

## § 22.5

## 4 CFR Ch. I (1-1-10 Edition)

scheduled hearing, or before the record is closed if no hearing is held.

### § 22.5 Pleadings [Rule 5].

(a) *Complaint.* Within 15 days after receipt of the docketing notice from the Board, or within such other period of time as may be established by the Board, the appellant will file with the Board, if not previously filed with the notice of appeal, a complaint setting forth simple, concise, and direct statements of each of its claims showing that it is entitled to relief; identifying the contract provision or provisions under which relief is claimed; and stating the amount in controversy or an estimate thereof, if known, and/or the relief requested. The complaint shall be limited to those requests for relief which have been presented to the contracting officer and were either denied or not ruled upon by the contracting officer in accordance with § 22.3 of this part [Rule 3]. No technical form is required, but each claim should be separately identified. In the event that the complaint is not filed within the time stated above, the appeal may be dismissed by the Board for lack of prosecution.

(b) *Answer.* Within 30 days after receipt of the complaint, or within such other period of time as may be established by the Board, the contracting officer or counsel for the government shall prepare and file with the Board an answer thereto. The answer shall set forth simple, concise, and direct statements of the government's defenses to each claim asserted by the appellant. Each defense shall be stated with as much particularity as is practicable. Defenses which go to the Board's jurisdiction may be included in the answer, or may be raised by motion pursuant to the provisions of § 22.6 of this part [Rule 6]. Motions in lieu of an answer may be filed only with the advance permission of the Board.

(c) *Small claims and accelerated procedures.* When an appellant elects to use the small claims or accelerated procedures described in § 22.22 of this part [Rule 22], the Board may shorten the time for filing the complaint and answer.

(d) *Amendment of pleadings.* At any time before a hearing on the merits, or

before the closing of the record when a hearing is not held, the Board in its discretion may permit a party to amend its complaint or answer concerning matters that are within the proper scope of the appeal, upon conditions that are just to both parties. The Board, upon its own initiative or upon application by a party, may in its discretion order a party to make a more definite statement of its complaint or answer, or to reply to an answer. When issues within the proper scope of the appeal, but not raised by the complaint and answer, are determined by express or implied consent of the parties as having been raised, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the complaint and answer as may be necessary to cause them to conform to the evidence may be made upon motion at any time, but failure to so amend does not affect the result of the hearing of these issues. If evidence is objected to at the hearing on the ground that it is not within the issues raised by the complaint and answer, the Board may allow the pleadings to be amended within the proper scope of the appeal and shall do so freely when the presentation of the merits of the action will be served thereby and the objecting party fails to satisfy the Board that the admission of such evidence would prejudice it in maintaining its appeal or defense on the merits. The Board may, however, grant a continuance to enable the objecting party to respond to such evidence.

### § 22.6 Motions, Briefs, and Other Statements [Rule 6].

(a) *Motions, generally.* Motions shall be made in writing, indicate the relief sought and include the grounds therefor, and be filed with the Board as soon as practicable after the grounds therefor are known and as early as necessary to allow the Board to rule on the motion in advance of a scheduled hearing. Except for motions submitted under paragraph (d) of this section [Rule 6(d)], any party may respond to a motion by submitting a written response to the motion within 10 days of receipt of the motion, and the moving party may reply to the response within 5 days of receipt of the response, except