

## § 6.35

### § 6.35 Ineligible lists.

Upon the final decision of the Administrative Law Judge or Administrative Review Board, as appropriate, regarding violations of any statute listed in § 5.1 of part 5 of this title other than the Davis-Bacon Act, the Administrator promptly shall forward to the Comptroller General the name of any respondent found to have committed aggravated or willful violations of the labor standards provisions of such statute, and the name of any firm, corporation, partnership, or association in which such respondent has a substantial interest. Upon the final decision of the Administrative Law Judge or Administrative Review Board, as appropriate, regarding violations of the Davis-Bacon Act, the Administrator promptly shall forward to the Comptroller General any recommendation regarding debarment action against a respondent, and the name of any firm, corporation, partnership, or association in which such respondent has an interest.

## Subpart D—Substantial Interest Proceedings

### § 6.40 Scope.

This subpart supplements the procedures contained in § 4.12 of part 4 and § 5.12(d) of part 5 of this title, and states the rules of practice applicable to hearings to determine whether persons of firms whose names appear on the ineligible list pursuant to section 5(a) of the Service Contract Act or § 5.12(a)(1) of part 5 of this title have a substantial interest in any firm, corporation, partnership, or association other than those listed on the ineligible list; and/or to determine whether persons or firms whose names appear on the ineligible list pursuant to section 3(a) of the Davis-Bacon Act have an interest in any firm, corporation, partnership, or association other than those listed on the ineligible list.

### § 6.41 Referral to Chief Administrative Law Judge.

(a) Upon timely receipt of a request for a hearing under § 4.12 of part 4 or § 5.12 of part 5 of this title, where the Administrator has determined that rel-

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evant facts are in dispute, or on his/her own motion, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of any findings of the Administrator and response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to decide the disputed matters. A copy of the Order of Reference and attachments thereto shall be served upon the person or firm requesting the hearing, if any and upon the respondents.

(b) The findings of the Administrator and response thereto shall be given the effect of a complaint and answer, respectively, for purposes of the administrative proceedings.

### § 6.42 Amendments to pleadings.

At any time prior to the closing of the hearing record, the complaint (Administrator's findings) or answer (response) may be amended with the permission of the Administrative Law Judge and upon such terms as he/she may approve. Such amendments shall be allowed when justice and the presentation of the merits are served thereby, provided there is no prejudice to the objecting party's presentation on the merits. When issues not raised by the pleadings are reasonably within the scope of the original complaint and are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings, and such amendments may be made as necessary to make them conform to the evidence. The presiding Administrative Law Judge may, upon such terms as are just, permit supplemental pleadings setting forth transactions, occurrences or events which have happened since the data of the pleadings and which are relevant to any of the issues involved. A continuance in the hearing may be granted or the record left open to enable the new allegations to be addressed.

### § 6.43 Consent findings and order.

(a) At any time prior to the receipt of evidence or, at the discretion of the Administrative Law Judge, prior to the issuance of the decision of the Administrative Law Judge, the parties may enter into consent findings and an