COVINGTON & BURLING LLP

Side-by-Side Comparison of
2011 Version of CBCA's Rules of Procedures (Left) and
2018 Version of CBCA's Rules of Procedure (Right)

RULE 1 SCOPE OF RULES; DEFINITIONS; CONSTRUCTION; RULINGS, ORDERS, AND DIRECTIONS; PANELS; LOCATION AND ADDRESS	RULE 1 GENERAL INFORMATION; DEFINITIONS
(a) Scope. The rules of this chapter govern proceedings in all cases filed with the Board on or after January 6, 2007, and all further proceedings in cases then pending, except to the extent that, in the opinion of the Board, their use in a particular case pending on the effective date would be infeasible or would work an injustice. The Board will look to the rules of this chapter for guidance in conducting other proceedings authorized by law. (b) Definitions. (1) Appeal; appellant. The term "appeal" means a contract dispute filed with the Board. The term "appellant" means a party filing an appeal. (2) Application; applicant. The term "application" means a submission to the Board of a request for award of fees and other expenses, under the Equal Access to Justice Act, 5 U.S.C. 504, pursuant to Rule 30. The term "applicant" means a party filing an application. (3) Board judge; judge. The term "Board judge" or "judge" means a member of the Board. (4) Case. The term "case" means an appeal, petition, or application. (5) Filing. (i) Any document, other than a notice of appeal or an application for award of fees and other expenses, is filed when it is received by the Office of the Clerk of the Board during the Board's working hours. A notice of appeal or an application for award of fees and other expenses is filed upon the earlier of its receipt by the Office of the Clerk of the Board or if mailed, the date on which it is mailed to the Board. A United States Postal Service postmark shall be prima facie evidence that the document with which it is associated was mailed on the date of the postmark. (ii) Facsimile transmissions to the Board and the parties are permitted. The filing of a document by facsimile transmission occurs upon receipt by the Board of the entire submission by	(a) Scope. The rules of this chapter govern cases filed with the Board on or after September 17, 2018, and all further proceedings in cases then pending, unless the Board decides that using these rules in a case pending on their effective date would be inequitable or infeasible. The Board may alter these procedures on its own initiative or on request of a party to promote the just, informal, expeditious, and inexpensive resolution of a case. (b) Definitions. (1) Appeal; appellant. "Appeal" means a contract dispute filed with the Board under the Contract Disputes Act (CDA), 41 U.S.C. 7101–7109, or under a disputes clause in a non-CDA contract that allows for Board review. An "appellant" is the contractor filing an appeal. (2) Appeal file. "Appeal file" means the submissions to the Board under Rule 4. (3) Application; applicant. "Application" means a submission to the Board under Rule 30 of a request for an award of fees and other expenses under the Equal Access to Justice Act (EAJA), 5 U.S.C. 504, or another provision authorizing such an award. An "applicant" is a party filing an application. (4) Attorney. "Attorney" means a person licensed to practice law in a state, commonwealth, or territory of the United States or in the District of Columbia. (5) Board judge; judge. "Board judge" or "judge" means a member of the Board. (6) Business days and hours. The Board's business days are days other than Saturdays, Sundays, federal holidays, days on which the Board is required to close before 4:30 p.m., or days on which the Board does not open for any reason, such as inclement weather. The Board's business hours are 8:00 a.m. to 4:30 p.m. Eastern Time.

RULE 1 SCOPE OF RULES; DEFINITIONS; CONSTRUCTION; RULINGS, ORDERS, AND DIRECTIONS; PANELS; LOCATION AND ADDRESS	RULE 1 GENERAL INFORMATION; DEFINITIONS
facsimile. Parties are specifically cautioned that a deadline for filing will not be extended merely because the Board's facsimile machine is busy or otherwise unavailable when a filing is due. Parties are expected to submit their facsimile machine numbers with their filings. (iii) Filings submitted by electronic mail (email) are permitted, with the exception of appeal files submitted pursuant to 6101.4 (Rule 4), classified documents, and filings submitted in camera or under protective order pursuant to 6101.9(c) (Rule 9(c)). Filings by email shall be submitted to: cbca.efile@cbca.gov. Filings must be in PDF format and may not exceed 18 megabytes (MB) total. Filings that are not in PDF format or over 18 MB will not be accepted. The filing of a document by email occurs upon receipt by the Board on a working day, as defined in 6101.1(b)(9) (Rule 1(b)(9)). All email filings received by 4:30 p.m., Eastern Time, on a working day will be considered to be filed on that day. Email filings received after that time will be considered to be filed on the next working day. (6) Party. The term "party" means an appellant, applicant, petitioner, or respondent. (7) Petition; petitioner. The term "petition" means a request filed under 41 U.S.C. 605(c)(4) that the Board direct a contracting officer to issue a written decision on a claim. The term "petitioner" means a party submitting a petition. (8) Respondent. The term "respondent" means the government agency whose decision, action, or inaction is the subject of an appeal, petition, or application. (9) Working day. The term "working day" means any day other than a Saturday, Sunday, federal holiday, day on which the Office of the Clerk is required to close earlier than 4:30 p.m., or day on which the Office of the Clerk does not open at all, as in the event of inclement weather. (10) Working hours. The Board's working hours are 8:00 a.m. to 4:30 p.m., Eastern Time, on each working day.	(7) Case. "Case" means an appeal, petition, or application. (8) Clerk of the Board. The "Clerk" of the Board receives filings, dockets cases, and prepares official correspondence for the Board. (9) Efile; efiling. The Clerk accepts electronic filings ("efiles"), meaning documents submitted through the Board's email system ("efiled"). Parties may efile documents by sending an email (usually with attachments) to cbca.efile@cbca.gov, except for documents that are classified or submitted in camera or under protective order (Rule 9). Efiling occurs upon receipt by the Board's email server, except that attachments must be in .pdf format and 18 megabytes (MB) or smaller or they will be rejected. (10) Electronically stored information. "Electronically stored information" means information created, manipulated, communicated, stored, and best used in digital form with computer hardware and software. (11) Equal Access to Justice Act (EAJA), 5 U.S.C. 504. This statute governs applications for awards of fees and other expenses in certain cases. (12) Facsimile (fax) transmissions. The Board sends and accepts facsimile transmissions. A document is filed by fax at the time the Board receives all of it. The Board does not automatically extend filing deadlines if its fax machine is busy or otherwise unavailable. (13) Filing. A notice of appeal or application is filed upon the earlier of its receipt by the Clerk or, if mailed through the United States Postal Service (USPS), the date it is mailed to the Board. A USPS postmark is prima facie evidence of a mailing date. Any other document is filed upon receipt by the Clerk.

RULE 1 SCOPE OF RULES; DEFINITIONS; CONSTRUCTION; RULINGS, ORDERS, AND DIRECTIONS; PANELS; LOCATION AND ADDRESS	RULE 1 GENERAL INFORMATION; DEFINITIONS
(c) Construction. The rules of this chapter shall be construed to secure the just, informal, expeditious, and inexpensive resolution of every case. The Board looks to the Federal Rules of Civil Procedure for guidance in construing those Board rules which are similar to Federal Rules. (d) Rulings, orders, and directions. The Board may apply the rules of this chapter and make such rulings and issue such orders and directions as are necessary to secure the just, informal, expeditious, and inexpensive resolution of every case before the Board. Any ruling, order, or direction that the Board may make or issue pursuant to the rules of this chapter may be made on the motion or request of any party or on the initiative of the Board. The Board may also amend, alter, or vacate a ruling, order, or direction upon such terms as it deems just. In making rulings and issuing orders and directions pursuant to the rules of this chapter, the Board takes into consideration those Federal Rules of Civil Procedure which address matters not specifically covered herein. (e) Panels. Each case will be assigned to a panel consisting of three judges, with one member designated as the presiding judge, in accordance with such procedures as may be established by the Board. The presiding judge is responsible for processing the case, including scheduling and conducting proceedings and hearings. In addition, the presiding judge may, without participation by other panel members, decide an appeal under the small claims procedure in Rule 52, rule on nondispositive motions (except for amounts in controversy under Rule 52(a)(2) and Rule 53(a)(2)), and dismiss a case as permitted by Rule 12(e). All other matters, except for those before the full Board under Rule 28, are decided for the Board by a majority of the panel. (f) Location and address. The location of the Office of the Clerk of the Board is: 1800 M Street, NW, 6th Floor, Washington, DC 20036. The mailing address of the Office of the Clerk of the Board is: 1800 F Street, NW, Washington, DC 20405. The Clerk's telephone number is: (202) 606-8800. The Clerk's facsimile machine number is: (202) 606-0019. The Clerk's email address for receipt of filings is: cbca.efile@cbca.gov.	(14) Party. "Party" means an appellant, applicant, petitioner, or respondent. (15) Petition; petitioner. "Petition" means a request that the Board direct a contracting officer to issue a written decision on a claim. A "petitioner" is a party submitting a petition. (16) Receipt. The Board deems a party's "receipt" of a document to occur upon the earlier of the emailing of the document to the party's email address of record (without notice of delivery failure) or the party's possession of a document sent by other means. (17) Respondent. A "respondent" is the government agency whose decision, action, or inaction is the subject of an appeal, petition, or application. (c) Construction. The Board construes these rules to promote the just, informal, expeditious, and inexpensive resolution of every case. The Board may apply principles of the Federal Rules of Civil Procedure to resolve issues not covered by these rules. (d) Panels. The Board assigns each case to a panel of three judges, one of whom presides. The presiding judge sets the case schedule, oversees discovery, and conducts conferences, hearings, and other proceedings. The presiding judge may without participation by other panel members decide any appeal under the small claims procedure of Rule 52, any nondispositive motion, or any petition, and may dismiss a case as permitted by Rule 12(c) (48 CFR 6101.12(c)). The Board decides all other matters by majority vote of a panel unless the full Board decides a matter under Rule 28 (48 CFR 6101.28). Only panel and full Board decisions are precedential. (e) Location and addresses. The Board is physically located at 1800 M Street NW, 6th Floor, Washington, DC 20036. The mailing address is 1800 F Street NW, Washington, DC 20405. The Clerk's telephone number is (202) 606–8800. The Clerk's fax number is (202)

RULE 1 SCOPE OF RULES; DEFINITIONS; CONSTRUCTION; RULINGS, ORDERS, AND DIRECTIONS; PANELS; LOCATION AND ADDRESS	RULE 1 GENERAL INFORMATION; DEFINITIONS
	606-0019. The Clerk's email address for efiling is cbca.efile@cbca.gov. The Board's website is http://www.cbca.gov. (f) Clerk's office hours. The Clerk's office is open to the public during business hours (Rule 1(b) (48 CFR 6101.1(b)). Efilings received after midnight are considered filed the next business day. The Clerk's office is closed when the Board's physical address is closed for any reason, including any closure of the Federal Government in the Washington, DC, metropolitan area.

RULE 2 FILING CASES; TIME LIMITS FOR FILING; NOTICE OF DOCKETING; CONSOLIDATION	RULE 2 FILING APPEALS, APPLICATIONS, AND PETITIONS; CONSOLIDATION
(a) Filing cases. Filing of a case occurs as provided in Rule 1(b)(5). (1) Notice of appeal. (i) A notice of appeal shall be in writing and shall be signed by the appellant or by the appellant's attorney or authorized representative. If the appeal is from a contracting officer's decision, the notice of appeal should describe the decision in enough detail to enable the Board to differentiate that decision from any other; the appellant can satisfy this requirement by attaching to the notice of appeal a copy of the contracting officer's decision. If an appeal is taken from the failure of a contracting officer to issue a decision, the notice of appeal should describe in detail the claim that the contracting officer has failed to decide; the appellant can satisfy this requirement by attaching a copy of the written claim submission to the notice of appeal. (ii) A written notice in any form, including the one specified in the Appendix to the rules of this chapter, is sufficient to initiate an appeal. The notice of appeal should include the following information: (A) The number and date of the contract; (B) The name of the government agency and the component thereof against which the claim has been asserted; (C) The name, address, telephone number, facsimile machine number, and email address, if available, of the contracting officer whose decision is appealed and the date of the decision; (D) If the appeal is from the failure of the contracting officer to decide a claim, the name, address, telephone number, facsimile machine number, and email	(a) Filing an appeal. A notice of appeal shall be in writing; signed by the appellant, the appellant's attorney, or an authorized representative (see Rule 5 (48 CFR 6101.5)); and filed with the Board, with a copy to the contracting officer who received or issued the claim, or the successor contracting officer. A notice of appeal should include: (1) The name, telephone number, and mailing and email addresses of the appellant and/or its attorney or authorized representative; (2) The contract number; (3) The name of the contracting officer who received or issued the claim, with that person's telephone number, mailing address, and email address; (4) A copy of the claim with any certification; and (5) A copy of the contracting officer's decision on the claim or a statement that the appeal is from a failure to issue a decision ("a deemed denial"). (b) Filing a petition. A petition shall be in writing; signed by the petitioner, the petitioner's attorney, or an authorized representative (see Rule 5 (48 CFR 6101.5)); and filed with the Board, with a copy to the contracting officer who received the claim, or the successor contracting officer. A petition shall ask the Board to order the contracting officer to issue a decision and should include: (1) The name, telephone number, and mailing and email addresses of the petitioner and/or its attorney or authorized representative; (2) The contract number; (3) The name of the contracting officer who received the claim, with that person's telephone number, mailing address, and email address; and (4) A copy of the claim with any certification. (c) Filing an EAJA application. See Rule 30 (48 CFR 6101.30).

