

(7) A declaration that the party will not seek expert or opinion testimony from the witness or seek the testimony of the witness at a hearing or trial in the proceeding.

The request shall specify which form of testimony (deposition, affidavit, declaration, or answers to interrogatories) is desired and the date by which it is desired; however, only one form, the one least burdensome to the Department that will provide the needed information, will be permitted for each witness.

(b) The party seeking the testimony shall include with its request for testimony a copy of any prior request(s) made by the same requester to the Department or other agency of the United States for records pertaining to the matter being litigated and of the response (not including the records themselves) to the request(s). The party seeking the testimony shall also comply with any agency counsel request that copies of the records previously disclosed by the Department, or a list of those records, be furnished.

(c) In accordance with the requirement of this section and the general provisions of this part, agency counsel shall notify the requester of the approval or denial of the request. Agency counsel may attach special conditions to its approval.

§9.17 Legal proceedings between private litigants: Procedures for taking testimony.

(a) Testimony of an employee of the Department may be taken only at the office to which the employee is assigned, or any other place designated by agency counsel. Additional conditions may be specified under §9.15(c) of this part. The time shall be reasonably fixed to avoid substantial interference with the performance of the employee's or agency counsel's official duties.

(b) Upon completion of the testimony of an employee of the Department, a copy of the transcript of the testimony shall be furnished, at the expense of the party requesting the testimony, to agency counsel for the Department's files.

§9.19 Acceptance of service on behalf of Secretary.

In any legal proceeding, at the option of the server, process or pleadings may be served on agency counsel, with the same effect as if served upon the Secretary or the head of the operating administration concerned, as the case may be. The official accepting service under this section shall acknowledge the service and take appropriate action. This section does not in any way abrogate or modify the requirements of Rule 4(d)(4) and 4(d)(5) of the Federal Rules of Civil Procedure regarding service of summons and complaint.

PART 10—MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS

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