or forms that are reasonably usable; and

(3) A party need not produce the same electronically stored information in more than one form.

§ 26.20 Depositions.

(a) *Taking oral deposition.* A party may take the oral deposition of any person. Reasonable written notice of deposition shall be served upon the opposing party and the deponent. The attendance of a deponent may be compelled by subpoena where authorized by law or by other order of the hearing officer.

(b) *Testifying on oral deposition.* Each person testifying on oral deposition shall be placed under oath by the person before whom the deposition is taken. The deponent may be examined and cross-examined. The questions and the answers, together with all objections made, shall be recorded by the person before whom the deposition is to be taken, or under that person's direction.

(c) *Objections.* Objection may be made to questions or answers for any reason that would require the exclusion of the testimony under § 26.24 as if the witness were present and testifying at hearing. Objections shall be in short form, stating every ground for objection. Failure to object to any question or answer shall be considered a waiver of objection, unless the parties agree otherwise. Rulings on any objections shall be made by the hearing officer at hearing, or at such other time requested by motion. The examination shall proceed, with the testimony being taken subject to the objections; the deponent may be instructed not to answer only when necessary to preserve a privilege, to enforce a limitation directed by the hearing officer, or to present a motion for a protective order under § 26.18(c)(2).

(d) *Submission to deponent.* A transcript of the deposition shall be submitted to the deponent for examination and signature, unless submission is waived by the deponent and the parties. Any changes in form or substance that the deponent desires to make shall be entered upon the transcript by the person before whom the deposition was taken, with a statement of reasons given by the deponent for making them. The transcript shall then be signed by the deponent, unless the parties by stipulation waive the signing or the deponent is ill, cannot be found, or refuses to sign. If the transcript is not signed, the person before whom the deposition was taken shall sign it and state on the record the reason that it is not signed.

(e) *Certification and filing.* The person before whom the deposition was taken shall make a certification on the transcript as to its accuracy. Interested parties shall make their own arrangements with the person recording the testimony for copies of the testimony and the exhibits.

(f) *Deposition as evidence.* Subject to appropriate rulings by the hearing officer on objections, the deposition or any part may be introduced into evidence for any purpose if the deponent is unavailable. Only that part of a deposition that is received in evidence at a hearing shall constitute a part of the record in the proceeding upon which a decision may be based. Nothing in this rule is intended to limit the use of a deposition for impeachment purposes.

(g) *Payment of fees.* Fees shall be paid by the person upon whose application the deposition is taken.

§ 26.21 Written interrogatories.

(a) *Service of interrogatories.* Any party may serve upon any other party written interrogatories, not to exceed 25 in number, including all discrete subparts, unless additional interrogatories are agreed to by the parties or leave to serve additional interrogatories is granted by the hearing officer.

(b) *Response to interrogatories.* Within 20 days after service of the request, the party upon whom the interrogatories are served shall serve a written response, unless the parties agree in a written document submitted to the hearing officer or the hearing officer determines that a shorter or longer period is appropriate under the circumstances. The response shall specifically answer each interrogatory, separately and fully in writing, unless it is objected to, in which event the objecting party shall state the reasons for any objections with specificity. Any ground not stated in a timely objection

is waived unless the party's failure to object is excused by the hearing officer for good cause shown. If objection is made to only part of an interrogatory, the objectionable part shall be specified and the party shall answer to the extent that the interrogatory is not objectionable.

(c) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records, including electronically stored information, of the party upon whom the interrogatory has been served or from an examination, audit, or inspection of such business records, including a compilation, abstract, or summary thereof, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries. A specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can by the party served, the records from which the answer may be ascertained.

§ 26.22 Requests for admissions.

(a) Any party may serve upon any other party a written request for the admission of the genuineness of any relevant documents described in the request or of the truth of any relevant matters of fact. Copies of documents shall be delivered with the request unless copies have already been furnished. Each requested admission shall be considered admitted, unless within 30 days after service of the request, or within such other time as the parties may agree, or the hearing officer determines, the party from whom the admission is sought serves upon the party making the request either:

(1) A statement that:

(i) Denies specifically the relevant matters for which an admission is requested, or sets forth in detail the reasons why the party can neither truthfully admit nor deny them;

(ii) Fairly meets the substance of the requested admission and, when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, specifies as much of it as is true and qualifies or denies the remainder; and

(iii) Does not assert lack of information or knowledge as a reason for failure to admit or deny, unless the party states that the party has made reasonable inquiry, and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny; or

(2) Written objections to a requested admission that:

(i) State the grounds for the objection; and

(ii) Object to a requested admission, if necessary, either in whole or in part, on the basis of privilege or relevance.

(b) Responses to the request for admission on matters to which objections have been made may be deferred until the objection is ruled upon, but if written objections are made only to a part of a request, a response to the remainder of the request shall be provided.

(c) Any matter admitted under this rule is conclusively established unless the hearing officer, on motion, permits withdrawal or amendment of the admission. Admissions obtained pursuant to this procedure may be used in evidence only for the purposes of the pending action. The use of obtained admissions as evidence is permitted to the same extent and subject to the same objections as other evidence.

HEARINGS

§ 26.23 Public nature and timing of hearings; transcripts.

(a) *Public hearings.* All hearings in adjudicative proceedings shall be public.

(b) *Conduct of hearing.* Hearings shall proceed with all reasonable speed. The hearing officer may order recesses for good cause, stated on the record. The hearing officer may, for convenience of the parties or witnesses, or in the interests of justice, order that hearings be conducted outside of Washington, DC, and, if necessary, in more than one location.