RULE 2 FILING CASES; TIME LIMITS FOR FILING; NOTICE OF DOCKETING; CONSOLIDATION	RULE 2 FILING APPEALS, APPLICATIONS, AND PETITIONS; CONSOLIDATION
address, if available, of the contracting officer who received the claim; (E) A brief account of the circumstances giving rise to the appeal; and. (F) An estimate of the amount of money in controversy, if any and if known. (iii) The appellant must send a copy of the notice of appeal to the contracting officer whose decision is appealed or, if there has been no decision, to the contracting officer before whom the appellant's claim is pending. (2) Petition. (i) A petition shall be in writing and signed by the petitioner or by the petitioner's attorney or authorized representative. The petition should describe in detail the claim that the contracting officer has failed to decide; the contractor can satisfy this requirement by attaching to the petition a copy of the written claim submission. (ii) The petition should include the following information: (A) The number and date of the contract; (B) The name of the government agency and the component thereof against which the claim has been asserted; and (C) The name, address, telephone number, facsimile machine number, and email address, if available, of the contracting officer whose decision is sought. (3) Application. An application for fees and other expenses shall meet all requirements specified in Rule 30.	(d) Time limits. (1) Under the CDA, a notice of appeal must be filed within 90 calendar days after the date of receipt of a contracting officer's decision on a claim. (2) Alternatively, under the CDA, a contractor may appeal when a contracting officer has not issued a decision on a claim within the time allowed by the CDA or the time set by a tribunal acting on a petition. (3) Under the CDA, a petition may be filed in the period between (i) receipt of notice from a contracting officer, within 60 days after the submission of a claim, that the contracting officer intends to issue a decision on the claim more than 60 days after its submission, and (ii) the due date stated by the contracting officer. (4) Under EAJA, an application must be filed within 30 days after the date that the decision in the underlying appeal becomes no longer subject to appeal. (e) Notice of docketing. Upon receipt of a notice of appeal, a petition, or an application, the Clerk issues a written notice of docketing to all parties. (f) Consolidation. The Board may consolidate cases wholly or in part if they involve common questions of law or fact.

RULE 2 FILING CASES; TIME LIMITS FOR FILING; NOTICE OF DOCKETING; CONSOLIDATION	RULE 2 FILING APPEALS, APPLICATIONS, AND PETITIONS; CONSOLIDATION
(b) Time limits for filing. (1) Appeals. (i) An appeal from a decision of a contracting officer shall be filed no later than 90 calendar days after the date the appellant receives that decision. (ii) An appeal may be filed with the Board if the contracting officer fails or refuses to issue a timely decision on a claim submitted in writing, properly certified if required. (2) Applications. An application for fees and other expenses shall be filed within 30 calendar days of a final disposition in the underlying appeal, as provided in Rule 30. (c) Notice of docketing. Notices of appeal, petitions, and applications will be docketed by the Office of the Clerk of the Board, and a written notice of docketing willbe sent promptly to all parties. (d) Consolidation. When cases involving common questions of law or fact are filed, the Board may: (1) Order the cases consolidated; or (2) Make such other orders concerning the proceedings as are needed to avoid unnecessary costs or delay.	

RULE 3 TIME: ENLARGEMENT; COMPUTATION	RULE 3 COMPUTING AND EXTENDING TIME
(a) Time for performing required actions. All time limitations prescribed in the rules of this chapter or in any order or direction given by the Board are maximums, and the action required should be accomplished in less time whenever possible. (b) Enlarging time. Upon request of a party for good cause shown, the Board may enlarge any time prescribed by the rules of this chapter or by an order or direction of the Board except the time limit for filing appeals (Rule 2(b)(1)). A written request is required, but in exigent circumstances an oral request may be made and followed by a written request. An enlargement of time may be granted even though the request was filed after the time for taking the required action expired, but the party requesting the enlargement must show good cause for its inability to make the request before that time expired.' (c) Computing time. Except as otherwise required by law, in computing a period of time prescribed by the rules of this chapter or by order of the Board, the day from which the designated period of time begins to run shall not be counted, but the last day of the period shall be counted unless that day is a Saturday, a Sunday, or a federal holiday, or a day on which the Office of the Clerk of the Board is required to close earlier than 4:30 p.m., or does not open at all, as in the case of inclement weather, in which event the period shall include the next working day. Except as otherwise provided in this paragraph, when the period of time prescribed or allowed is less than 11 days, any intervening Saturday, Sunday, or federal holiday shall not be counted. When the period of time prescribed or allowed is 11 days or more, intervening Saturdays, Sundays, and federal holidays shall be counted. Time for filing any document or copy thereof with the Board expires when the Office of the Clerk of the Board closes on the last day on which such filing may be made.	(a) Computing time. Consistent with Rule 6 of the Federal Rules of Civil Procedure: In computing any time period, omit the day of the event from which the period begins to run. Omit nonbusiness days only if the period is less than 11 days; otherwise include them. A period ends on a business day. If a computed period would otherwise end on a nonbusiness day, it ends on the next business day. (b) Extensions. Parties should act sooner than required whenever practicable. However, the Board extends time when appropriate. A motion for an extension shall be in writing and shall state the other party's position on the motion or describe the movant's effort to learn the other party's position. The Board cannot extend statutory deadlines.

RULE 4 APPEAL FILE	RULE 4 APPEAL FILE
(a) Submission to the Board by the respondent. Within 30 calendar days from receipt of the Board's docketing notice or within such time as the Board may allow, the respondent shall file with the Board appeal file exhibits consisting of all documents and other tangible things relevant to the claim and to the contracting officer's decision which has been appealed. Exhibits will be numbered as required by Rule 4(b) and will include, if any: (1) The contracting officer's decision from which the appeal is taken; (2) The contract, including amendments, specifications, plans, and drawings; (3) All correspondence between the parties that is relevant to the appeal, including the written claim or claims that are the subject of the appeal, and evidence of their certification; (4) Affidavits or statements of any witnesses concerning the matter in dispute and transcripts of any testimony taken before the filing of the notice of appeal; (5) All documents and other tangible things on which the contracting officer relied in making the decision, and any related correspondence; (6) The abstract of bids, if relevant; and (7) Any additional existing evidence or information necessary to determine the merits of the appeal, such as internal memoranda and notes to the file. (b) Organization of the appeal file. Appeal file exhibits may be originals or true, legible, and complete copies. They shall be arranged in chronological order, earliest documents first; bound in a loose-leaf binder on the left margin except where size or shape makes such binding impracticable; numbered; tabbed; and indexed. The loose-leaf binders cannot exceed four inches in depth. The numbering shall be consecutive, in whole Arabic numerals (no letters, decimals, or fractions), and continuous from	(a) Filing. Within 30 days after receiving the Board's docketing notice, the respondent shall file and serve all documents relevant to the appeal, including: (1) The contracting officer's decision on the claim; (2) The contract, including all pertinent specifications, amendments, plans, drawings, and incorporated proposals or parts thereof; (3) All correspondence between the parties relevant to the appeal; (4) The claim with any certification; (5) Relevant affidavits, witness statements, or transcripts of testimony taken before the appeal; (6) All documents relied on by the contracting officer to decide the claim; and (7) Relevant internal memoranda, reports, and notes. (b) Organization of electronic appeal file. (1) Unless otherwise ordered, parties shall file the appeal file and supplements thereto in an electronic storage medium (e.g., hard disk or solid state drive, compact disc (CD), or digital versatile disc (DVD)), labeled with the docket number, case name, and range of exhibit numbers. (2) A party may efile an appeal file or a supplement thereto by permission of the Board. (3) Appeal file exhibits shall be in .pdf format or will be rejected. The appeal file index and each exhibit shall be separate documents, without embedded documents. (4) Appeal file exhibits shall be complete, legible, arranged in chronological order, numbered, and indexed. Parties shall avoid filing duplicative exhibits and shall number exhibits continuously

RULE 4 APPEAL FILE	RULE 4 APPEAL FILE
one submission to the next, so that the complete file, after all submissions, will consist of one set of consecutively numbered exhibits. In addition, the pages within each exhibit containing more than three pages shall be numbered consecutively unless the exhibit already is paginated in a logical manner. Consecutive pagination of the entire file is not required. The index shall include the date and a brief description of each exhibit and shall identify which exhibits, if any, have been filed with the Board in camera or under protective order or otherwise have not been served on the other party. (c) Service. The respondent shall serve a copy of the appeal file on the appellant at the same time that the respondent files it with the Board, except that the respondent need not serve on the appellant those documents furnished the Board in camera pursuant to Rule 9(c), and the respondent shall serve documents submitted under protective order only on those individuals who have been granted access to such documents by the Board. However, the respondent must serve on the appellant a list identifying the specific documents filed in camera or under protective order with the Board, giving sufficient details necessary for their recognition. This list must also be filed with the Board as an exhibit to the appeal file. (d) Submission to the Board by the appellant. Within 30 calendar days after the respondent files its appeal file exhibits, or within such time as the Board may allow, the appellant shall file with the Board for inclusion in the appeal file documents or other tangible things relevant to the appeal that have not been submitted by the respondent. The appellant shall serve a copy of its additional exhibits upon the respondent at the same time as it files them with the Board, and shall organize the file as required by Rule 4(b). (e) Submissions on order of the Board. The Board may, at any time during the pendency of the appeal, require any party to file other documents and tangible things as additional exhibits. The Board	and consecutively from one filing to the next, so that a complete appeal file consists of one set of consecutively numbered exhibits. (5) Parties shall number the pages of each exhibit consecutively, unless an exhibit is already paginated in another logical manner. (6) The appeal file index shall describe each exhibit by date and content. (7) Parties may file documents in camera only by permission of the Board. (c) Organization of paper appeal file. (1) Appeal files and supplements thereto may be filed on paper only by permission of the Board. (2) Appeal file exhibits shall be complete, legible, arranged in chronological order, tabbed, and indexed. Parties shall avoid filing duplicative exhibits and shall number exhibits continuously and consecutively from one filing to the next, so a complete appeal file consists of one set of consecutively tabbed exhibits. (3) Parties shall number the pages of each paper exhibit consecutively, unless an exhibit is already paginated in another logical manner. (4) Parties shall file exhibits in 3-ring binders with spines no wider than 3 inches, labeled on the cover and spine with the name of the appeal, CBCA number, and tab numbers in each binder. Include in each binder the index of the entire filing. (5) The appeal file index shall describe each exhibit by date and content. (6) Parties shall separately file and index documents submitted in camera or under a protective order. However, documents may be submitted in camera only by permission of the Board. (d) Supplements. Within 30 days after the respondent files the appeal file, the appellant may file non duplicative documents relevant to

RULE 4 APPEAL FILE	RULE 4 APPEAL FILE
may also require a party to file either copies of electronically stored information or printed versions of electronically stored information. (f) Lengthy or bulky materials. The Board may waive the requirement to furnish the other party copies or duplicates of bulky, lengthy, or outsized materials submitted to the Board as exhibits if furnishing copies would impose an undue burden, so long as the materials are available to the opposing party for inspection. (g) Use of appeal file as evidence. All exhibits in the appeal file, except for those as to which an objection has been sustained, are part of the evidentiary record upon which the Board will render its decision. Unless otherwise ordered by the Board, objection to any exhibit may be made at any time before the first witness is sworn or, if the appeal is submitted on the record without a hearing pursuant to Rule 19, at any time prior to or concurrent with the first record submission. The Board may shorten or enlarge the time for such objections and will consider an objection made during a hearing if the ground for objection could not reasonably have been earlier known to the objecting party. If an objection is sustained, the Board will so note in the record. (h) When appeal file not required. Upon motion of a party, the Board may postpone or dispense with the submission of any or all appeal file exhibits.	the claim, organized as instructed in Rule 4(b) or (c), starting with the next available exhibit number. (e) Classified or protected material. Neither classified nor protected material may be efiled. (f) Submission by order. The Board may order a party to supplement the appeal file, including by filing an exhibit in another format. (g) Status of exhibits. The Board considers appeal file exhibits part of the record for decision under Rule 9(a) unless a party objects to an exhibit within the time set by the Board and the Board sustains the objection. (h) Other procedures. The Board may postpone or waive the filing of an appeal file.

