

PART 6101—CONTRACT DISPUTE CASES

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APPENDIX TO PART 6101—FORM NOS. 1-5.

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6101.1 Scope of rules; definitions; construction; rulings, orders, and directions; panels; location and address [Rule 1].

(a) *Scope.* The rules of this chapter govern proceedings in all cases filed with the Board on or after January 6, 2007, and all further proceedings in cases then pending, except to the extent that, in the opinion of the Board, their use in a particular case pending on the effective date would be infeasible or would work an injustice. The Board will look to the rules of this chapter for guidance in conducting other proceedings authorized by law.

(b) *Definitions*—(1) *Appeal; appellant.* The term “appeal” means a contract dispute filed with the Board. The term “appellant” means a party filing an appeal.

(2) *Application; applicant.* The term “application” means a submission to the Board of a request for award of fees and other expenses, under the Equal Access to Justice Act, 5 U.S.C. 504, pursuant to 6101.30 (Rule 30). The term “applicant” means a party filing an application.

(3) *Board judge; judge.* The term “Board judge” or “judge” means a member of the Board.

(4) *Case.* The term “case” means an appeal, petition, or application.

(5) *Filing.* (i) Any document, other than a notice of appeal or an application for award of fees and other expenses, is filed when it is received by the Office of the Clerk of the Board during the Board’s working hours. A notice of appeal or an application for award of fees and other expenses is filed upon the earlier of its receipt by the Office of the Clerk of the Board or if mailed, the date on which it is mailed to the Board. A United States Postal Service postmark shall be prima facie evidence that the document with which it is associated was mailed on the date of the postmark.

(ii) Facsimile transmissions to the Board and the parties are permitted. The filing of a document by facsimile transmission occurs upon receipt by the Board of the entire submission by facsimile. Parties are specifically cautioned that a deadline for filing will not be extended merely because the Board's facsimile machine is busy or otherwise unavailable when a filing is due. Parties are expected to submit their facsimile machine numbers with their filings.

(iii) Filings submitted by electronic mail (e-mail) are permitted, with the exception of appeal files submitted pursuant to 6101.4 (Rule 4), classified documents, and filings submitted *in camera* or under protective order pursuant to 6101.9(c) (Rule 9(c)). Filings by e-mail shall be submitted to: *cbca.efile@cbca.gov*. Filings must be in PDF format and may not exceed 18 megabytes (MB) total. Filings that are not in PDF format or over 18 MB will not be accepted. The filing of a document by e-mail occurs upon receipt by the Board on a working day, as defined in 6101.1(b)(9) (Rule 1(b)(9)). All e-mail filings received by 4:30 p.m., Eastern Time, on a working day will be considered to be filed on that day. E-mail filings received after that time will be considered to be filed on the next working day.

(6) *Party*. The term “party” means an appellant, applicant, petitioner, or respondent.

(7) *Petition; petitioner*. The term “petition” means a request filed under 41 U.S.C. 605(c)(4) that the Board direct a contracting officer to issue a written decision on a claim. The term “petitioner” means a party submitting a petition.

(8) *Respondent*. The term “respondent” means the government agency whose decision, action, or inaction is the subject of an appeal, petition, or application.

(9) *Working day*. The term “working day” means any day other than a Saturday, Sunday, federal holiday, day on which the Office of the Clerk is required to close earlier than 4:30 p.m., or day on which the Office of the Clerk does not open at all, as in the event of inclement weather.

(10) *Working hours*. The Board's working hours are 8:00 a.m. to 4:30 p.m., Eastern Time, on each working day.

(c) *Construction*. The rules of this chapter shall be construed to secure the just, informal, expeditious, and inexpensive resolution of every case. The Board looks to the Federal Rules of Civil Procedure for guidance in construing those Board rules which are similar to Federal Rules.

(d) *Rulings, orders, and directions*. The Board may apply the rules of this chapter and make such rulings and issue such orders and directions as are necessary to secure the just, informal, expeditious, and inexpensive resolution of every case before the Board. Any ruling, order, or direction that the Board may make or issue pursuant to the rules of this chapter may be made on the motion or request of any party or on the initiative of the Board. The Board may also amend, alter, or vacate a ruling, order, or direction upon such terms as it deems just. In making rulings and issuing orders and directions pursuant to the rules of this chapter, the Board takes into consideration those Federal Rules of Civil Procedure which address matters not specifically covered herein.

