

**§ 134.229 Termination of jurisdiction.**

Except when the Judge reconsiders a decision or remands the case, the jurisdiction of OHA will terminate upon the issuance of a decision resolving all material issues of fact and law. If the Judge reconsiders a decision, OHA's jurisdiction terminates when the Judge issues the decision after reconsideration. If the Judge remands the case, the Judge may retain jurisdiction at his or her own discretion, and the remand order may include the terms and duration of the remand.

[67 FR 47249, July 18, 2002]

### Subpart C—Rules of Practice for Appeals From Size Determinations and NAICS Code Designations

**§ 134.301 Scope of the rules in this subpart C.**

The rules of practice in this subpart C apply to all appeals to OHA from:

- (a) Formal size determinations made by an SBA Government Contracting Area Office, under part 121 of this chapter, or by a Disaster Area Office, in connection with applications for disaster loans; and
- (b) NAICS code designations, pursuant to part 121 of this chapter.

[61 FR 2683, Jan. 29, 1996, as amended at 67 FR 47249, July 18, 2002]

**§ 134.302 Who may appeal.**

Appeals from size determinations and NAICS code designations may be filed with OHA by the following, as applicable:

- (a) Any person adversely affected by a size determination;
- (b) Any person adversely affected by a NAICS code designation. However, with respect to a particular sole source 8(a) contract, only the Director, Office of Business Development may appeal a NAICS code designation;
- (c) The Associate or Assistant Administrator for the SBA program involved, through SBA's Office of General Counsel; or

(d) The procuring agency contracting officer responsible for the procurement affected by a size determination.

[61 FR 2683, Jan. 29, 1996, as amended at 67 FR 47249, July 18, 2002; 74 FR 45754, Sept. 4, 2009; 75 FR 47442, Aug. 6, 2010]

**§ 134.303 Advisory opinions.**

The Office of Hearings and Appeals does not issue advisory opinions.

[67 FR 47249, July 18, 2002]

**§ 134.304 Commencement of appeals from size determinations and NAICS code designations.**

(a) Size appeals must be filed within 15 calendar days after receipt of the formal size determination.

(b) NAICS code appeals must be filed within 10 calendar days after issuance of the solicitation, or amendment to the solicitation affecting the NAICS code or size standard. However, SBA may file a NAICS code appeal at any time before offers or bids are due.

(c) An untimely appeal will be dismissed.

[76 FR 5685, Feb. 2, 2011]

**§ 134.305 The appeal petition.**

(a) *Form.* There is no required format for an appeal petition. However, it must include the following information:

- (1) In a size appeal, a copy of the size determination being appealed;
- (2) The solicitation or contract number, and the name, address, and telephone number of the contracting officer;
- (3) A full and specific statement as to why the size determination or NAICS code designation is alleged to be in error, together with argument supporting such allegations; and
- (4) The name, address, telephone number, facsimile number, and signature of the appellant or its attorney.

(b) *Service of size determination appeals.* The appellant must serve the appeal petition upon each of the following:

- (1) The SBA official who issued the size determination;
- (2) The contracting officer responsible for the procurement affected by a size determination;