RULE 5 APPEARANCES; NOTICE OF APPEARANCE	RULE 5 APPEARING; NOTICE OF APPEARANCE
(a) Appearances before the Board. (1) Appellant; petitioner; applicant. Any appellant, petitioner, or applicant may appear before the Board by an attorney-at-law licensed to practice in a state, commonwealth, or territory of the United States, or in the District of Columbia. An individual appellant, petitioner, or applicant may appear in his or her own behalf; a corporation, trust, or association may appear by one of its officers; and a partnership may appear by one of its members. (2) Respondent. The respondent may appear before the Board by an attorney-at-law licensed to practice in a state, commonwealth, or territory of the United States, or in the District of Columbia. Alternatively, if not prohibited by agency regulation or otherwise, the respondent may appear by the contracting officer or by the contracting officer's authorized representative. (3) Others. The Board may, on motion, in its discretion, permit a special or limited appearance, such as by an amicus curiae. Permission to appear, if granted, will be for such purposes and in such manner as allowed by the presiding judge. (b) Notice of appearance. Unless a notice of appearance is filed by some other person, the person signing the notice of appeal, petition, or application shall be deemed to have appeared on behalf of the appellant, petitioner, or applicant, and the head of the respondent agency's litigation office shall be deemed to have appeared on behalf of the respondent. Other attorneys actively participating in the proceedings before the Board must file notices of appearance. A notice of appearance in the form specified in the Appendix to the rules of this chapter is sufficient. Attorneys representing parties before the Board are required to list the state bars to which they are admitted and their state bar numbers or other bar identifiers. (c) Withdrawal of appearance. Any person who has filed a notice of appearance and who wishes to withdraw from a case must file a motion which includes the name, address, telephone number, facsimile machine number, and email address, if available, of the person who will assume responsibility for representation of the party in	(a) Appearing before the Board. (1) Appellant; petitioner; applicant. An appellant, petitioner, or applicant may appear before the Board through an attorney. An individual appellant, petitioner, or applicant may appear for himself or herself. A corporation, trust, or association may appear by one of its officers. A limited liability corporation, partnership, or joint venture may appear by one of its members. Each individual appearing on behalf of an appellant, petitioner, or applicant must have legal authority to appear. (2) Respondent. A respondent may appear before the Board through an attorney or, if allowed by the agency, by the contracting officer or the contracting officer's authorized representative. (3) Others. The Board may permit a special or limited appearance of or for a nonparty, such as an amicus curiae. (b) Notice of appearance. The Board deems the person who signed a notice of appeal, petition, or application to have appeared for the appellant, petitioner, or applicant. The Board deems the head of the respondent's litigation office to have appeared for the respondent unless otherwise notified. Other participating attorneys shall file notices of appearance including all of the information required by the sample notice of appearance posted on the Board's website. Attorneys representing parties before the Board shall list their bar numbers or other identifying data for each State bar to which they are admitted. (c) Withdrawal of appearance. Anyone who has filed a notice of appearance and wishes to withdraw from a case must file a motion identifying by name, telephone number, mailing address, and email address the person who will assume responsibility for representing the party in question. The motion must state grounds for withdrawal, unless the motion represents that the party in question will meet the existing case schedule.

RULE 5 APPEARANCES; NOTICE OF APPEARANCE	RULE 5 APPEARING; NOTICE OF APPEARANCE
question. The motion shall state the grounds for withdrawal unless it is accompanied by a representation from the successor representative or existing co-counsel that the established case schedule will be met.	

RULE 6 PLEADINGS AND AMENDMENT OF PLEADINGS	RULE 6 PLEADINGS; AMENDING PLEADINGS
(a) Pleadings required and permitted. Except as the Board may otherwise order, the Board requires the submission of a complaint and an answer. In appropriate circumstances, the Board may order or permit a reply to an answer. (b) Complaint. No later than 30 calendar days after the docketing of the appeal, the appellant shall file with the Board a complaint setting forth its claim or claims in simple, concise, and direct terms. The complaint should set forth the factual basis of the claim or claims, with appropriate reference to the contract provisions, and should state the amount in controversy, or an estimate thereof, if any and if known. No particular form is prescribed for a complaint, and the Board may designate the notice of appeal, a claim submission, or any other document as the complaint, either on its own initiative or on request of the appellant, if such document sufficiently states the factual basis and amount of the claim. (c) Answer. No later than 30 calendar days after the filing of the complaint or of the Board's designation of a complaint, the respondent shall file with the Board an answer setting forth simple, concise, and direct statements of its defenses to the claim or claims asserted in the complaint, as well as any affirmative defenses it chooses to assert. A dispositive motion or a motion for a more definite statement may be filed in lieu of the answer only with the permission of the Board. If no answer is timely filed, the Board may enter a general denial, in which case the respondent may thereafter amend the answer to assert affirmative defenses only by leave of the Board and as otherwise prescribed by paragraph (e) of this section. The Board will inform the parties when it enters a general denial on behalf of the respondent. (d) Small claims and accelerated procedures. When an appellant elects to use the small claims or accelerated procedures described in Rule 52 and Rule 53, the Board may shorten the time for filing the complaint and the answer. (e) Amendment of pleadings. Each party to an appeal may amend its pleadings once without leave of the Board at any time before a responsive pleading is filed. The Board may permit other amendments	(a) Complaint. Within 30 days after receiving the notice of docketing, the appellant shall file a complaint stating in simple, concise, and direct terms the factual basis for each claim and the amount in controversy. Alternatively, the appellant or the Board may designate as a complaint the notice of appeal, a claim submission, or any other document containing the information required in a complaint. The Board may in its discretion order a respondent asserting a claim to file a complaint. (b) Answer. Within 30 days after receiving the complaint or a designation of a complaint, the respondent (or the appellant, if so ordered) shall file an answer stating in simple, concise, and direct terms its responses to the allegations of the complaint and any affirmative defenses it chooses to assert. (c) Amendments. A party may amend a pleading once, before a responsive pleading is filed, with permission of the other party. Amending a pleading restarts the time to respond, if any. The Board may allow a party to amend a pleading in other circumstances. (d) Motion in lieu of answer. The Board may allow a party to file a dispositive motion or to move for a more definite statement in lieu of filing an answer.

RULE 6 PLEADINGS AND AMENDMENT OF PLEADINGS	RULE 6 PLEADINGS; AMENDING PLEADINGS
on conditions fair to both parties. A response to an amended pleading will be filed within the time set by the Board. (f) Amendments to conform to the evidence. When issues within the proper scope of a case, but not raised in the pleadings, have been raised without objection or with permission of the Board at a hearing or in record submissions, they shall be treated in all respects as if they had been raised in the pleadings. The Board may order the parties to amend the pleadings to conform to the proof or may order that the record be deemed to contain amended pleadings.	

RULE 7 SERVICE OF PAPERS OTHER THAN SUBPOENAS	RULE 7 SERVICE OF DOCUMENTS
(a) On whom and when service must be made. Except for subpoenas (Rule 16) and documents filed in camera (Rule 9(c)), when a party sends a document to the Board it must at the same time send a copy to the other party by an equally or more expeditious means of transmittal. The parties will confer and agree upon the method they will use to serve one another. They may agree to use electronic mail, facsimile, overnight courier, hand delivery, or any other mutually acceptable method for accomplishing service promptly and efficiently. (b) Proof of service. A party sending a document to the Board must represent to the Board that a copy has also been sent to the other party. This may be done by certificate of service, by the 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. (c) Failure to make service. If a document sent to the Board by a party does not show that a copy has been served on the other party, the Board may return the document to the party that submitted it with such directions as it considers appropriate, or the Board may inquire whether a party has received a copy and note on the record the fact of inquiry and the response, and may also direct the party that submitted the document to serve a copy on the other party. In the absence of proof of service a document may be treated by the Board as not properly filed.	A party filing any document not submitted in camera (see Rule 9(c)(2) (48 CFR 6101.9(c)(2)) shall send a copy to the other party by a method at least as fast as the filing method. The filing party shall indicate the method and address of service, otherwise the Board may consider a document not served and not properly filed.

RULE 8 MOTIONS	RULE 8 MOTIONS
(a) How motions are made. Motions may be oral or written. A written motion shall state the relief sought and, either in the text of the motion or in an accompanying legal memorandum, the grounds therefor. In addition, a motion for summary relief shall comply with the requirements of paragraph (g) of this section. Rule 23 prescribes the form and content of legal memoranda. Oral motions shall be made on the record and in the presence of the other party. Except for joint motions by the parties, all motions must represent that the moving party has attempted to discuss the grounds for the motion with the non-moving party and tried to resolve the matter informally. (b) When motions may be made. A motion filed in lieu of an answer pursuant to Rule 6(c) shall be filed no later than the date on which the answer is required to be filed or such later date as may be established by the Board. Any other dispositive motion shall be made as soon as practicable after the grounds therefor are known. Any other motion shall be made promptly or as required by the rules of this chapter. (c) Dispositive motions. The following dispositive motions may properly be made before the Board: (1) Motions to dismiss for lack of jurisdiction or for failure to state a claim upon which relief can be granted; (2) Motions to dismiss for failure to prosecute; (3) Motions for summary relief (analogous to summary judgment); and (4) Any other motion to dismiss. (d) Other motions. Other motions may be made in good faith and in proper form. When filing a motion for an enlargement of time, the moving party shall state that it has contacted the opposing party about the request and shall inform the Board whether the opposing party consents to the request or will file an opposition. (e) Jurisdictional questions. The Board may at any time consider the issue of its jurisdiction to decide a case.	(a) Generally. A party may make a motion for a Board action orally on the record in the presence of the other party or in a written filing. A written motion shall be a document titled as a motion and shall state the relief sought and the legal basis (see Rule 23(b) (48 CFR 6101.23(b)). Except for joint or dispositive motions, all motions shall represent that the movant tried to resolve the motion with the other party before filing. The Board may hold oral argument on a motion. (b) Jurisdictional motions. A party challenging the Board's jurisdiction should file such a motion promptly. (c) Procedural motions. A party may move for an extension of time (Rule 3(b) (48 CFR 6101.3(b)). The Board may in its discretion consider motions on other procedural matters. A procedural motion shall state the other party's position on the motion or describe the movant's effort to learn the other party's position. (d) Discovery motions. See Rule 13(e) (48 CFR 6101.13(e)). (e) Motions to dismiss for failure to state a claim. A party may move to dismiss all or part of a claim for failure to state grounds on which the Board could grant relief. In deciding such motions, the Board looks to Rule 12(b)(6) of the Federal Rules of Civil Procedure for guidance. (f) Summary judgment motions. A party may move for summary judgment on all or part of a claim or defense if the party believes in good faith it is entitled to judgment as a matter of law based on undisputed material facts. In deciding motions for summary judgment, the Board looks to Rule 56 of the Federal Rules of Civil Procedure for guidance. (1) Statement of undisputed material facts. The movant shall file with its summary judgment motion a separate document titled, "Statement of Undisputed Material Facts." This document shall set forth facts supporting the motion in separate, numbered paragraphs, citing appeal file exhibits, admissions in pleadings, and/ or evidence filed with the motion. (2) Statement of genuine issues. The opposing party shall file with its opposition a separate document titled, "Statement of Genuine Issues." This document shall respond to specific paragraphs of the movant's Statement of Undisputed Material Facts by identifying material facts in

RULE 8 MOTIONS	RULE 8 MOTIONS
(f) Procedure. Unless otherwise directed by the Board, a party may respond to a written motion other than a motion pursuant to Rules 26, 27, 28, or 29 at any time within 20 calendar days after the filing of the motion. Responses to motions pursuant to Rule 26, Rule 27, Rule 28, or Rule 29 may be made only as permitted or directed by the Board. The Board may permit hearing or oral argument on written motions and may require additional submissions from any of the parties. (g) Motions for summary relief. (1) A motion for summary relief should be filed only when a party believes that, based upon uncontested material facts, it is entitled to relief in whole or in part as a matter of law. A motion for summary relief should be filed as soon as feasible, to allow the Board to rule on the motion in advance of a scheduled hearing date. (2) With each motion for summary relief, there shall be served and filed a separate document titled Statement of Uncontested Facts, which shall contain in separately numbered paragraphs all of the material facts upon which the moving party bases its motion and as to which it contends there is no genuine issue. This statement shall include references to the supporting affidavits or declarations and documents, if any, and to the Rule 4 appeal file exhibits relied upon to support such statement. (3) An opposing party shall file with its opposition (or cross-motion) a separate document titled Statement of Genuine Issues. This document shall identify, by reference to specific paragraph numbers in the moving party's Statement of Uncontested Facts, those facts as to which the opposing party claims there is a genuine issue necessary to be litigated. An opposing party shall state the precise nature of its disagreement and give its version of the facts. This statement shall include references to the supporting affidavits or declarations and documents, if any, and to Rule 4 appeal file exhibits that demonstrate the existence of a genuine dispute. An opposing party may also file a Statement of Uncontested Facts as to any relevant matters not covered by the moving party's statement.	genuine dispute, citing appeal file exhibits, admissions in pleadings, and/or evidence filed with the opposition. (g) Briefing. A party may file a brief in opposition to a motion under Rule 26, Rule 27, Rule 28, or Rule 29 (48 CFR 6101.26, 6101.27, 6101.28, or 6101.29) only by permission of the Board. Unless otherwise ordered, a brief in opposition to any other nonprocedural motion is due 30 days after receipt of the motion, and a movant's reply brief is due 15 days after receipt of an opposition brief. A nonmovant may file a surreply only by permission of the Board. Unless otherwise ordered, a brief in opposition to a procedural motion is due 5 days after receipt of the motion, and there shall be no reply. (h) Effect of pending motion. Unless otherwise stated in these rules, the filing of a motion does not affect a party's obligations under the Board's rules or orders.

RULE 8 MOTIONS	RULE 8 MOTIONS
(4) When a motion for summary relief is made and supported as provided in Rule 8, an opposing party may not rest upon the mere allegations or denials of its pleadings. The opposing party's response, by affidavits or as otherwise provided by Rule 8, must set forth specific facts showing that there is a genuine issue of material fact. If the opposing party does not so respond, summary relief, if appropriate, shall be entered against that party. For good cause shown, if an opposing party cannot present facts essential to justify its opposition, the Board may defer ruling on the motion to permit affidavits to be obtained or depositions to be taken or other discovery to be conducted, or may make such other order as is just. (h) Effect of pending motion. Except as the rules of this chapter provide or the Board may order, a pending motion shall not excuse the parties from proceeding with the case in accordance with the rules of this chapter and the orders and directions of the Board.	

