

§ 134.212

13 CFR Ch. I (1–1–10 Edition)

§ 134.212 Summary decision.

(a) *Grounds.* A party may move for summary decision at any time as to all or any portion of the case, on the grounds that there is no genuine issue as to any material fact, and that the moving party is entitled to a decision in its favor as a matter of law.

(b) *Contents of motion.* The motion must include a statement of the material facts believed not to be disputed, and relevant law. Supporting affidavits may also be included.

(c) *Cross-motions.* In its response to a motion for summary decision, a party may cross-move for summary decision. The initial moving party may file and serve a response to any cross-motion for summary decision within 20 days after the service of that cross-motion.

(d) *Stay.* A motion for summary decision stays the time to answer. The Judge will establish the time for filing and serving an answer in the order determining the motion for summary decision.

(e) *Appeal petitions from SBA determinations (other than 8(a) determinations).* In a case involving an appeal petition, except as provided in subpart D of this part, if SBA has provided multiple grounds for the determination being appealed, SBA may move for summary decision on one or more grounds. If the Judge finds that there is no genuine issue of material fact and the SBA is entitled to a decision in its favor as a matter of law as to any such ground, the Judge will grant the motion for summary decision and dismiss the appeal.

[61 FR 2683, Jan. 29, 1996, as amended at 67 FR 47248, July 18, 2002]

§ 134.213 Discovery.

(a) *Motion.* A party may obtain discovery only upon motion, and for good cause shown.

(b) *Forms.* The forms of discovery which a Judge can order under paragraph (a) of this section include requests for admissions, requests for production of documents, interrogatories, and depositions.

(c) *Limitations.* Discovery may be limited in accordance with the terms of a protective order. Further, privileged

information and irrelevant issues or facts will not be subject to discovery.

(d) *Disputes.* If a dispute should arise between the parties over a particular discovery request, the party seeking discovery may file and serve a motion to compel discovery. Discovery may be opposed on the grounds of harassment, needless embarrassment, irrelevance, undue burden or expense, privilege, or confidentiality.

[61 FR 2683, Jan. 29, 1996, as amended at 63 FR 35766, June 30, 1998; 67 FR 47249, July 18, 2002]

§ 134.214 Subpoenas.

(a) *Availability.* At the request of a party, or upon his or her own initiative, a Judge may issue a subpoena requiring a witness to appear and testify, or to produce particular documents, at a specified time and place. Subpoenas are not authorized for proceedings relating to internal Agency determinations, such as Employee Disputes.

(b) *Requests.* A request for the issuance of a subpoena must be written, served upon all parties, and filed. The request must clearly identify the witness and any documents to be subpoenaed, and must set forth the relevance of the testimony or documents sought.

(c) *Service.* A subpoena may only be served by personal delivery. The individual making service shall prepare an affidavit stating the date, time, and place of the service. The party which obtained the subpoena must serve upon all other parties, and file with OHA, a copy of the subpoena and affidavit of service within 2 days after service is made.

(d) *Motion to quash.* A motion to limit or quash a subpoena must be filed and served within 10 days after service of the subpoena, or by the return date of the subpoena, whichever date comes first. Any response to the motion must be filed and served within 10 days after service of the motion, unless a shorter time is specified by the Judge. No oral argument will be heard on the motion unless the Judge directs otherwise.

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