

Subpart C—Enforcement Proceedings Under the Davis-Bacon Act and Related Prevailing Wage Statutes, the Copeland Act, and the Contract Work Hours and Safety Standards Act (Except Under Contracts Subject to the Service Contract Act)

§ 6.30 Referral to Chief Administrative Law Judge.

(a) Upon timely receipt of a request for a hearing under § 5.11 (where the Administrator has determined that relevant facts are in dispute) or § 5.12 of part 5 of this title, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the notification letter to the respondent from the Administrator and response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to decide the disputed matters. A copy of the Order of Reference and attachments thereto shall be served upon the respondent.

(b) The notification letter from the Administrator and response thereto shall be given the effect of a complaint and answer, respectively, for purposes of the administrative proceedings. The notification letter and response shall be in accordance with the provisions of § 5.11 or § 5.12(b)(1) of part 5 of this title, as appropriate.

§ 6.31 Amendments to pleadings.

At any time prior to the closing of the hearing record, the complaint (notification letter) or answer (response) may be amended with the permission of the Administrative Law Judge and upon such terms as he/she may approve. For proceedings pursuant to § 5.11 of part 5 of this title, such an amendment may include a statement that debarment action is warranted under § 5.12(a)(1) of part 5 of this title or under section 3(a) of the Davis-Bacon Act. Such amendments shall be allowed when justice and the presentation of the merits are served thereby, provided there is no prejudice to the objecting party's presentation on the merits. When issues not raised by the

pleadings are reasonably within the scope of the original complaint and are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings, and such amendments may be made as necessary to make them conform to the evidence. The presiding Administrative Law Judge may, upon reasonable notice and upon such terms as are just, permit supplemental pleadings setting forth transactions, occurrences or events which have happened since the date of the pleadings and which are relevant to any of the issues involved. A continuance in the hearing may be granted or the record left open to enable the new allegations to be addressed.

§ 6.32 Consent findings and order.

(a) At any time prior to the receipt of evidence or, at the discretion of the Administrative Law Judge, prior to the issuance of the decision of the Administrative Law Judge, the parties may enter into consent findings and an order disposing of the proceeding in whole or in part.

(b) Any agreement containing consent findings and an order disposing of a proceeding in whole or in part shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(3) That any order concerning debarment under the Davis-Bacon Act (but not under any of the other statutes listed in § 5.1 of part 5 of this title) shall constitute a recommendation to the Comptroller General;

(4) A waiver of any further procedural steps before the Administrative Law Judge and the Administrative Review Board regarding those matters which are the subject of the agreement; and

(5) A waiver of any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement.

(c) Within 30 days after receipt of an agreement containing consent findings and an order disposing of the disputed