RULE 9 RECORD OF BOARD PROCEEDINGS; REVIEW AND COPYING	RULE 9 RECORD; CONTENT AND ACCESS
(a) Composition of the record for decision. The record upon which any decision of the Board will be rendered consists of: (1) The notice of appeal, petition, or application; (2) Appeal file exhibits other than those as to which an objection has been sustained; (3) Hearing exhibits other than those as to which an objection has been sustained; (4) Pleadings; (5) Motions and responses thereto; (6) Memoranda, orders, rulings, and directions to the parties issued by the Board; (7) Documents and other tangible things admitted in evidence by the Board; (8) Written transcripts or electronic recordings of proceedings; (9) Stipulations and admissions by the parties; (10) Depositions, or parts thereof, received in evidence; (11) Written interrogatories and responses received in evidence; (12) Briefs and memoranda of law; and (13) Anything else that the Board may designate. All other papers and documents are part of the administrative record of the proceedings and are not included in the record upon which the Board's decision will be rendered. (b) Enlargement of the record. The Board may at any time require or permit enlargement of the record with additional evidence	(a) Record for decision. The record on which the Board will decide a case includes the following: (1) Evidence. Evidence in a case includes: A. Rule 4 (48 CFR 6101.4) appeal file exhibits other than those to which an objection is sustained; B. Other documents or parts thereof admitted as evidence; C. Tangible things admitted as evidence; D. Transcripts or recordings of testimony before the Board; and E. Factual stipulations and factual admissions. (2) Other material. The Board may also rely on to decide a case: A. The notice of appeal, petition, or application; B. The complaint, answer, and amendments thereto; C. Motions and briefs on motions; D. Other briefs; E. Demonstrative hearing exhibits; and F. Anything else the Board may expressly admit or take notice of. (b) Other contents of case file. The Board's administrative record may be broader than the record for decision. Material in the Board's case file that is not listed in Rule 9(a) (48 CFR 6101.9(a)) is part of the administrative record but is not part of the record for decision. (c) Enlarging or reopening the record. The Board may enlarge or reopen the record for decision on terms fair to the parties. (d) Protected and in camera submissions. The Board may limit access to specified material in a record for decision.

RULE 9 RECORD OF BOARD PROCEEDINGS; REVIEW AND COPYING	RULE 9 RECORD; CONTENT AND ACCESS
and briefs. It may reopen the record to receive additional evidence and oral argument at a hearing. (c) Protected and in camera submissions. (1) A party may by motion request that the Board receive and hold materials under conditions that would limit access to them on the ground that such documents are privileged or confidential, or sensitive in some other way. The moving party must state the grounds for such limited access. The Board may also determine on its own initiative to hold materials under such conditions. The manner in which such materials will be held, the persons who shall have access to them, and the conditions (if any) under which such access will be allowed will be specified in an order of the Board. If the materials are held under such an order, they will be part of the record of the case. If the Board denies the motion, the materials may be returned to the party that submitted them. If the moving party asks, however, that the materials be placed in the administrative record, in camera, for the purpose of possible later review of the Board's denial, the Board will comply with the request. (2) A party may also ask, or the Board may direct, that testimony be received under protective order or in camera. The procedures under paragraph (c)(1) of this section shall be followed with respect to such request or direction. (d) Review and copying. Except for any part thereof that is subject to a protective order or deemed an in camera submission, the record in a Board proceeding shall be made available for review at the Office of the Clerk of the Board during the Board's normal working hours, as soon as practicable given the demands on the Board of processing the subject case and other cases. If a request is made for copies of documents, and if making such copies involves more than minimal costs to the Board, reimbursement will be required. If a request is made for a copy of a transcript which was prepared pursuant to a contract with the Board, the fee charged by the Board for a copy of the transcript will be at the rate established by the contract. When required, the Office of the Clerk will certify copies of papers and documents as a true record of the Board. Except as provided in Rules 17	(1) Protective orders. The Board may limit access to specified material in a record for decision if the Board finds good cause to treat the material as privileged, confidential, or otherwise sensitive. (2) In camera submissions. The Board may allow a party to submit a document solely for the Board's review in camera if: A. The party submits the document to explain a discovery dispute; B. The Board denies a motion for protective order, and the movant asks that the record include a document that the party would have used in the case with a protective order, for possible later review of the Board's denial; or C. Good cause exists to find that in camera review may limit or prevent needless harm to a party, witness, or other person. (3) Status in record. A document submitted and accepted under a protective order or in camera is part of the record for decision. If the Board's decision is judicially reviewed, the Board will endeavor to preserve the protected or in camera nature of the document to the extent consistent with judicial review. (e) Review and copying. The Clerk makes records for decision, except evidence submitted under a protective order or in camera, available for review on reasonable notice during business hours, and provides copies of such available documents for a reasonable fee. The Clerk will not relinquish possession of material in the Board's files.

RULE 9 RECORD OF BOARD PROCEEDINGS; REVIEW AND COPYING	RULE 9 RECORD; CONTENT AND ACCESS
and 32, the Office of the Clerk will not release any part of the record in its possession to anyone.	

RULE 10 ADMISSIBILITY OF EVIDENCE	RULE 10 ADMISSIBILITY OF EVIDENCE
In general, any relevant and material evidence will be admitted into the record. The Board may exclude evidence to avoid unfair prejudice, confusion of the issues, undue delay, waste of time, or needless presentation of cumulative evidence. Hearsay evidence is admissible unless the Board finds it unreliable or untrustworthy. As a general matter, and subject to the other provisions of Rule 10, the Board will look to the Federal Rules of Evidence for guidance when it makes evidentiary rulings.	The Board may in its discretion receive any evidence to which no party objects. In ruling on evidentiary objections, the Board is guided but not bound by the Federal Rules of Evidence, except that the Board generally admits hearsay unless the Board finds it unreliable.

RULE 11 CONFERENCES; CONFERENCE MEMORANDUM	RULE 11 CONFERENCES
(a) Conferences. The Board may convene the parties in conference, either by telephone or in person, for any purpose. The conference may be stenographically or electronically recorded, at the discretion of the Board. Matters to be considered and actions to be taken at a conference may include: (1) Simplifying, clarifying, or severing the issues; (2) Stipulations, admissions, agreements, and rulings to govern the admissibility of evidence, understandings on matters already of record, or other similar means of avoiding unnecessary proof; (3) Plans, schedules, and rulings to facilitate discovery; (4) Limiting the number of witnesses and other means of avoiding cumulative evidence; (5) Stipulations or agreements disposing of matters in dispute; or (6) Ways to expedite disposition of the case or to facilitate settlement of the dispute, including, if the parties and the Board agree, the use of alternative dispute resolution techniques, as provided in Rules 51 and 54. (b) Conference memorandum. The Board may issue a memorandum of the results of a conference, an order reflecting any actions taken, or both. A memorandum or order so issued shall be placed in the record of the case and sent to each party. Each party shall have 5 working days after receipt of a memorandum to object to the substance ofit..	The Board may order a conference of the parties for any purpose. Conferences are usually telephonic and are rarely recorded or transcribed. No one may record a conference by any means without Board approval. If the Board issues a memorandum or order memorializing a conference, a party has 5 days from receipt of the memorandum or order to object in writing to the memorialization.

RULE 12 SUSPENSIONS AND DISMISSALS	RULE 12 STAYS AND DISMISSALS
(a) Suspension of proceedings to obtain contracting officer's decision. The Board may in its discretion suspend proceedings to permit a contracting officer to issue a decision when an appeal has been taken from the contracting officer's alleged failure to render a timely decision. (b) Suspension for other cause. The Board may suspend proceedings in a case for good cause, such as to permit the parties to finalize a settlement. The order suspending proceedings will prescribe the duration of the suspension or the conditions on which it will expire. The order may also prescribe actions to be taken by the parties during the period of suspension or following its expiration. (c) Dismissal, generally. A case may be dismissed by the Board on motion of either party. A case may also be dismissed for reasons cited by the Board in a show cause order to which a response has been permitted. Every dismissal shall be with prejudice to reinstatement of the case except as specified in paragraph (d) of this section. (d) Dismissal without prejudice. When circumstances beyond the control of the Board prevent the continuation of proceedings in a case, the Board may, in lieu of issuing an order suspending proceedings, dismiss the case without prejudice to reinstatement within 180 calendar days after the date of the dismissal. When a case has been dismissed without prejudice and neither party has timely requested that the case be reinstated, the case shall be deemed to be dismissed with prejudice on the last day such a request could have been made. (e) Issuance of order. The presiding judge alone may issue an order suspending proceedings. An order of dismissal shall be issued by the panel of judges to which the case has been assigned if the motion is contested or if the Board is acting consequent to its own show cause order. An order of dismissal may be issued by the presiding judge alone if the motion to dismiss is not contested.	(a) Stays. The Board may stay a case for a specific duration, or until a specific event, for good cause. (b) Dismissals. (1) Generally. The Board may dismiss a case or part of a case either on motion of a party or after permitting a response to an order to show cause. Dismissal is with prejudice unless a Board order or other applicable law provides otherwise. (2) Voluntary dismissal. Subject to Rule 12(b)(3) (paragraph (b)(3) of this section), the Board will dismiss all or part of a case on the terms requested if the appellant, petitioner, or applicant moves for dismissal with prejudice or moves jointly with the respondent for dismissal with or without prejudice. (3) For lack of jurisdiction. If the Board finds that it lacks jurisdiction to decide all or part of a case, the Board will dismiss the case or the part of the case, regardless of the parties' positions on jurisdiction or dismissal. (4) For failure to prosecute. The Board may dismiss all or part of a case for failure to prosecute. (c) Dismissal orders and decisions. The presiding judge acting alone may stay a case or grant voluntary dismissal with or without prejudice. A panel or the full Board may dismiss a case on other grounds. (d) Admonition. Dismissal of a party's case without prejudice does not necessarily mean that the party may later refile the case at the Board, or in another forum, under the jurisdictional and procedural laws applicable to the case.

RULE 13 GENERAL PROVISIONS GOVERNING DISCOVERY	RULE 13 DISCOVERY GENERALLY
(a) Discovery methods. The parties are encouraged to exchange documents and other information voluntarily. In addition, the parties may obtain discovery by one or more of the following methods: (1) Depositions upon oral examination or written questions; (2) Written interrogatories; (3) Requests for production of documents, electronically stored information, or other tangible or intangible things; and (4) Requests for admission. (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 involved in the pending case, whether it relates to the 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 or intangible 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 limits. The Board may limit the frequency or extent of use of the discovery methods set forth in Rule 13 if it determines that: (1) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (2) The party seeking discovery has had ample opportunity by discovery in the case to obtain the information sought; or (3) The discovery is unduly burdensome and expensive, taking into account the needs of the case, the amount in controversy,	(a) Methods. Parties may obtain discovery by depositions, interrogatories, requests for production, and requests for admission. (b) Scope. Unless otherwise ordered, the scope of discovery is the same as under Rule 26(b)(1) of the Federal Rules of Civil Procedure. (c) Limits. The Board may limit the frequency or extent of discovery for a reason stated in Rule 26(b)(2) of the Federal Rules of Civil Procedure. (d) Timing. The Board encourages parties to agree on a discovery plan that the Board may adopt in a scheduling order. The Board may modify an agreed discovery plan. (e) Disputes. (1) Objections. A party objecting to a written discovery request must make the objection in writing no later than the date that its response to the discovery request is due. (2) Duty to cooperate. Parties shall try in good faith to resolve objections to discovery requests without involving the Board. The Board may impose an appropriate sanction under Rule 35 (48 CFR 6101.35) on a party that does not meet its discovery obligations. (3) Motions to compel. A party may move to compel a response or a supplemental response to a discovery request. The movant shall attach to its motion a copy of each discovery request and response at issue, and shall represent in the motion that the movant complied with Rule 13(e)(2) (paragraph (e)(2) of this section). (f) Subpoenas. A party may request a subpoena under Rule 16 (48 CFR 6101.16).

RULE 13 GENERAL PROVISIONS GOVERNING DISCOVERY	RULE 13 DISCOVERY GENERALLY
limitations on the parties' resources, and the importance of the issues at stake. (d) Conduct of discovery. Parties may engage in discovery only to the extent the Board enters an order which either incorporates an agreed plan and schedule acceptable to the Board or otherwise permits such discovery as the moving party can demonstrate is required for the expeditious, fair, and reasonable resolution of the case. (e) Discovery conference. 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 the issues for discovery purposes; establish a plan and schedule for discovery; set limitations on discovery, if any; and determine such other matters as are necessary for the proper management of discovery. The Board may include in the conference such other matters as it deems appropriate in accordance with Rule 11. (f) Discovery objections. (1) In connection with any discovery procedure, the Board, on motion or on its own initiative, may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including, but not limited to, one or more of the following: (i) That the discovery not be had; (ii) That the discovery be had only on specified terms and conditions, including a designation of the time and place, or that the scope of discovery be limited to certain matters; (iii) That the discovery be conducted with no one present except persons designated by the Board; and (iv) That confidential information not be disclosed or that it be disclosed only in a designated way. (2) Unless otherwise ordered by the Board, any objection to a discovery request must be filed within 15 calendar days after receipt.	