(e) *Panels*. Each case will be assigned to a panel consisting of three judges, with one member designated as the presiding judge, in accordance with such procedures as may be established by the Board. The presiding judge is responsible for processing the case, including scheduling and conducting proceedings and hearings. In addition, the presiding judge may, without participation by other panel members, decide an appeal under the small claims procedure in 6101.52 [Rule 52], rule on non-dispositive motions (except for amounts in controversy under 6101.52(a)(2) [Rule 52(a)(2)] and 6101.53(a)(2) [Rule 53(a)(2)]), and dismiss a case as permitted by 6101.12(e) [Rule 12(e)]. All other matters, except for those before the full Board under 6101.28 [Rule 28], are decided for the Board by a majority of the panel.

(f) *Location and address*. The location of the Office of the Clerk of the Board is: 1800 M Street, NW, 6th Floor, Washington, DC 20036. The mailing address of the Office of the Clerk of the Board

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is: 1800 F Street, NW, Washington, DC 20405. The Clerk's telephone number is: (202) 606-8800. The Clerk's facsimile machine number is: (202) 606-0019. The Clerk's e-mail address for receipt of filings is: cbca.efile@cbca.gov.

[72 FR 36795, July 5, 2007, as amended at 73 FR 26950, May 12, 2008; 74 FR 66585, Dec. 16, 2009; 76 FR 50927, Aug. 17, 2011]

6101.2 Filing cases; time limits for filing; notice of docketing; consolidation [Rule 2].

(a) *Filing cases.* Filing of a case occurs as provided in 6101.1(b)(5) (Rule 1(b)(5)).

(1) *Notice of appeal.* (i) A notice of appeal shall be in writing and shall be signed by the appellant or by the appellant's attorney or authorized representative. If the appeal is from a contracting officer's decision, the notice of appeal should describe the decision in enough detail to enable the Board to differentiate that decision from any other; the appellant can satisfy this requirement by attaching to the notice of appeal a copy of the contracting officer's decision. If an appeal is taken from the failure of a contracting officer to issue a decision, the notice of appeal should describe in detail the claim that the contracting officer has failed to decide; the appellant can satisfy this requirement by attaching a copy of the written claim submission to the notice of appeal.

(ii) A written notice in any form, including the one specified in the Appendix to the rules in this chapter, is sufficient to initiate an appeal. The notice of appeal should include the following information:

(A) The number and date of the contract;

(B) The name of the government agency and the component thereof against which the claim has been asserted;

(C) The name, address, telephone number, facsimile machine number, and e-mail address, if available, of the contracting officer whose decision is appealed and the date of the decision;

(D) If the appeal is from the failure of the contracting officer to decide a claim, the name, address, telephone number, facsimile machine number, and e-mail address, if available, of the

contracting officer who received the claim;

(E) A brief account of the circumstances giving rise to the appeal; and

(F) An estimate of the amount of money in controversy, if any and if known.

(iii) The appellant must send a copy of the notice of appeal to the contracting officer whose decision is appealed or, if there has been no decision, to the contracting officer before whom the appellant's claim is pending.

(2) *Petition.* (i) A petition shall be in writing and signed by the petitioner or by the petitioner's attorney or authorized representative. The petition should describe in detail the claim that the contracting officer has failed to decide; the contractor can satisfy this requirement by attaching to the petition a copy of the written claim submission.

(ii) The petition should include the following information:

(A) The number and date of the contract;

(B) The name of the government agency and the component thereof against which the claim has been asserted; and

(C) The name, address, telephone number, facsimile machine number, and e-mail address, if available, of the contracting officer whose decision is sought.

(3) *Application.* An application for fees and other expenses shall meet all requirements specified in 6101.30 (Rule 30).

(b) *Time limits for filing—(1) Appeals.*

(i) An appeal from a decision of a contracting officer shall be filed no later than 90 calendar days after the date the appellant receives that decision.

(ii) An appeal may be filed with the Board if the contracting officer fails or refuses to issue a timely decision on a claim submitted in writing, properly certified if required.

(2) *Applications.* An application for fees and other expenses shall be filed within 30 calendar days of a final disposition in the underlying appeal, as provided in 6101.30 (Rule 30).

(c) *Notice of docketing.* Notices of appeal, petitions, and applications will be docketed by the Office of the Clerk of the Board, and a written notice of