

§ 22.23

the appellant's election, and only when the monetary amount in dispute is \$100,000 or less. Such election shall be made no later than 15 days after receipt of the government's answer to the complaint, unless the Board enlarges the time for good cause shown. Promptly after receiving a timely filed election, the Board shall establish a schedule of proceedings that will allow for the timely resolution of the appeal. Pleadings may be simplified, discovery and other pre-hearing activities may be restricted or eliminated, and the appeal may be decided by a single member of the Board. Either party's failure to adhere to the Board's schedule may result in the Board drawing evidentiary inferences adverse to the party at fault. Whenever possible, the Board shall resolve an appeal under this procedure within 180 days from the Board's receipt of the election.

(c) *Small claims procedure.* The small claims procedure is available solely at the appellant's election, and only when the monetary amount in dispute is \$50,000 or less (or in the case of a small business concern is \$150,000 or less). Such election shall be made no later than 15 days after receipt of the government's answer to the complaint, unless the Board enlarges the time for good cause shown. Promptly after receiving a timely filed election, the Board shall establish a schedule of proceedings that will allow for the timely resolution of the appeal. Pleadings may be simplified, discovery and other pre-hearing activities may be restricted or eliminated, and the appeal may be decided by a single member of the Board. Either party's failure to adhere to the Board's schedule may result in the Board drawing evidentiary inferences adverse to the party at fault. Whenever possible, the Board shall resolve an appeal under this procedure within 120 days from the Board's receipt of the election.

§ 22.23 Suspension of Proceedings [Rule 23].

At any time, the Board may suspend the proceedings by agreement of the parties for settlement discussions, or for good cause shown.

4 CFR Ch. I (1-1-12 Edition)

§ 22.24 Alternative Dispute Resolution [Rule 24].

(a) *Docketed appeals.* The Board considers Alternative Dispute Resolution (ADR) to be an efficient way to timely resolve many contract disputes, and therefore encourages the parties to use ADR as an effective means to resolve their contract dispute. ADR with Board participation is available at the initiative of the Board or upon the joint motion of both parties. Guidelines, procedures, and requirements for implementing ADR will be prescribed by agreement of the parties and the Board. Ordinarily, ADR will be performed by a Board member, designated by the Chairman of the Board, that is not one of the three panel members deciding the dispute.

(b) *Other matters.* Upon request and in the Board's discretion, the Board can make an ADR neutral available for an ADR proceeding, even if the contracting officer's decision has not been issued or is not contemplated. Such a request should be directed to the Chairman of the Board.

§ 22.25 Protective Orders and In Camera Review [Rule 25].

(a) *Protective orders.* Upon motion of any party, or on the Board's initiative, the Board may issue a protective order to hold materials under conditions that would limit access to them on the ground that such documents are privileged or confidential, or sensitive in some other way. Any motion filed under this rule must state with specificity the grounds for such limited access. The manner in which such materials will be held, the persons that shall have access to them, and the conditions under which such access will be allowed will be specified in an order of the Board.

(b) *In camera review.* Generally, all documents and evidence provided to the Board must also be provided to all other parties to the appeal or their legal counsel or representative. However, in limited circumstances, such as in deciding matters of privilege, it may be appropriate for the Board to review documents or evidence in camera. In camera review may be requested upon motion to the Board, or on the Board's initiative. Any motion filed under this

rule must state with specificity the grounds for seeking in camera review.

§ 22.26 Representation of Parties [Rule 26].

(a) *The appellant.* Any appellant may appear before the Board represented by an attorney duly licensed in any State, Commonwealth, Territory, or in the District of Columbia. An individual appellant may appear before the Board in person; a corporation may be represented by an officer thereof; a partnership or joint venture may be represented by a member thereof. Under special circumstances, the Board may authorize a contractor to appear before the Board represented by a duly authorized representative other than those mentioned herein for the purposes of that appeal only.

(b) *The respondent.* The respondent may appear before the Board represented by an attorney duly licensed in any State, Commonwealth, Territory, or in the District of Columbia. Such attorney shall be designated with authority to represent the government's interests before the Board. Alternatively, if not otherwise prohibited, the respondent may appear before the Board represented by the contracting officer or the contracting officer's authorized representative.

(c) *Others.* The Board may, on motion, in its discretion, permit a special or limited appearance, such as by amicus curiae. Permission to appear, if granted, will be for such purposes and in such manner as established by the Board.

(d) *Notice of appearance.* An attorney or other duly authorized representative representing a party before the Board shall file a notice of appearance. Such notice shall provide the person's name, address, direct dial telephone number, fax number, and e-mail address. If multiple attorneys or law firms represent a party, the contact information for each attorney shall be provided to the Board. In such instances, the party shall designate a single attorney or individual as the primary point of contact for the party. Notices of appearance shall be filed at the commencement of the appeal and shall be updated as necessary during the appeal.

§ 22.27 Ex Parte Communications [Rule 27].

No member of the Board shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board, any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal without the knowledge and consent of the adverse party. This provision does not apply to consultation among Board members or to ex parte communications concerning the Board's administrative functions or procedures.

§ 22.28 Time [Rule 28].

In computing any period of time described in these rules, "days" refer to calendar days, unless otherwise specified in these rules. The first day from which the period begins to run is not counted, and when the last day of the period is Saturday, Sunday, or a Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or a Federal holiday. Documents shall be deemed "filed" on the date and time received by the Board if received before 5:30 p.m. local time in Washington, DC, or the next business day if received after 5:30 p.m.

[73 FR 60610, Oct. 14, 2008]

§ 22.29 Inspection of the Record [Rule 29].

The notice of appeal, the complaint, the answer, the documents required to be filed therewith pursuant to § 22.4 of this part [Rule 4], all papers filed by the parties with the Board pursuant to these rules, and all correspondence exchanged between the Board and the parties or their attorneys shall be available for inspection at the offices of the Board. Prior arrangements for inspection of the file should be made with a member of the Board.

PART 25—CONDUCT IN THE GOVERNMENT ACCOUNTABILITY OFFICE BUILDING AND ON ITS GROUNDS

Sec.

- 25.1 Applicability and governing laws.
- 25.2 Inspection.
- 25.3 Admission to the GAO building.