RULE 13 GENERAL PROVISIONS GOVERNING DISCOVERY	RULE 13 DISCOVERY GENERALLY
A party shall fully respond to any discovery request to which it does not file a timely objection. The parties are required to make a good faith effort to resolve objections to discovery requests informally. (3) A party receiving an objection to a discovery request, or a party which believes that another party's response to a discovery request is incomplete or entirely absent, may file a motion to compel a response, but such a 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. (g) Failure to make or cooperate in discovery. If a party fails to appear for a deposition, after being served with a proper notice; to serve answers or objections to interrogatories submitted under Rule 14, after proper service of interrogatories; or to serve a written response to a request for inspection, production, and copying of any documents, electronically stored information, and things under Rule 14, the party seeking discovery may move the Board to impose appropriate sanctions under Rule 33. (h) Subpoenas. A party may request the issuance of a subpoena in aid of discovery under the provisions of Rule 16.	

RULE 14 INTERROGATORIES TO PARTIES; REQUESTS FOR ADMISSION; REQUESTS FOR PRODUCTION	RULE 14 INTERROGATORIES; REQUESTS FOR PRODUCTION; REQUESTS FOR ADMISSION
Upon order from the Board permitting such discovery, a party may serve on another party written interrogatories, requests for admission, and requests for production. (a) Written interrogatories. Written interrogatories shall be answered separately in writing, signed under oath or accompanied by a declaration under penalty of perjury, and answered within 30 calendar days after service. Objections shall be filed within the time limits set forth in Rule 13(f)(2). (b) Option to produce business records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon which the interrogatory has been served, or from an examination, audit, or inspection of such business records, including a compilation, abstract, or summary thereof, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries thereof. Such specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer maybe ascertained. (c) Written requests for admission. A written request for the admission of the truth of any matter, within the proper scope of discovery, that relates to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents or electronically stored information, is to be answered in writing and signed within 30 calendar days after service. Objections shall be filed within the time limits set forth in Rule 13(f)(2). Otherwise, the matter therein may be deemed to be admitted. Any matter admitted is conclusively established for the purpose of the pending action, unless the Board on motion permits withdrawal or amendment of the admission. Any admission made by a party under this paragraph (c) is for the purpose of the pending action only and	(a) Generally. Interrogatories, requests for production, requests for admission, and responses thereto shall be in writing and served on the other party. (b) Interrogatories. Interrogatories shall be answered or objected to separately in writing, under signed oath, within 30 days of service. A party may answer an interrogatory by specifying records from which the answer may be derived or ascertained when that response would be allowed under Rule 33(d) of the Federal Rules of Civil Procedure. (c) Requests for production. Responses and objections to requests for production, inspection, and/or copying of documents, electronically stored information, or tangible things are due within 30 days of service of the requests and shall state when and how the responding party will make responsive material available. (d) Requests for admission. (1) Content. A party may serve requests for admission that would be proper under Rule 36(a)(1) of the Federal Rules of Civil Procedure. (2) Responses and failure to respond. Responses and objections shall comply with Rule 36(a)(4) and (5) of the Federal Rules of Civil Procedure. If the served party does not respond within 30 days of service of a request, the Board may on motion deem a matter admitted and conclusively established solely for the pending case. (3) Relief from admission. The Board may allow a party to withdraw or amend an admission for good cause. (e) Altering time to respond. The parties may agree to alter deadlines to respond to discovery requests. The Board may alter the deadlines to meet the needs of a case. (f) Supplementing and correcting responses. A party must supplement or correct a response to a discovery request if and when this action would be required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

RULE 14 INTERROGATORIES TO PARTIES; REQUESTS FOR ADMISSION; REQUESTS FOR PRODUCTION	RULE 14 INTERROGATORIES; REQUESTS FOR PRODUCTION; REQUESTS FOR ADMISSION
is not an admission for any other purpose, nor may it be used against the party in any other proceeding. (d) Written requests for production. A written request for the production, inspection, and copying of any documents, electronically stored information, or things shall be answered within 30 calendar days after service. Objections shall be filed within the time limits set forth in Rule 13(f)(2). (e) Change in time for response. Upon request of a party, or on its own initiative, the Board may prescribe a period of time other than that specified in Rule 14. (f) Responses. A party that has responded to written interrogatories, requests for admission, or requests for production of documents, electronically stored information, or things, upon becoming aware of deficiencies or inaccuracies in its original responses, or upon acquiring additional information or additional documents, electronically stored information, or things 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, electronically stored information, and things as are necessary to give a complete and accurate response to the request.	

RULE 15 DEPOSITIONS	RULE 15 DEPOSITIONS
(a) When depositions may be taken. Upon request of a party, the Board may order the taking of testimony of any person by deposition upon oral examination or written questions before an officer authorized to administer oaths at the place of examination. Attendance of witnesses may be compelled by subpoena as provided in Rule 16, and the Board may upon motion order that the testimony at a deposition be recorded by other than stenographic means, in which event the order may designate the manner of recording, preserving, and filing the deposition and may include other provisions to ensure that the recorded testimony will be accurate and trustworthy. In addition, if the Board orders deposition testimony to be recorded by other than stenographic means, the Board will also determine who shall bear the burden of the cost of such recording, and shall permit the non-moving party to arrange to have a stenographic transcription made at its own expense. (b) Depositions: time; place; manner of taking. The time, place, and manner of taking depositions, including the taking of depositions by telephone, shall be as agreed upon by the parties or, failing such agreement, as ordered by the Board. A deposition taken by telephone is taken at the place where the deponent is to answer questions. (c) Use of depositions. At a hearing on the merits or upon a motion or interlocutory proceeding, any part or all of a deposition, so far as admissible and as though the witness were then present and testifying, may be used against a party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions: (1) Any deposition may be used by a party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. (2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated to testify on behalf of a corporation,	(a) Generally. Unless otherwise ordered, parties may take depositions after service of the answer. If the parties agree in writing on the deponent, time, place, recording method, and maximum duration of a deposition, no formal deposition notice is needed. The Board may order a deposition on motion under Rule 8 or by subpoena under Rule 16 (48 CFR 6101.16). (b) Use. Parties may use deposition testimony in a case to the extent that would be permitted by Rule 32(a) of the Federal Rules of Civil Procedure. (c) To perpetuate testimony. If the Board has decided a case, and either the time to appeal has not expired or an appeal has been taken, the Board may for good cause grant leave to take a deposition as if the case were still before the Board in order to preserve testimony for possible further proceedings before the Board.

RULE 15 DEPOSITIONS	RULE 15 DEPOSITIONS
partnership, association, or government agency which is a party may be used by an adverse party for any purpose. (3) The deposition of a witness, whether or not a party, may be used by a party for any purpose in its own behalf if the Board finds that: (i) The witness is dead; (ii) The attendance of the witness at the place of hearing cannot be reasonably obtained, unless it appears that the absence of the witness was procured by the party offering the deposition; (iii) The witness is unable to attend or testify because of illness, infirmity, age, or imprisonment; (iv) The party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (v) Upon request and notice, exceptional circumstances exist which make it desirable in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used. (4) If only part of a deposition is offered in evidence by a party, an adverse party may require the offering party to introduce any other part which in fairness ought to be considered with the part introduced. (d) Depositions pending appeal from a decision of the Board. If an appeal has been taken from a decision of the Board, or before the taking of an appeal if the time therefor has not expired, the Board may allow the taking of depositions of witnesses to perpetuate their testimony for use in the event of further proceedings before the Board. In such case, the party that desires to perpetuate testimony may make a motion before the Board for leave to take the depositions as if the action were pending before the Board. The motion shall show:	

RULE 15 DEPOSITIONS	RULE 15 DEPOSITIONS
(1) The names and addresses of the persons to be examined and the substance of the testimony which the moving party expects to elicit from each; and (2) The reasons for perpetuating the testimony of the persons named. If the Board finds that the perpetuation of testimony is proper to avoid a failure or a delay of justice, it may order the depositions to be taken and may make orders of the character provided for in Rule 13 and in Rule 15. Thereupon, the depositions may be taken and used as prescribed in the rules of this chapter for depositions taken in actions pending before the Board. Upon request and for good cause shown, a judge may issue or obtain a subpoena, in accordance with Rule 16, for the purpose of perpetuating testimony by deposition during the pendency of an appeal from a Board decision.	

RULE 16 SUBPOENAS	RULE 16 SUBPOENAS
(a) Voluntary cooperation in lieu of subpoena. Each party is expected to: (1) Cooperate by making available witnesses and evidence under its control, when requested by another party, without issuance of a subpoena; and (2) Secure the cooperation of third-party witnesses and production of evidence by third parties, when practicable, without issuance of a subpoena. (b) General. Upon the written request of any party filed with the Office of the Clerk of the Board, or upon the initiative of a judge, a subpoena may be issued that commands the person to whom it is directed to: (1) Attend and give testimony at a deposition in a city or county where that person resides or is employed or transacts business in person, or at another location convenient to that person that is specifically determined by the Board; (2) Attend and give testimony at a hearing; and (3) Produce the books, papers, documents, electronically stored information, and other tangible and intangible things designated in the subpoena. (c) Request for subpoena. A request for a subpoena shall contain the name of the assigned judge, the name of the case, and the docket number of the case. It shall state the reasonable scope and general relevance to the case of the testimony and of any evidence sought. A request for a subpoena shall be filed at least 15 calendar days before the testimony of a witness or evidence is to be provided. The Board may, in its discretion, honor requests for subpoenas not made within this time limitation. (d) Form; issuance. (1) Every subpoena shall be in the form specified in the Appendix to the rules of this chapter and this form shall not be altered. Unless a party has the approval of a judge to submit a subpoena in blank (in whole or	(a) Expectation of cooperation in lieu of subpoena. Subpoenas should rarely be necessary, as the Board expects parties to respond cooperatively to discovery requests and to try in good faith to secure the cooperation of third parties who have or may have evidence responsive to discovery requests. (b) Generally. The Board may issue a subpoena for a purpose for which a United States district court may issue a subpoena under Rule 45(a)(1) of the Federal Rules of Civil Procedure. Parties and the Board shall take all reasonable steps to avoid imposing undue burden on a person subject to a subpoena. (c) How requested; form. A party may ask the Board to issue a subpoena by motion under Rule 8 (48 CFR 6101.8), substantially before the proposed compliance date. The movant shall attach to its motion a completed subpoena form for signing by a Board judge, and shall explain in the motion why the proposed subpoena scope is reasonable and how the evidence sought is relevant to the case. (d) Production cost. The Board's policy is to require a requesting party to advance a subpoenaed person the reasonable cost of producing subpoenaed material. (e) Service. The requesting party shall serve a subpoena and provide proof of service as would be required by Rule 45(b) of the Federal Rules of Civil Procedure. (f) Motion to quash or modify. On or before the date specified for compliance, a subpoenaed person may file a motion to quash or modify the subpoena for a reason stated in Rule 45(d)(3) of the Federal Rules of Civil Procedure. The Board may rule on the motion any time after the party that served the subpoena receives the motion. (g) Enforcement. As necessary, the Board may ask the Attorney General of the United States to petition a United States district court to enforce a Board subpoena. (h) Letter rogatory in lieu of subpoena. If a person to be subpoenaed resides in a foreign country, the Board may facilitate the issuance of a letter rogatory to the person by the United States Department of State under 28 U.S.C. 1781–1784.

RULE 16 SUBPOENAS	RULE 16 SUBPOENAS
in part), a party shall submit to the judge a completed subpoena (save the "Return on Service" portion). In issuing a subpoena to a requesting party, the judge shall sign the subpoena. The party to whom the subpoena is issued shall complete the subpoena before service. (2) If the person subpoenaed is located in a foreign country, a letter rogatory or a subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781-1784. (e) Service. (1) The party requesting a subpoena shall arrange for service. Service shall be made as soon as practicable after the subpoena has been issued. (2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personal delivery of a copy to that person and tender of the fees for one day's 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. (f) Proof of service. The person serving the subpoena shall make proof of service thereof to the Board promptly and in any event before the date on which the person served must respond to the subpoena. Proof of service shall be made by completion and execution and submission to the Board of the "Return on Service" portion of a duplicate copy of the subpoena issued by a judge. If service is made by a person other than a United States marshal or his deputy, that person shall make an affidavit as proof by executing the "Return on Service" in the presence of a notary. (g) Motion to quash or to modify. Upon written motion by the person subpoenaed or by a party, made within 14 calendar days after service, but in any event not later than the time specified in the subpoena for compliance, the Board may quash or modify the subpoena if it is	

RULE 16 SUBPOENAS	RULE 16 SUBPOENAS
unreasonable and oppressive or for other good cause shown, or require the party in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed evidence. Where circumstances require, the Board may act upon such a motion at any time after a copy has been served upon opposing parties. (h) Contumacy or refusal to obey a subpoena. In a 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 shall 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.	

