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or to dispute, a material fact. The moving party and non-moving party each shall submit a memorandum of law supporting or opposing summary judgment, and the moving party may file a reply to the non-moving party's opposition of the motion.

(3) *Time*. Generally, the non-moving party shall file its opposition to a motion for summary judgment or partial summary judgment within 20 days of receipt of the motion, and the moving party's reply is due within 10 days of receipt of the opposition, except that the Board, in its discretion, may shorten or lengthen the time for opposition and reply based on the nature of the motion, the nature and timing of the case, and the scheduling needs of the Board.

(4) *Citations*. All motions for summary judgment, oppositions to such motions, briefs, and statements in support of the motions or opposition to the motions shall be filed in conformance with paragraphs (b) and (c) of this section [Rules 6(b) and 6(c)].

§ 22.7 Copies and Service Thereof [Rule 7].

(a) *Rule 4 file*. For documents provided pursuant to § 22.4 of this part [Rule 4], the original and one copy shall be provided to the Board, and one copy shall be provided to each party. Documents shall be provided by hand delivery, express or priority mail, or approved commercial carrier (e.g., UPS or FedEx); first class and parcel post mail are not permitted unless authorized by the Board.

(b) *Other submissions filed with the Board*. Except as otherwise authorized by the Board, all correspondence and submissions, other than documents provided pursuant to § 22.4 of this part [Rule 4] and appeals filed under § 22.3(c) of this part [Rule 3(c)], shall be provided to the Board by e-mail at *cab@gao.gov*, with a courtesy copy of the submission provided by e-mail to each of the members of the Board. All e-mails to *cab@gao.gov* must identify the case name and docket number in the subject line of the e-mail. In addition, unless the Board directs otherwise, the original plus 3 copies of the e-mailed submission also shall be provided to the Board by hand delivery, express or priority mail, or approved commercial carrier (e.g., UPS or FedEx) within 2 business days of the e-mailed filing (except that the original and one copy are required for appeals involving small claims or using accelerated procedures). Delivery to the Board by first class or parcel post mail is not permitted. However, the Board may at any time modify the number of copies required or authorize alternative methods of delivery to the Board.

(c) *Service on parties*. All correspondence and submissions to the Board must be provided to all other parties using the same method of service as used for the Board, or an equal or more expeditious method of service. Except for documents provided pursuant to § 22.4 of this part [Rule 4], e-mail service is preferred. However, where the parties agree to other methods of service, such other methods of service to parties are permitted.

(d) *Proof of service*. A party sending a document to the Board must represent to the Board that a copy has been sent to the other parties, identify the date on which service was made, and identify the method of delivery used. This may be done by certificate of service, by notation of a photostatic copy (cc:), or by any other means that can reasonably be expected to show the Board that the other party has been provided a copy, the date on which the copy was provided, and the method of delivery used to provide the copy. Proof of service must be provided to the Board at the time of filing. If proof of service is not provided, the Board may decline to consider the document in the appeal.

§ 22.8 General Discovery Procedures [Rule 8].

(a) *General policy and methods of discovery*. The parties are encouraged to engage in voluntary discovery procedures and may obtain discovery by one or more of the following methods: Depositions; written interrogatories; requests for admissions; and requests for production of documents, electronically stored information, other tangible things, or entry onto land.

(b) *Scope of discovery*. Except as otherwise limited by order of the Board,

the parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involving the pending appeal, whether it relates to a claim or defense of a party, including the existence, description, nature, custody, condition, and location of any books, documents, electronically stored information, or other tangible things, and the identity and location of persons having knowledge of any discoverable matter. It is not a ground for objection that the information sought will be inadmissible if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(c) *Discovery plan, conferences, and orders.* Within 30 days of the initial filing of documents in accordance with § 22.4(a) of this part [Rule 4(a)], the parties shall confer and file with the Board a proposed discovery plan, which shall include estimated time frames and proposed dates for completing discovery and when the parties anticipate that a hearing can be scheduled. Upon request of a party or on its own initiative, the Board may at any time hold an informal meeting or telephone conference with the parties to identify outstanding issues relating to discovery; establish a plan and schedule for discovery; set limitations on discovery; compel compliance with discovery; and issue such orders or determine such other matters as are necessary for the proper management of discovery, including imposing sanctions on the parties as may be appropriate.

(d) *Discovery limits.* On motion or on its own initiative, the Board may make any order necessary to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such order may impose limitations on the scope, method, time and place for discovery, and include provisions for protecting the secrecy of confidential information or documents.

(e) *Discovery objections.* Unless otherwise ordered by the Board, any objection to a discovery request must be filed with the Board within 15 days of receipt of the request. Objections must be filed in writing and state with specificity the grounds therefor. Upon receipt, the Board will establish a schedule for resolving the objections, which may include additional briefing by the parties or oral argument, and will determine the extent to which discovery will be permitted. A party shall fully respond to any discovery request to which it does not file a timely objection, in accordance with paragraph (f) of this section [Rule 8(f)]. The parties are required to make a good faith effort to resolve objections to discovery requests informally prior to seeking relief from the Board.

(f) *Discovery responses.* Unless otherwise ordered by the Board, a party is required to respond to written interrogatories, requests for admission, and requests for production of documents, electronically stored information, other tangible things, or entry onto land within 30 days of receipt.

(g) *Duty to supplement discovery responses.* A party that has responded to written interrogatories, requests for admission, or requests for production of documents, electronically stored information, or other tangible things, upon becoming aware of deficiencies or inaccuracies in its original responses, or upon acquiring additional information or documents relevant thereto, shall, as quickly as practicable, and as often as necessary, supplement its responses to the requesting party with correct and sufficient additional information and such additional documents as are necessary to give a complete and accurate response to the request.

(h) *Voluntary cooperation.* Each party is expected to cooperate by making available witnesses and evidence under its control when requested by another party, and to secure the voluntary attendance of third-party witnesses and production of evidence by third parties, when practicable.

(i) *Motions to compel discovery.* If a party refuses to comply with a discovery request, or a party's response to a discovery request is incomplete or entirely absent, any other party may file a motion to compel a response. However, such motion must include a representation that the moving party has tried in good faith, prior to filing the motion, to resolve the matter informally. The motion to compel shall include a copy of each discovery request at issue and the response, if any.

(j) *Sanctions.* If, after being properly served with such discovery request, a party fails to appear for deposition, respond to interrogatories or requests for admissions, or respond to a request for production of documents, electronically stored information, other tangible things, or entry onto land, the party seeking discovery may move the Board to impose sanctions under § 22.10 of this part [Rule 10].

(k) *Discovery motions, timing.* All motions concerning discovery, including motions to compel discovery, shall be filed on or before the scheduled end date of discovery to the maximum extent practicable. Motions that are filed after the end date of discovery will not be considered except for good cause shown.

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

§ 22.9 Subpoenas [Rule 9].

(a) *Issuance.* Upon the written request of any party, or on the initiative of the Board, a subpoena may be issued that commands the person to whom it is directed to attend and give testimony at a deposition or hearing, and/or produce documents or electronically stored information (including writings, papers, books, accounts, photographs, drawings, graphs, charts, recordings, and other data or data compilations) or other tangible things designated in the subpoena, or to permit entry onto designated premises for inspection or other purposes. Requests for subpoenas shall identify the Board and state the name and docket number of the appeal; identify the name of the person to whom the subpoena is directed; command the person to whom the subpoena is directed to, at a specific place and time, appear and testify, or produce designated documents, electronically stored information, or other tangible things, or permit the inspection of designated premises; and state the scope and relevance of the requested testimony or evidence to the appeal. All requests for subpoenas shall be filed at least 15 days before the testimony or evidence is to be provided, except that the Board may, in its discretion, honor requests for subpoenas not made within this time limitation.

(b) *Service.* The party requesting the subpoena shall cause the subpoena to be served upon the person named in the subpoena as soon as practicable after the subpoena has been issued and shall provide proof of service to the Board. Service shall be made by any person who is not a party and not less than 18 years of age by personal delivery to the person named in the subpoena, and shall include tender of the fees for one day attendance and the mileage allowed by 28 U.S.C. 1821 or other applicable law; however, where the subpoena is issued on behalf of the government, money payments need not be tendered in advance of attendance.

(c) *Motions to quash.* Upon written motion of the person named in the subpoena or a party, the Board may quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or the Board may require the party in whose behalf the subpoena was issued to advance the reasonable costs of producing subpoenaed evidence. Motions to quash or modify a subpoena must be filed within 10 days of service of the subpoena or by the date and time specified in the subpoena for compliance, whichever is earlier.

(d) *Contumacy.* In the case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the Board may apply to the court through the Attorney General of the United States for an order requiring the person to appear before the Board to give testimony, produce evidence, or both.

§ 22.10 Sanctions [Rule 10].

(a) *Standards.* All parties and their representatives, attorneys, and any experts/consultants retained by them or their attorneys, must obey directions and orders prescribed by the Board and adhere to standards of conduct applicable to such parties and persons. As to an attorney, the standards include the rules of professional conduct and ethics of the jurisdictions in which an attorney is licensed to practice, to the extent that those rules are relevant to conduct affecting the integrity of the Board, its process, and its proceedings.