

### 6101.3

docketing will be sent promptly to all parties.

(d) *Consolidation*. When cases involving common questions of law or fact are filed, the Board may:

- (1) Order the cases consolidated; or
- (2) Make such other orders concerning the proceedings as are needed to avoid unnecessary costs or delay.

[72 FR 36795, July 5, 2007., as amended at 76 FR 50927, Aug. 17, 2011]

### 6101.3 Time; enlargement; computation [Rule 3].

(a) *Time for performing required actions*. All time limitations prescribed in the rules of this chapter or in any order or direction given by the Board are maximums, and the action required should be accomplished in less time whenever possible.

(b) *Enlarging time*. Upon request of a party for good cause shown, the Board may enlarge any time prescribed by the rules in this chapter or by an order or direction of the Board except the time limit for filing appeals (6101.2(b)(1) (Rule 2(b)(1))). A written request is required, but in exigent circumstances an oral request may be made and followed by a written request. An enlargement of time may be granted even though the request was filed after the time for taking the required action expired, but the party requesting the enlargement must show good cause for its inability to make the request before that time expired.

(c) *Computing time*. Except as otherwise required by law, in computing a period of time prescribed by the rules in this chapter or by order of the Board, the day from which the designated period of time begins to run shall not be counted, but the last day of the period shall be counted unless that day is a Saturday, a Sunday, or a federal holiday, or a day on which the Office of the Clerk of the Board is required to close earlier than 4:30 p.m., or does not open at all, as in the case of inclement weather, in which event the period shall include the next working day. Except as otherwise provided in this paragraph, when the period of time prescribed or allowed is less than 11 days, any intervening Saturday, Sunday, or federal holiday shall not be counted. When the period of time pre-

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scribed or allowed is 11 days or more, intervening Saturdays, Sundays, and federal holidays shall be counted. Time for filing any document or copy thereof with the Board expires when the Office of the Clerk of the Board closes on the last day on which such filing may be made.

### 6101.4 Appeal file [Rule 4].

(a) *Submission to the Board by the respondent*. Within 30 calendar days from receipt of the Board's docketing notice or within such time as the Board may allow, the respondent shall file with the Board appeal file exhibits consisting of all documents and other tangible things relevant to the claim and to the contracting officer's decision which has been appealed. Exhibits will be numbered as required by 6101.4(b) [Rule 4(b)] and will include, if any:

- (1) The contracting officer's decision from which the appeal is taken;
- (2) The contract, including amendments, specifications, plans, and drawings;
- (3) All correspondence between the parties that is relevant to the appeal, including the written claim or claims that are the subject of the appeal, and evidence of their certification;
- (4) Affidavits or statements of any witnesses concerning the matter in dispute and transcripts of any testimony taken before the filing of the notice of appeal;
- (5) All documents and other tangible things on which the contracting officer relied in making the decision, and any related correspondence;
- (6) The abstract of bids, if relevant; and
- (7) Any additional existing evidence or information necessary to determine the merits of the appeal, such as internal memoranda and notes to the file.

(b) *Organization of the appeal file*. Appeal file exhibits may be originals or true, legible, and complete copies. They shall be arranged in chronological order, earliest documents first; bound in a loose-leaf binder on the left margin except where size or shape makes such binding impracticable; numbered; tabbed; and indexed. The loose-leaf binders cannot exceed four inches in depth. The numbering shall

be consecutive, in whole Arabic numerals (no letters, decimals, or fractions), and continuous from one submission to the next, so that the complete file, after all submissions, will consist of one set of consecutively numbered exhibits. In addition, the pages within each exhibit containing more than three pages shall be numbered consecutively unless the exhibit already is paginated in a logical manner. Consecutive pagination of the entire file is not required. The index shall include the date and a brief description of each exhibit and shall identify which exhibits, if any, have been filed with the Board *in camera* or under protective order or otherwise have not been served on the other party.

(c) *Service.* The respondent shall serve a copy of the appeal file on the appellant at the same time that the respondent files it with the Board, except that the respondent need not serve on the appellant those documents furnished the Board *in camera* pursuant to 6101.9(c) (Rule 9(c)), and the respondent shall serve documents submitted under protective order only on those individuals who have been granted access to such documents by the Board. However, the respondent must serve on the appellant a list identifying the specific documents filed *in camera* or under protective order with the Board, giving sufficient details necessary for their recognition. This list must also be filed with the Board as an exhibit to the appeal file.

(d) *Submission to the Board by the appellant.* Within 30 calendar days after the respondent files its appeal file exhibits, or within such time as the Board may allow, the appellant shall file with the Board for inclusion in the appeal file documents or other tangible things relevant to the appeal that have not been submitted by the respondent. The appellant shall serve a copy of its additional exhibits upon the respondent at the same time as it files them with the Board, and shall organize the file as required by 6101.4(b) (Rule 4(b)).

(e) *Submissions on order of the Board.* The Board may, at any time during the pendency of the appeal, require any party to file other documents and tangible things as additional exhibits. The Board may also require a party to file

either copies of electronically stored information or printed versions of electronically stored information.

(f) *Lengthy or bulky materials.* The Board may waive the requirement to furnish the other party copies or duplicates of bulky, lengthy, or oversized materials submitted to the Board as exhibits if furnishing copies would impose an undue burden, so long as the materials are available to the opposing party for inspection.

(g) *Use of appeal file as evidence.* All exhibits in the appeal file, except for those as to which an objection has been sustained, are part of the evidentiary record upon which the Board will render its decision. Unless otherwise ordered by the Board, objection to any exhibit may be made at any time before the first witness is sworn or, if the appeal is submitted on the record without a hearing pursuant to 6101.19 [Rule 19], at any time prior to or concurrent with the first record submission. The Board may shorten or enlarge the time for such objections and will consider an objection made during a hearing if the ground for objection could not reasonably have been earlier known to the objecting party. If an objection is sustained, the Board will so note in the record.

(h) *When appeal file not required.* Upon motion of a party, the Board may postpone or dispense with the submission of any or all appeal file exhibits.

[72 FR 36795, July 5, 2007, as amended at 73 FR 26950, May 12, 2008]

#### **6101.5 Appearances; notice of appearance [Rule 5].**

(a) *Appearances before the Board—(1) Appellant; petitioner; applicant.* Any appellant, petitioner, or applicant may appear before the Board by an attorney-at-law licensed to practice in a state, commonwealth, or territory of the United States, or in the District of Columbia. An individual appellant, petitioner, or applicant may appear in his or her own behalf; a corporation, trust, or association may appear by one of its officers; and a partnership may appear by one of its members.

(2) *Respondent.* The respondent may appear before the Board by an attorney-at-law licensed to practice in a state, commonwealth, or territory of