RULE 17 EXHIBITS	RULE 17 EXHIBITS
(a) Marking of exhibits. (1) Documents and other tangible things offered in evidence by a party will be marked for identification by the Board during the hearing or, if ordered by the Board, will be added to the appeal file as exhibits before the commencement of the hearing in order, for example, to eliminate the introduction of additional exhibits at the hearing. (2) If a party elects to proceed on the record without a hearing pursuant to Rule 19, documentary evidence submitted by that party will be numbered consecutively as appeal file exhibits. (b) Copies as exhibits. Except upon objection sustained by the Board for good cause shown, copies of documents may be offered and received into evidence as exhibits, provided they are of equal legibility and quality as the originals, and such copies shall have the same force and effect as if they were the originals. If the Board directs, a party offering a copy of a document as an exhibit shall have the original available at the hearing for examination by the Board and any other party. When the original of a document has been received into evidence as an exhibit, an accurate copy may be substituted in evidence for the original by leave of the Board at any time. The Board may require a party to provide either copies of electronically stored information or printed versions of electronically stored information to be included in the record. (c) Withdrawal of exhibits and other items. With the permission of the Board, a party that submits an exhibit or any other item may withdraw the exhibit or item from the record during the course of a proceeding. (d) Disposition of physical exhibits. Any physical (as opposed to documentary) exhibit may be disposed of by the Board at any time more than 90 calendar days after the expiration of the period for appeal from the decision of the Board.	(a) Marking exhibits. Unless otherwise ordered, parties shall, to the fullest extent practicable, submit exhibits for inclusion in the appeal file before a hearing starts under Rule 20 (48 CFR 6101.20) or before the first brief is filed when a case is submitted on the written record under Rule 19 (48 CFR 6101.19). Parties shall mark any exhibits offered in evidence thereafter as sequential additions to the appeal file. Such exhibits shall become part of the appeal file if admitted as evidence. (b) Copies. The Board expects all document exhibits to be true, complete, and legible copies rather than originals. The Board may order a party to substitute a better copy or to make an original document available for inspection. (c) Withdrawal. The Board may allow a party to withdraw an exhibit from the appeal file and the record for decision on terms fair to the other party. (d) Disposition. Unless the Board advises the parties of another deadline, the Board may discard physical (non-electronic) exhibits in its possession 90 days after the time to appeal the Board's decision in the case expires.

RULE 18 ELECTION OF HEARING OR RECORD SUBMISSION	RULE 18 ELECTION OF HEARING OR RECORD SUBMISSION.
Each party shall inform the Board, in writing, whether it elects a hearing or submission of its case on the record pursuant to Rule 19. Such an election may be filed at any time unless a time for filing is prescribed by the Board. In most cases, the Board will require the parties to make an election soon after discovery closes. A party electing to submit its case on the record pursuant to Rule 19 may also elect to appear at a hearing solely to cross-examine any witness presented by the opposing party, provided that the Board is informed of that party's intention within 10 working days of its receipt of notice of the election of hearing by the other party. If a hearing is elected, the election should state where and when the electing party desires the hearing to be held and should explain the reasons for its choices. A hearing will be held if either party elects one. If a party's decision whether to elect a hearing is dependent upon the intentions of the other party, it shall consult with the other party before filing its election. If there is to be a hearing, it will be held at a time and place prescribed by the Board after consultation with the party or parties electing the hearing. The record submissions from a party that has elected to submit its case on the record shall be due as provided in Rule 19.	(a) Generally. The Board will hold a hearing in a case if the Board must find facts and either party elects a hearing. A party may elect to submit its case for decision on the written record under Rule 19 (48 CFR 6101.19). The presiding judge will set the deadline for an election under this rule. (b) Hybrid election. A party may elect to submit its case on the written record under Rule 19 (48 CFR 6101.19) and also elect to appear at a hearing, solely to cross-examine the other party's witnesses and to object to evidence offered at the hearing.

RULE 19 SUBMISSION ON THE RECORD WITHOUT A HEARING	RULE 19 RECORD SUBMISSION WITHOUT A HEARING.
(a) Submission on the record. A party may elect to submit its case on the record without a hearing. A party submitting its case on the record may include in its written record submission or submissions: (1) Any relevant documents or other tangible things it wishes the Board to admit into evidence; (2) Affidavits, depositions, and other discovery materials that set forth relevant evidence; and (3) A brief or memorandum of law. The Board may require the submission of additional evidence or briefs and may order oral argument in a case submitted on the record. (b) Time for submission. (1) If both parties have elected to submit the case on the record, the Board will issue an order prescribing the time for initial and, if appropriate, reply record submissions. (2) If one party has elected a hearing and the other party has elected to submit its case on the record, the party submitting on the record shall make its initial submission no later than the commencement of the hearing or at an earlier date if the Board so orders, and a further submission in the form of a brief at the time for submission of posthearing briefs. (c) Objections to evidence. Unless otherwise directed by the Board, objections to evidence (other than the appeal file and supplements thereto) in a record submission may be made within 10 working days after the filing of the submission, and replies to such objections, if any, may be made within 10 working days after the filing of the objection. The Board may rule on such objections either before it issues its decision or at the time it issues its decision.	(a) Generally. If a party elects to submit its case on the record without a hearing, the Board will set a schedule for the parties to complete the evidentiary record and file briefs. (b) Evidence and objections. When a party elects submission on the record without a hearing, that party may submit material for inclusion in the record no later than the date the party files its initial brief. Unless otherwise ordered, the other party may object to the admission of such material as evidence within 5 days after receiving the submission. If one party elects a hearing and the other party elects record submission (or makes a hybrid election under Rule 18(b) (48 CFR 6101.18(b)), the evidentiary record shall close at the end of the hearing. The Board may rule on objections either before or in its decision. (c) Briefs and argument. The Board may receive briefs and/or oral argument on a record submission. If one party elects a hearing and the other party elects record submission, the first brief of the party submitting its case on the record shall be due no later than the start of the hearing.

RULE 20 HEARINGS: SCHEDULING; NOTICE; UNEXCUSED ABSENCES	RULE 20 SCHEDULING HEARINGS.
(a) Scheduling of hearings. Hearings will be held at the time and place ordered by the Board and will be scheduled at the discretion of the Board. In scheduling hearings, the Board will consider the requirements of the rules of this chapter, the need for orderly management of the Board's caseload, and the stated desires of the parties as expressed in their elections filed pursuant to Rule 18 or otherwise. The time or place for hearing may be changed by the Board at any time. (b) Notice of hearing. Notice of hearing will be by written order of the Board. Notice of changes in the hearing schedule will also be by written order when practicable but may be oral in exigent circumstances. Except as the Board may otherwise order, each party that plans to attend the hearing shall, within 10 working days of receipt of a written notice of hearing or any notice of a change in hearing schedule stating that an acknowledgment is required, notify the Board in writing that it will attend the hearing. If a party fails to acknowledge a notice of hearing as required, the Board will deem the party to have consented to the time and place of hearing. (c) Unexcused absence from hearing. In the event of the unexcused absence of a party from a hearing, the hearing will proceed, and the absent party will be deemed to have elected to submit its case on the record pursuant to Rule 19.	(a) Generally. The Board will set the time, place, duration, and subject matter of a hearing in a written order after consulting with the parties. (b) Subject matter. The Board may schedule for hearing all or some of the claims or issues in a case, or all or some of the claims, issues, or questions of fact or law common to more than one case. (c) Unexcused absence. If a party fails without good excuse to appear at a hearing of which it received notice under this rule, the Board will deem that party to have elected to submit its case on the record under Rule 19.

RULE 21 HEARING PROCEDURES	RULE 21 HEARING PROCEDURES
(a) Nature and conduct of hearings. (1) Except when necessary to maintain the confidentiality of protected material or testimony, or material submitted in camera, all hearings on the merits of cases shall be open to the public and conducted insofar as is convenient in regular hearing rooms. All other acts or proceedings may be done or conducted by the Board either in its offices or at other places. (2) When cases involving common questions of law or fact are pending, the Board may order a joint hearing of any or all of the matters, claims, or issues in the cases. (3) The Board may order a separate hearing of any matters, claims, or issues pending in any case. The Board may enter appropriate orders or decisions with respect to any matters, claims, or issues that are heard separately. (4) Upon the agreement of the parties or upon its own initiative, the Board may notify the parties before a hearing begins that it will limit the hearing to those issues of law and fact relating to the right of a party to recover, reserving the determination of the amount of recovery, if any, for other proceedings. (5) Before the hearing begins, the Board may prescribe a time within which the presentation of evidence must be concluded, and may establish time limits on the direct and cross-examination of witnesses. (6) Upon the request of either party or if the Board deems it advisable, the Board will order witnesses to be excluded from the hearing room so they cannot hear the testimony of other witnesses. The Board will not exclude a party who is an individual, the designated representative of a party which is an entity, a person whose presence is essential to the presentation of a party's case, or someone authorized by statute to be present. (b) Continuances; change of location. Whenever practicable, a hearing will be conducted in one continuous session or a series of consecutive sessions at a single location. However, the Board may at	(a) Generally. The Board generally holds hearings in public hearing rooms. Except as necessary under a protective order or in camera procedures, hearings are open to the public. The Board entrusts the conduct of hearings to the discretion of the presiding judge. (b) Witnesses, evidence, other exhibits. A party that intends to offer testimony, other evidence, or other material for the record at a hearing shall arrange for the witness, evidence, or other material to be present in the hearing room. The Board may in its discretion allow testimony by telephone or video. (c) Exclusion of witnesses. The Board may exclude witnesses from a hearing, other than one designated representative for each party or a person authorized by statute to be present, so that witnesses are not influenced by the testimony of other witnesses. (d) Sworn testimony. Hearing witnesses shall testify under oath or affirmation. If a person called as a witness refuses to so swear or affirm, the Board may receive the person's testimony under penalty of making a materially false statement in a federal proceeding under 18 U.S.C. 1001. Alternatively, the Board may disallow the testimony and may draw inferences from the person's refusal to swear or affirm.

RULE 21 HEARING PROCEDURES	RULE 21 HEARING PROCEDURES
any time continue the hearing to a future date and may arrange to conduct the hearing in more than one location. The Board may also continue a hearing to permit a party to conduct additional discovery on conditions established by the Board. In exercising its discretion to continue a hearing or to change its location, the Board will give due consideration to the same elements (set forth in Rule 20(a) that it considers in scheduling hearings. (c) Availability of witnesses, documents, and other tangible things. It is the responsibility of a party desiring to call any witness, or to use any document or other tangible thing as an exhibit in the course of a hearing, to ensure that whomever it wishes to call and whatever it wishes to use is available at the hearing. If a witness cannot be made available at the site of the hearing, the party who wishes to call the witness may file a motion that the witness be allowed to testify remotely, whether by telephone, video conference, or some other method. (d) Enlargement of the record. The Board may at any time during the conduct of a hearing require evidence or argument in addition to that put forth by the parties. (e) Examination of witnesses. Witnesses before the Board will testify under oath or affirmation. A party or the Board may obtain an answer from any witness to any question that is not the subject of an objection that the Board sustains. (f) Refusal to be sworn. If a person called as a witness refuses to be sworn or to affirm before testifying, the Board may direct that witness to be sworn or to affirm and, in the event of continued refusal, the Board may permit the taking of testimony without oath or affirmation. If the Board permits a witness to testify without oath or affirmation, the Board will explain that statements made during the hearing are subject to provisions of federal law imposing penalties, including criminal penalties, for knowingly making false representations. Alternatively, the Board may refuse to permit the examination of that witness, in which event it may state for the record the inferences it draws from the witness's refusal to testify under oath or affirmation. Alternatively, the Board may issue a subpoena to compel that witness	

RULE 21 HEARING PROCEDURES	RULE 21 HEARING PROCEDURES
to testify under oath or affirmation and, in the event of the witness's continued refusal to be sworn or to affirm, may seek enforcement of that subpoena pursuant to Rule16(h). (g) Refusal to answer. If a witness refuses to answer a question put to him in the course of his testimony, the Board may direct that witness to answer and, in the event of continued refusal, the Board may state for the record the inferences it draws from the refusal to answer. Alternatively, the Board may issue a subpoena to compel that witness to testify and, in the event of the witness's continued refusal to testify, may seek enforcement of that subpoena pursuant to Rule 16(h). (h) Issues not raised by pleadings. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may nevertheless be admitted by the Board if it is within the proper scope of the case. If such evidence is admitted, the Board may grant the objecting party a continuance to enable it to meet such evidence. If such evidence is admitted, the pleadings may be amended to conform to the evidence, as provided by Rule 6(f). (i) Delay by parties. If the Board determines that the hearing is being unreasonably delayed by the failure of a party to produce evidence, or by the undue prolongation of the presentation of evidence, it may, during the hearing, prescribe a time or times within which the presentation of evidence must be concluded, establish time limits on the direct or cross-examination of witnesses, and enforce such order or ruling by appropriate sanctions.	

RULE 22 TRANSCRIPTS OF PROCEEDINGS; CORRECTIONS	RULE 22 TRANSCRIPTS
(a) Transcripts. Except as the Board may otherwise order, all hearings, other than those under the small claims procedure prescribed by Rule 52, will be stenographically or electronically recorded and transcribed. Any other hearing or conference will be recorded or transcribed only by order of the Board. Each party is responsible for obtaining its own copy of the transcript if one is prepared. (b) Corrections. Corrections to an official transcript will be made only when they involve errors affecting its substance. The Board may order such corrections on motion or on its own initiative, and only after notice to the parties giving them opportunity to object. Such corrections will ordinarily be made either by hand with pen and ink or by the appending of an errata sheet, but when no other method of correction is practicable the Board may require the reporter to provide substitute or additional pages.	The Board arranges transcription of hearings, other than hearings under the small claims procedure of Rule 52 (48 CFR 6101.52). The Board may, but generally does not, arrange transcription of conferences or other proceedings. No one may record or transcribe a Board proceeding without the Board's permission. The Board may order or acknowledge corrections to an official transcript. Each party is responsible for obtaining its own copy of a transcript.

