Small Business Administration

§ 134.102 Jurisdiction of OHA.

Business day means any day other than a Saturday, Sunday, or a Federal holiday.

Day means a calendar day, unless a Judge specifies otherwise.

Hearing means the presentation and consideration of argument and evidence. A hearing need not include live testimony or argument.


Judge means an Administrative Law Judge or an Administrative Judge of OHA, or the AA/OHA when he or she acts as an Administrative Judge.

NAICS code means North American Industry Classification System code.

OHA means the Office of Hearings and Appeals.

Party means the petitioner, appellant, respondent, or intervenor, and the contracting officer in a NAICS code appeal.

Person means an individual or any form of business entity.

Petition (or appeal petition) means a written complaint, a written appeal from an SBA determination, or a written request for the initiation of proceedings before OHA.

Pleading means a petition, an order to show cause commencing a case, an appeal petition, an answer, a response, or any amendment or supplement to those documents.

Respondent means any person or governmental agency against which a case has been brought before OHA.

SBA means the Small Business Administration.

Size determination means a formal size determination made by an Area Office and includes decisions by Government Contracting Area Directors that determine whether two or more concerns are affiliated for purposes of SBA’s financial assistance programs, or other programs for which an appropriate SBA official requested an affiliation determination.


§ 134.102 Jurisdiction of OHA.

OHA has authority to conduct proceedings in the following cases:
(a) The revocation or suspension of Small Business Investment Company licenses, cease and desist orders, and the removal or suspension of directors and officers of licensees, under the Investment Act and part 107 of this chapter;
(b) Alleged violations of those civil rights laws which are effectuated by parts 112, 113, 117, and 136 of this chapter;
(c) The revocation of the privilege of a person to conduct business with SBA under the Act and part 103 of this chapter;
(d) [Reserved]
(e) The suspension or termination of surety bond program participants under 15 U.S.C. 694a et seq. and part 115 of this chapter;
(f) [Reserved]
(g) Allowance of fees and expenses under the Equal Access to Justice Act, 5 U.S.C. 504;
(h) Debarment from appearance before the SBA because of post-employment restrictions under 18 U.S.C. 207 and part 105 of this chapter;
(i) Collection of debts owed to SBA and the United States under the Debt Collection Act of 1982, the Debt Collection Improvement Act of 1996, and part 140 of this chapter;
(j) Appeals from the following SBA 8(a) program determinations under the Act and part 124 of this chapter:
(1) Denial of program admission based solely on a negative finding as to social disadvantage, economic disadvantage, ownership or control; program termination; program graduation; or denial of a waiver of the requirement to perform to completion an 8(a) contract; and
(2) Program suspension;
(k) Appeals from size determinations and NAICS code designations under part 121 of this chapter;
(l) The imposition of civil penalties and assessments against persons who make false claims or statements to SBA under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801-3812 and part 142 of this chapter;
(m)–(n) [Reserved]
(o) The suspension, termination, or non-renewal of cooperative agreements with Women’s Business Centers and Small Business Development Centers under the Act and part 130 of this chapter;
(p) Certain matters involving debarments and suspensions under 2 CFR parts 180 and 2700;
(q) Appeals from the Service-Disabled Veteran-owned SBC Program ownership and control status under part 125 of this chapter;
(r) The decision of the Appropriate Management Official in SBA Employee Dispute Resolution Process cases (Employee Disputes) under Standard Operating Procedure (SOP) 37 71 (available at http://www.sba.gov/tools/resourcelibrary/sops/index.html or through OHA’s Web site http://www.sba.gov/oha) and subpart H of this part;
(s) Appeals from Women-Owned Small Business or Economically-Disadvantaged Women-Owned Small Business protest determinations under part 127 of this chapter;
(t) Any other hearing, determination, or appeal proceeding referred to OHA by the Administrator of SBA, either through an SOP, Directive, Procedural Notice, or individual request by the Administrator to the AA/OHA.

§ 134.103 [Reserved]

Subpart B—Rules of Practice

§ 134.201 Scope of the rules in this subpart B.

(a) The rules of practice in this subpart apply to all OHA proceedings except:
(1) Where another subpart of this part, pertaining to a specific type of OHA proceeding, provides a different rule; or
(2) Where another part of this chapter, pertaining to a specific type of OHA proceeding (or SBA program allowing appeals to OHA), provides a different rule (see §134.102).
(b) For specific types of OHA proceedings, the rules of practice are located as follows: