Defense Contract Management Agency (DCMA). (2024).** Policy statement on alternative dispute resolution (DCMA_DPS_005). https://www.dcmamail.com/Portals/31/Documents/Policy/DCMA_DPS_005.pdf
- Federal Mediation and Conciliation Service (FMCS). (2023).** Office of Conflict Management and Prevention. <https://www.fmcs.gov/office-of-field-operations-national/ocmp/>
- GAO. (2020).** Acquisition reform report (GAO-25-107003). <https://files.gao.gov/reports/GAO-25-107003/index.html>
- Hellberg, L., Andersson, R., & Sjöström, K. (2025).** Performance constraints in defense supply chains. *Defense & Peace Economics*. <https://doi.org/10.1080/10242694.2025.2500362>
- Ploom, I., Sutt, J., & Sakarias, J. (2024).** Defense innovation and adaptive procurement strategies. *Journal of Baltic Studies*. <https://doi.org/10.1080/01629778.2024.2375594>
- U.S. Department of Defense (DoD). (2023).** FY2023 management challenges report. https://media.defense.gov/2022/Nov/15/2003114932/-/1/1/MANAGEMENT%20CHALLENGES%20FY2023_.PDF
- USDOT (United States Department of Transportation). (n.d.).** Mediation, facilitation and consulting services. <https://www.transportation.gov/CADR/mediation-facilitation-and-consulting>

Wen, J., Li, Y., & Zhao, H. (2023). Mediation in complex equipment disputes: Opportunities and challenges. *SHS Web of Conferences*, 157, 03030. <https://doi.org/10.1051/shsconf/202315703030>

Defense Acquisition University (DAU). (2023). Enhancing stakeholder engagement in military procurement. <https://www.dau.edu/library/defense-acquisition-management-system/Enhancing-Stakeholder-Engagement-in-Military-Procurement>

General Services Administration (GSA). (n.d.). Using alternative dispute resolution techniques. <https://www.gsa.gov/directives-library/using-alternative-dispute-resolution-techniques>

Georgieva, T., & Marinov, M. (2017). Intercultural interactions in a military context. *Review of Air Force Academy*, 2(35), 61–68. <https://doi.org/10.1515/raft-2017-0021>

National Guard Bureau. (n.d.). Alternative dispute resolution handbook. <https://www.nationalguard.mil/Leadership/Joint-Staff/Personal-Staff/General-Counsel/National-Guard-Alternative-Dispute-Resolution/FileId/363764/>

United States Institute of Peace (USIP). (2024). How disruptive technologies are changing peace and security. <https://www.usip.org/publications/2024/06/how-disruptive-technologies-are-changing-peace-and-security>

IJLRA