RULE 23 BRIEFS AND MEMORANDA OF LAW	RULE 23 BRIEFS
(a) Form and content of briefs and memoranda of law. Briefs and memoranda of law shall be on standard size 8-1/2 by 11-inch paper. They shall be double-spaced with text in the body and in the footnotes no smaller than 12 point. Otherwise, no particular formor organization is prescribed. The presiding judge may request prehearing and posthearing briefs and may also request, at any point in the proceedings, memoranda of law. Prehearing and posthearing briefs should, at a minimum, succinctly setforth: (1) The facts of the case with citations to those places in the record where supporting evidence can be found; and (2) Argument with citations to supporting legal authorities. (b) Submission of posthearing briefs. Except as the Board may otherwise order, posthearing briefs shall be filed 30 calendar days after the Board's receipt of the transcript; reply briefs, if filed, shall be filed 15 calendar days after the parties' receipt of the initial posthearing briefs. The Board will notify the parties of the date of its receipt of the transcript. In the event one party has elected a hearing and the other party has elected to submit its case on the record pursuant to Rule 19, the filing of record submissions in the form of briefs shall be governed by Rule 23.	(a) Generally. The Board may order or invite briefs on any issue in a case at any time. Briefs shall be formatted for 8.5 by 11-inch paper, double spaced, with body and footnote text no smaller than 13 point. (b) Prehearing, post-hearing, and other briefs. Prehearing and post-hearing briefs, briefs filed under Rule 19 (48 CFR 6101.19), and briefs on non-procedural motions shall cite record evidence for factual statements and legal authority for legal arguments.

RULE 24 CLOSING THE RECORD	RULE 24 CLOSING THE RECORD
(a) Closing of the record. Except as the Board may otherwise order, no proof shall be received in evidence after a hearing is completed or, in cases submitted on the record without a hearing, after notice by the Board to the parties that the record is closed and that the case is ready for decision. (b) Notice that the case is ready for decision. The Board will give written notice to the parties when the record is closed and the case is ready for decision.	(a) Closing the evidentiary record. Unless otherwise ordered, the evidence as defined in Rule 9(a)(1) (48 CFR 6101.9(a)(1)) is closed at the end of a hearing under Rule 20 or at the start of merits briefing when a case is submitted on the record under Rule 19 (48 CFR 6101.19). (b) Closing the record for decision. Unless otherwise ordered, the record for decision as defined in Rule 9(a) (48 CFR 6101.9(a)) is closed when the Board receives the final scheduled brief on the matters to be decided.

RULE 25 DECISIONS; SETTLEMENTS	RULE 25 DECISIONS AND SETTLEMENTS
(a) Decisions. (1) Except as provided in Rule 52 (small claims procedure), decisions of the Board will be made in writing upon the record as prescribed in Rule 9. The Board may also take notice of any fact or law of which a court could take judicial notice. Each of the parties will be furnished a copy of the decision certified by the Office of the Clerk of the Board, and the date of the receipt thereof by each party will be established in the record. In addition, all Board decisions are posted weekly on the Internet. The Board's Internet address is: www.cbca.gov. (2) In its decision, the Board may reserve determination of the amount of recovery for other proceedings, regardless of whether there is evidence in the record concerning the amount of recovery, provided the Board notified the parties before the hearing began that its decision would not address the amount of any recovery. In any instance in which the Board has reserved its determination of the amount of recovery for other proceedings, as provided in Rule 21(a)(4), its decision on the question of the right to recover shall be final so far as proceedings at the Board are concerned, subject to the provisions of Rules 26 through 28. (b) Settlements. When an appeal or application is settled, the parties may file with the Board a stipulation setting forth the amount of the award. The Board will adopt the parties' stipulation by decision, provided the stipulation states the parties will not seek reconsideration of, or relief from, the Board's decision, and they will not appeal the decision. The Board's decision under this paragraph (b) is an adjudication of the case on the merits.	(a) Decisions. The Board issues decisions in writing, except as allowed by Rule 52 (48 CFR 6101.52). The Board will send a copy of a decision to each party, requesting confirmation of receipt (see Rule 1 (48 CFR 6101.1)), and will post the decision on its website. If a decision reserves any part of a case for later proceedings, it is conclusive as to the matters it resolves, except as provided in Rules 26 and 28 (48 CFR 6101.26 and 6101.28). (b) Settlements. Parties may settle a case by stipulating to an award. The Board may issue a decision making the stipulated award if: (1) The Board is satisfied that it has jurisdiction, and (2) The stipulation states that no party will seek reconsideration of, seek relief from, or appeal the Board's decision.

RULE 26 RECONSIDERATION; AMENDMENT OF DECISIONS; NEW HEARINGS	RULE 26 RECONSIDERATION
(a) Grounds. Reconsideration may be granted, a decision or order may be altered or amended, or a new hearing may be granted, for any of the reasons stated in Rule 27(a) and the reasons established by the rules of common law or equity applicable as between private parties in the courts of the United States. Reconsideration or a new hearing may be granted on all or any of the issues. Arguments already made and reinterpretations of old evidence are not sufficient grounds for granting reconsideration, for altering or amending a decision, or for granting a new hearing. Upon granting a motion for a new hearing, the Board will take additional testimony and, if a decision has been issued, either amend its findings of fact and conclusions or law or issue a new decision. (b) Procedure. Any motion under Rule 26 shall comply with the provisions of Rule 8 and shall set forth: (1) The reason or reasons why the Board should consider the motion; and (2) The relief sought and the grounds therefor. If the Board concludes that the reasons asserted for its consideration of the motion are insufficient, it may deny the motion without considering the relief sought and the grounds asserted therefor. If the Board grants the motion, it will issue an appropriate order which may include directions to the parties for further proceedings. (c) Time for filing. In an appeal or petition, a motion for reconsideration, to alter or amend a decision or order, or for a new hearing shall be filed within 30 calendar days after the date the moving party receives the decision or order. In an application, such a motion shall be filed within 7 working days after the date the moving party receives the decision or order. Not later than 30 calendar days after issuance of a decision or order, the Board may, on its own initiative, order reconsideration or a new hearing or alter or amend a decision or order for any reason that would justify such action on motion of a party. (d) Effect of motion. A motion pending under Rule 26 does not affect the finality of a decision or suspend its operation.	(a) Grounds. The Board may on motion reconsider a decision or order for a reason recognized in Rule 59 of the Federal Rules of Civil Procedure. Arguments and evidence previously presented are not grounds for reconsideration. (b) Time limit for motion. A party may move for reconsideration of a decision or order on an appeal or petition within 30 days after that party receives the decision or order. A party may move for reconsideration of a decision or order on an application within 7 days after receiving the decision or order. The Board does not extend these time limits. (c) Effect of motion. A pending reconsideration motion does not affect any obligation to comply with a decision or order.

RULE 27 RELIEF FROM DECISION OR ORDER	RULE 27 RELIEF FROM DECISION OR ORDER
(a) Grounds. The Board may relieve a party from the operation of a final decision or order for any of the following reasons: (1) Newly discovered evidence which could not have been earlier discovered, even through due diligence; (2) Justifiable or excusable mistake, inadvertence, surprise, or neglect; (3) Fraud, misrepresentation, or other misconduct of an adverse party; (4) The decision has been satisfied, released, or discharged, or a prior decision upon which it is based has been reversed or otherwise vacated, and it is no longer equitable that the decision should have prospective application; (5) The decision is void, whether for lack of jurisdiction or otherwise; or (6) Any other ground justifying relief from the operation of the decision or order. (b) Procedure. Any motion under Rule 27 shall comply with the provisions of Rules 8 and 26(b), and will be considered and ruled upon by the Board as provided in Rule 26. (c) Time for filing. Any motion under Rule 27 shall be filed as soon as practicable after the discovery of the reasons therefor, but in any event no later than 120 calendar days after the date of the moving party's receipt of the decision or order from which relief is sought. In considering the timeliness of a motion filed under Rule 27, the Board may consider when the grounds therefor should reasonably have been known to the moving party. (d) Effect of motion. A motion pending under Rule 27 does not affect the finality of a decision or suspend its operation.	(a) Grounds. The Board may grant relief, for a reason recognized in Rule 60 of the Federal Rules of Civil Procedure, from a decision or order that, alone or in conjunction with prior decisions or orders, resolves all of an appeal, petition, or application. (b) Time limit for motion. A party may move for relief under this rule within 120 days after that party receives the decision or order at issue. (c) Effect of motion. A pending motion for relief under this rule does not affect any obligation to comply with a decision or order.

RULE 28 FULL BOARD CONSIDERATION	RULE 28 FULL BOARD CONSIDERATION
(a) Requests by parties. (1) A request for full Board consideration is not favored. Ordinarily, full Board consideration will be ordered only when it is necessary to secure or maintain uniformity of Board decisions, or the matter to be referred is one of exceptional importance. (2) A request for full Board consideration may be made by either party on any date which is both after the panel to which the case is assigned has issued its decision on a motion for reconsideration or relief from decision and within 10 working days after the date on which that party receives that decision. Any party making a request for full Board consideration shall state concisely in the motion the precise grounds on which the request is based. (3) Promptly after such a request is made, a ballot will be taken among the judges; if a majority of them favors the request, the request will be granted. The result of the vote will promptly be reported by the Board through an order. The concurring or dissenting view of any judge who wishes to express such a view may issue at the time of such order or at any time thereafter. (b) Initiation by Board. A majority of the judges may initiate full Board consideration of a matter at any time while the case is before the Board, no later than the last date on which any party may file a motion for reconsideration or relief from decision or order, or if such a motion is filed by a party, within ten days after a panel has resolved it. The parties will be informed promptly, through an order, of the matter to be considered by the full Board. The concurring or dissenting view of any judge who wishes to express such a view may issue at the time of such order or at anytime thereafter. (c) Decisions. If full Board consideration is granted at the request of a party or initiated by the Board, a vote shall be taken promptly on the pending matter. After this vote is taken, the Board shall promptly, by order, issue its determination, which shall include the concurring or dissenting view of any judge who wishes to express such a view.	(a) By motion. The full Board may consider a decision or order when necessary to maintain uniformity of Board decisions or if the matter is exceptionally important. Motions for full Board consideration are disfavored and are decided by a majority of the Board. A party may move for full Board consideration within 10 days after that party receives the decision or order at issue. An order granting full Board consideration will include concurring or dissenting opinions, if any. (b) By Board initiative. A majority of the Board may initiate full Board consideration of any matter in a case, up to 10 days after a judge or panel issues a decision or order on that matter. The full Board will inform the parties by order of the matter or matters to be considered. The order will include concurring or dissenting opinions, if any. (c) Full Board decision. The full Board decides matters by majority vote. A full Board decision will include concurring or dissenting opinions, if any. (d) Effect of motion. A pending motion for full Board consideration does not affect any obligation to comply with a decision or order.

RULE 28 FULL BOARD CONSIDERATION	RULE 28 FULL BOARD CONSIDERATION
(d) Effect of motion. A pending request for full Board consideration, whether initiated by a party or by the Board, does not affect the finality of a decision or suspend its operation.	

RULE 29 CLERICAL MISTAKES; HARMLESS ERROR	RULE 29 CLERICAL MISTAKES; HARMLESS ERROR
(a) Clerical mistakes. Clerical mistakes in decisions, orders, or other parts of the record, and errors arising therein through oversight or inadvertence, may be corrected by the Board at any time on its own initiative or upon motion of a party on such terms, if any, as the Board may prescribe. During the pendency of an appeal to another tribunal, such mistakes may be corrected only with leave of the appellate tribunal. (b) Harmless error. No error in the admission or exclusion of evidence, and no error or defect in any ruling, order, or decision of the Board, and no other error in anything done or not done by the Board will be a ground for granting a new hearing or for vacating, reconsidering, modifying, or otherwise disturbing a decision or order of the Board unless refusal to act upon such error will prejudice a party or work a substantial injustice. At every stage of the proceedings the Board will disregard any error or defect that does not affect the substantial rights of the parties.	(a) Clerical mistakes. The Board may correct clerical mistakes while a case is pending, or within 60 days thereafter if a decision has not been appealed. If a Board decision is appealed, the Board may correct clerical mistakes only by leave of the appellate Court. (b) Harmless error. The Board disregards errors that do not affect a substantive right of a party. No error in a ruling, order, or decision of the Board will be grounds for a new hearing or for vacating, reconsidering, modifying, or otherwise disturbing a decision or order unless refusing to correct the error will prejudice a party or work a substantial injustice.

