

## **§ 134.711**

### **§ 134.711 Will the Judge permit discovery and oral hearings?**

Discovery will not be permitted, and oral hearings will not be held.

### **§ 134.712 What are the limitations on new evidence?**

The Judge may not admit evidence beyond the written protest file nor permit any form of discovery. All appeals under this subpart will be decided solely on a review of the evidence in the written protest file, arguments made in the appeal petition, and response(s) filed thereto.

### **§ 134.713 When is the record closed?**

The record will close when the time to file a response to an appeal petition expires pursuant to § 134.710.

### **§ 134.714 When must the Judge issue his or her decision?**

The Judge shall issue a decision, insofar as practicable, within fifteen (15) business days after close of the record.

### **§ 134.715 Can a Judge reconsider his decision?**

(a) The Judge may reconsider an appeal decision within twenty (20) calendar days after issuance of the written decision. Any party who has appeared in the proceeding, or SBA, may request reconsideration by filing with the Judge and serving a petition for reconsideration on all the parties to the appeal within twenty (20) calendar days after service of the written decision. The request for reconsideration must clearly show an error of fact or law material to the decision. The Judge may also reconsider a decision on his or her own initiative.

(b) The Judge may remand a proceeding to the D/GC for a new WOSB or EDWOSB determination if the D/GC fails to address issues of decisional significance sufficiently, does not address all the relevant evidence, or does not identify specifically the evidence upon which it relied. Once remanded, OHA no longer has jurisdiction over the matter, unless a new appeal is filed as a result of the new WOSB or EDWOSB determination.

## **13 CFR Ch. I (1–1–13 Edition)**

### **Subpart H—Rules of Practice for Employee Disputes**

SOURCE: 75 FR 47443, Aug. 6, 2010, unless otherwise noted.

#### **§ 134.801 Scope of rules.**

(a) The rules of practice in this subpart H apply to the OHA appeal under the Employee Dispute Resolution Process (EDRP). Standard Operating Procedure (SOP) 37 71 sets out the EDRP. It is available at <http://www.sba.gov/tools/resourcelibrary/sops/index.html> or through OHA's Web site <http://www.sba.gov/oha>.

(b) The following rules, located in subparts A and B of this part, also apply to OHA appeals under the EDRP:

- (1) Definitions (§ 134.101);
- (2) Jurisdiction of OHA (§ 134.102(r) only);
- (3) Scope of the rules in this subpart B (§ 134.201(a), (b)(6), and (c) only);
- (4) Commencement of cases (§ 134.202(d) only, on deadlines and how to count days);
- (5) Filing and service requirements (§ 134.204);
- (6) Amendments and supplemental pleadings (§ 134.207);
- (7) Requirement of signature (§ 134.209);
- (8) Motions (§ 134.211);
- (9) Summary decision (§ 134.212);
- (10) Sanctions (§ 134.219); and
- (11) Review of initial decisions (§ 134.228).

#### **§ 134.802 [Reserved]**

#### **§ 134.803 Commencement of appeals from AMO decisions.**

(a) An appeal from an AMO decision must be commenced by filing an appeal petition within 15 days from the date the Employee receives the AMO's decision.

(b) If the AMO does not issue a decision, the appeal petition must be filed no sooner than 16 days and no later than 55 days from the date on which the Employee filed the original Statement of Dispute with the AMO.

(c) The rule for counting days is in § 134.202(d).

(d) OHA will dismiss an untimely appeal.