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22.14 Production of Documents, Electronically Stored Information, Other Tangible Things, or Entry Onto Land [Rule 14].
22.15 Conferences and Orders [Rule 15].
22.16 Hearings [Rule 16].
22.17 Submission on the Record Without a Hearing [Rule 17].
22.18 Closing the Record [Rule 18].
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22.20 Mistakes and Corrections [Rule 20].
22.21 Motion for Reconsideration [Rule 21].
22.22 Accelerated and Small Claims Procedures [Rule 22].
22.23 Suspension of Proceedings [Rule 23].
22.24 Alternative Dispute Resolution [Rule 24].
22.25 Protective Orders and In Camera Review [Rule 25].
22.26 Representation of the Parties [Rule 26].
22.27 Ex Parte Communications [Rule 27].
22.28 Time [Rule 28].
22.29 Inspection of the Record [Rule 29].

AUTHORITY: Sec. 1501, Public Law 110–161, 121 Stat. 2249.

SOURCE: 73 FR 36258, June 26, 2008, unless otherwise noted.

§ 22.1 Applicability of Rules [Rule 1].

The Government Accountability Office Contract Appeals Board is authorized to hear appeals from decisions of contracting officers with respect to any contract entered into by a legislative branch agency. These rules shall apply to all appeals filed with the Board on or after October 1, 2007.

§ 22.2 Board Consideration [Rule 2].

(a) *Offices.* The office of the Board shall be at the Government Accountability Office, 441 G Street, NW., Washington, DC 20548, or in such other place as may from time to time hereafter be assigned for its use. All files and records of the Board shall be kept at such office. All communications, pleadings, and/or documents addressed to the Board shall be addressed or delivered to the Board at the Government Accountability Office, 441 G Street, NW., Room 7182, Washington, DC 20548; Telephone: 202–512–3342; Facsimile: 202–512–9749; E-mail: *cab@gao.gov*.

(b) *Three member panel.* Generally, all appeals will be assigned to a panel of three members of the Board appointed by the Chairman of the Board; said panel may or may not include the Chairman of the Board as a member. Each panel will include a presiding member who is responsible for case management, including scheduling, and who may, without participation of the other panel members, rule on non-dispositive motions and resolve procedural disputes. Hearings on appeals may be held by one or more of the panel members of the Board. Appeals resolved under the Board's small claims or accelerated procedures (see § 22.22 of this part [Rule 22]) may be decided by a single member of the Board. Requests for consideration of a matter by all members of the Contract Appeals Board will not be granted in any appeal filed under these rules.

(c) *Absence or disability of Chairman.* The activities of the Board shall be performed under the supervision of the Chairman of the Board. In the absence of, or during the disability of, the Chairman, the Vice Chairman of the Board shall act as the Chairman.

§ 22.3 Appeals—How Taken [Rule 3].

(a) *Form.* An appeal by the contractor shall be filed with the Board in the form of a written notice of appeal. The notice shall identify the contract by number, the name of the government agency and/or department against which the claim is asserted, the contracting officer for the subject dispute, the decision from which the appeal is taken, an estimate of the amount of money in controversy, if any, and shall be signed personally by the appellant (the contractor making the appeal) or by his representative or attorney. The complaint referred to in § 22.5(a) of this part [Rule 5(a)] may be filed with the notice of appeal or the appellant may designate the notice of appeal as a complaint if it otherwise fulfills the requirements of a complaint. The appellant shall promptly provide a copy of the appeal and complaint to the contracting officer.

(b) *Timeliness.* (1) For claims where a contracting officer has issued a final decision, the contractor may file an appeal no later than 90 days after it receives the contracting officer's final decision.

(2) For certified claims submitted to the contracting officer in excess of $50,000 where the contracting officer has not issued a final decision within a

reasonable time, taking into account such factors as the size and complexity of the claim, the contractor may file a notice of appeal citing the failure of the contracting officer to issue a decision.

(3) For claims submitted to the contracting officer in the amount of $50,000 or less where the contracting officer has not issued a final decision within 60 days of the contractor's request that a final decision be issued within that time, the contractor may file a notice of appeal citing the failure of the contracting officer to issue a decision.

(4) In lieu of a notice of appeal filed under paragraphs (b)(2) or (b)(3) of this section [Rules 3(b)(2) or 3(b)(3)], the contractor may request that the Board direct a contracting officer to issue a decision within a specified period of time, as determined by the Board, in the event of undue delay by the contracting officer in issuing a decision.

(5) An appeal filed with the Board will be deemed ''filed'' on the date actually received by the Board if received by 5:30 p.m. local time in Washington, DC, or on the next business day if received after 5:30 p.m.

(c) *Service of the appeal; copies.* An original plus 3 copies of the appeal shall be filed with the Board by hand delivery, express or priority mail, approved commercial carrier (e.g., UPS or FedEx), facsimile, or e-mail, although e-mail is the preferred method of delivery in all Board matters. The use of first class or parcel post mail is strongly discouraged because the delivery delays and screening process for government mail could result in untimely filed appeals. If filed by e-mail or facsimile, the appellant shall provide the original plus 3 copies to the Board by hand delivery or commercial carrier within 2 business days of the e-mailed or facsimile transmitted filing. The appellant shall furnish a copy of the appeal to the contracting officer from whose decision, or failure to issue the decision, the appeal is taken using the same method or service as for the Board, or an equal or more expeditious method of service. For service of documents once an appeal has commenced, see § 22.7(b) of this part [Rule 7(b)].

(d) *Docketing.* When the Board receives a notice of appeal from the appellant, the Board will promptly docket the appeal and provide written notice of docketing to all parties, or their counsel, with a copy of these rules.

(e) *Consolidation.* The Board, in its discretion, may consolidate cases involving common issues of law or fact.

[73 FR 36258, June 26, 2008, as amended at 73 FR 60610, Oct. 14, 2008]

§ 22.4 Appeal File [Rule 4].

(a) *Duties of the Contracting Officer.* (1) Within 30 days after receipt of the complaint, or within such other period of time as may be established by the Board, the contracting officer shall assemble and transmit to the Board an appeal file consisting of all documents pertinent to the appeal, including:

(i) The decision from which the appeal is taken;

(ii) The contract, including relevant specifications, amendments, plans, and drawings;

(iii) All correspondence between the parties relevant to the appeal, including the letter or letters of claim in response to which the decision was issued;

(iv) All documents and other tangible things on which the contracting officer relied in making the decision, and any correspondence relating thereto;

(v) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(vi) Any additional information or evidence considered relevant to the appeal.

(2) Within the same time specified above, the contracting officer shall furnish the appellant a copy of each document he or she transmits to the Board, except those in paragraph (a)(1)(ii) of this section [Rule 4(a)(1)(ii)]. As to the latter, a list furnished to the appellant indicating specific contractual documents transmitted will suffice. Documents filed under this rule, and any supplements, shall be organized and filed in accordance with paragraph (d) of this section [Rule 4(d)].

(b) *Duties of the appellant.* Within 30 days after receipt of a copy of the appeal file provided pursuant to paragraph (a) of this section [Rule 4(a)], or