RULE 30 AWARD OF FEES AND OTHER EXPENSES	RULE 30 AWARD OF FEES AND OTHER EXPENSES
(a) Applications for fees and other expenses. An appropriate party in a proceeding before the Board may apply for an award of fees and other expenses, including if applicable an award of attorney fees, under the Equal Access to Justice Act, 5 U.S.C. 504, or any other provision that may entitle that party to such an award, subsequent to the Board's decision in the proceeding. Until it issues a decision, the Board will not consider a request for fees and other expenses. (b) Time for filing. A party seeking an award may submit an application no later than 30 calendar days after a final disposition in the underlying appeal. The Board's decision becomes final (for purposes of Rule 30) when it is not appealed to the United States Court of Appeals for the Federal Circuit within the time permitted for appeal or, if the decision is appealed, when the time for petitioning the Supreme Court for certiorari has expired. An application for fees or other expenses may not be filed before the Board's decision is final; a request for fees or other expenses made before the Board's decision is final does not constitute an application. (c) Application requirements. An application for fees and other expenses shall: (1) Identify the applicant and the appeal for which fees and other expenses are sought, and the amount being sought; (2) Establish that all applicable prerequisites for an award have been satisfied, including a succinct statement of why the applicant is eligible for an award of fees and other expenses; (3) Be accompanied by an exhibit fully documenting any fees or expenses being sought, including the cost of any study, analysis, engineering report, test, project, or similar matter. The date and a description of all services rendered or costs incurred shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the particular services performed by specific date, the rate at which each fee has been computed, any expenses for which reimbursement is sought, and the total amount paid or payable by the applicant. Except in exceptional circumstances, all exhibits supporting	(a) Application for fees and other expenses. A party in an appeal may apply for an award of fees and other expenses as permitted under EAJA or any other provision that may entitle the party to such an award. (b) Time for filing. A party may file an application for fees and other expenses only after the time to seek appellate review of a Board decision has expired. A party may file an application within 30 calendar days after that date. (c) Application requirements. An application for fees and other expenses shall: (1) Specify the applicant, appeal, and amount sought; (2) Explain why the applicant is legally eligible for an award; (3) Provide a schedule of fees and expenses with supporting documentation; (4) Be signed by the applicant or a person appearing for the applicant, with a declaration under penalty of perjury that the information in the application is correct; (5) Provide evidence of the applicant's small business status or net worth; and (6) Justify any request for attorney fees exceeding the statutory rate. (d) Proceedings. (1) Within 30 days after receiving an application, the respondent may file an answer with any objections to the award requested, supported by facts and legal analysis. (2) The Board may order further proceedings if necessary for a full and fair resolution of issues arising from an application. (e) Decision. The Board will issue a written decision on an application.

RULE 30 AWARD OF FEES AND OTHER EXPENSES	RULE 30 AWARD OF FEES AND OTHER EXPENSES
applications for fees or expenses sought shall be publicly available. The Board may require the applicant to provide vouchers, receipts, or other substantiation for any fees and other expenses claimed and/or to submit to an audit by the Government of the claimed fees and other expenses; (4) Be signed by the applicant or an authorized officer, employee, or attorney of the applicant; (5) Contain or be accompanied by a written verification under oath or affirmation, or declaration under penalty of perjury, that the information provided in the application is true and correct; (6) If the applicant asserts that it is a qualifying small business concern, contain evidence thereof; and (7) If the application requests reimbursement of attorney fees that exceed the statutory rate, explain why an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies such fees. (d) Proceedings. (1) Within 30 calendar days after receipt by the respondent of an application under Rule 30, the respondent may file an answer. The answer shall explain in detail any objections to the award requested and set out the legal and factual bases supporting the respondent's position. If the respondent contends that any fees for consultants or expert witnesses for which reimbursement is sought in the application exceed the highest rate of compensation for expert witnesses paid by the agency, the respondent shall include in the answer evidence of such highest rate. (2) Further proceedings shall be held only by order of the Board and only when necessary for full and fair resolution of the issues arising from the application. Such proceedings shall be minimized to the extent possible and shall not include relitigation of the case on the merits. A request that the Board order further proceedings under Rule 30 shall describe the disputed issues and explain why additional proceedings are necessary to resolve those issues.	

RULE 30 AWARD OF FEES AND OTHER EXPENSES	RULE 30 AWARD OF FEES AND OTHER EXPENSES
(e) Decision. Any award ordered by the Board shall be paid pursuant to Rule 31.	

RULE 31 PAYMENT OF BOARD AWARDS	RULE 31 PAYMENT OF AWARD
(a) Generally. When permitted by law, payment of Board awards may be made in accordance with 31 U.S.C. 1304. Awards by the Board pursuant to the Equal Access to Justice Act shall be directly payable by the respondent agency over which the applicant has prevailed in the underlying appeal. (b) Conditions for payment. Before a party may obtain payment of a Board award pursuant to 31 U.S.C. 1304, one of the following must occur: (1) Both parties must, by execution of a Certificate of Finality, waive their rights to relief under Rules 26 and 27 and also their rights to appeal the decision of the Board; or (2) The time for filing an appeal must expire. (c) Procedure. Whenever the Board issues a decision or an order awarding an appellant any amount of money, it will attach to the copy of the decision sent to each party forms such as those contained in the Appendix to the rules of this chapter. Unless the appellant files a timely appeal from the decision, the appellant will complete the Certificate of Finality, sign it, and forward it to the person or persons who entered an appearance in the appeal on behalf of the respondent. Upon receipt of a completed and executed Certificate of Finality, unless the respondent files a timely appeal from the decision, the person or persons who entered an appearance in the appeal on behalf of the respondent will promptly transmit the appellant's Certificate of Finality, along with a certified copy of the Board's decision and any other necessary documentation, to the United States Department of the Treasury for payment.	When permitted by law, Board awards under contracts may be paid from the permanent indefinite judgment fund under 31 U.S.C. 1304 and 31 CFR part 256. An EAJA award is paid from funds of the respondent.

RULE 32 APPEAL FROM A BOARD DECISION	RULE 32 APPEAL FROM BOARD DECISION
(a) Record on review. When a party has appealed a Board decision to the United States Court of Appeals for the Federal Circuit, the record on review shall consist of the decision sought to be reviewed, the record before the Board as described in Rule 9(a)(1) through (a)(13), and such other material contained in the Board's file as may be required by the Court of Appeals. (b) Notice. At the same time a party seeking review of a Board decision files a notice of appeal, that party shall provide a copy of the notice to the Board. (c) Filing of certified list of record materials. Promptly after service upon the Board of a copy of the notice of appeal of a Board decision, the Office of the Clerk of the Board shall file with the Clerk of the United States Court of Appeals for the Federal Circuit a certified list of all documents, transcripts of testimony, exhibits, and other materials constituting the record, or a list of such parts thereof as the parties may designate, adequately describing each. The Board will retain the record and transmit any part thereof to the Court upon the Court's order during the pendency of the appeal. (d) Request by attorney of record to review record. When a case is on appeal, an attorney of record may request permission from the Board to sign out for a reasonable period of time the record on appeal to review and to copy if the attorney is unable to gain access to the record from another source.	(a) Notice. A party filing a notice of appeal with the United States Court of Appeals for the Federal Circuit (or with a district court in an admiralty case) shall provide a copy of the notice to the Board. (b) Record on review. The record on appellate review is the record for decision under Rule 9(a) (48 CFR 6101.9(a)) and any other material in a case file that the appellate Court may require. (c) Certified list. The Clerk will provide the clerk of the appellate Court a certified list as required by the Court's rules. (d) Inspection or copying of record. The Clerk will make a record on appeal available for inspection and copying in accordance with the rules of the appellate Court.

	RULE 33 **REMAND FROM APPELLATE COURT**
	If a Court remands a case to the Board for further proceedings, each party shall, within 30 days of receipt of the appellate mandate, recommend procedures to comply with the remand order. The Board will then issue an order on further proceedings.

RULE 33 EX PARTE CONTACT; SANCTIONS AND OTHER PROCEEDINGS	RULE 34 EX PARTE COMMUNICATIONS RULE 35 STANDARDS OF CONDUCT; SANCTIONS
(a) Standards. All parties and their representatives, attorneys, and any expert/consultant 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 that attorney is licensed to practice, to the extent that those rules are relevant to conduct affecting the integrity of the Board, its process, or its proceedings. The Board will also look to voluntary professional guidelines in evaluating an individual's conduct. (b) Ex parte communications. No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record, any evidence, explanation, analysis, or advice, whether written or oral, without the knowledge and consent of the adverse party, regarding any matter at issue in that appeal. This provision does not apply to consultation among Board members or to ex parte communications concerning the Board's administrative functions or procedures. (c) Sanctions. When a party or its representative or attorney or any expert/consultant fails to comply with any direction or order issued by the Board (including an order to provide or permit discovery), or engages in misconduct affecting the Board, its process, or its proceedings, the Board may make such orders as are just, including the imposition of appropriate sanctions. The sanctions may include: (1) Taking the facts pertaining to the matter in dispute to be established for the purpose of the case in accordance with the contention of the party submitting the discovery request; (2) Forbidding challenge of the accuracy of any evidence; (3) Refusing to allow the disobedient party to support or oppose designated claims or defenses; (4) Prohibiting the disobedient party from introducing in evidence designated documents or items of testimony;	No member of the Board or of the Board's staff will communicate with a party about any material issue in a case outside of the presence of the other party, and no one shall attempt such communications on behalf of a party. This rule does not bar such communications about the Board's administrative functions or procedures. * * * (a) Standards of conduct. All parties and their representatives, attorneys, and any expert or consultant retained by them or their attorneys shall obey directions and orders of the Board and adhere to standards of conduct applicable to such parties and persons. Standards applying to an attorney include the rules of professional conduct and ethics of the jurisdictions in which the attorney is licensed to practice, to the extent that those rules are relevant to conduct affecting the integrity of the Board, its process, or its proceedings. (b) Sanctions. If a party or its representative, attorney, expert, or consultant fails to comply with any direction or order of the Board (including an order to provide or permit discovery) or engages in misconduct affecting the Board, its process, or its proceedings, the Board may make such orders as are just, including the imposition of appropriate sanctions. Sanctions may include, but are not limited to: (1) Taking the facts pertaining to the matter in dispute to be established for the purpose of the case in accordance with the contention of the party who is not at fault; (2) Forbidding the challenge of the accuracy of any evidence; (3) Refusing to allow the party to support or oppose designated claims or defenses; (4) Prohibiting the party from introducing into evidence designated claims or defenses; (5) Striking pleadings or parts thereof, or staying further

RULE 33 EX PARTE CONTACT; SANCTIONS AND OTHER PROCEEDINGS	RULE 34 EX PARTE COMMUNICATIONS RULE 35 STANDARDS OF CONDUCT; SANCTIONS
(5) Striking pleadings or parts thereof, or staying further proceedings until the order is obeyed; (6) Dismissing the case or any part thereof; (7) Enforcing the protective order and disciplining individuals subject to such order for violation thereof, including disqualifying a party's representative, attorney, or expert/consultant from further participation in the case; or (8) Imposing such other sanctions as the Board deems appropriate. (d) Denial of access to protected material for prior violations of protective orders. The Board may in its discretion deny access to protected material to any person found to have previously violated a protective order, regardless of who issued the order. (e) Disciplinary proceedings. (1) In addition to the procedures in this Rule 33, the Board may discipline individual party representatives, attorneys, and experts/consultants for a violation of any Board order or direction or standard of conduct applicable to such individual where the violation seriously affects the integrity of the Board, its process, or its proceedings. Sanctions may be public or private, and may include admonishment, disqualification from a particular matter, referral to an appropriate licensing authority, or such other action as circumstances may warrant. (2) The Board in its discretion may suspend an individual from appearing before the Board as a party representative, attorney, or expert/consultant if, after affording such individual notice and an opportunity to be heard, a majority of the members of the full Board determines such a sanction is warranted.	proceedings until the order is obeyed; (6) Dismissing the case or any part thereof; (7) Enforcing the protective order and disciplining individuals subject to such order for violation thereof, including disqualifying a party's representative, attorney, expert, or consultant from further participation in the case; (8) Drawing evidentiary inferences adverse to the party; or (9) Imposing such other sanctions as the Board deems appropriate. (c) Denial of access to protected material. The Board may in its discretion deny access to protected material to any person found to have previously violated a protective order, regardless of who issued the order. (d) Disciplinary proceedings. (1) Sanctions. The Board may discipline individual party representatives, attorneys, experts, or consultants for violating any Board order, direction, or standard of conduct if the violation seriously affects the integrity of the Board, its process, or its proceedings. Sanctions may be public or private, and may include admonishment, reprimand, disqualification from a particular matter, referral to an appropriate licensing authority, or other action that circumstances may warrant. (2) Suspension. The Board may suspend an individual from appearing before the Board as a party representative, attorney, expert, or consultant, if, after affording such individual notice and opportunity to be heard, a majority of the members of the full Board determine such a sanction is warranted.

RULE 34 SEAL OF THE BOARD	RULE 36 BOARD SEAL
The Seal of the Board shall be a circular boss, the outer margin of which shall bear the legend "Civilian Board of Contract Appeals." The Seal shall be the means of authentication of all records, notices, orders, dismissals, opinions, subpoenas, and certificates issued by the Board.	The seal of the Board is a circular logo with "Civilian Board of Contract Appeals" on the outer margin. The seal is a means of authenticating records, notices, orders, dismissals, opinions, subpoenas, and certificates issued by the Board.

RULE 51 VARIATION FROM STANDARD PROCEEDINGS	RULE 51 ALTERNATIVE PROCEDURES
The ultimate purpose of any Board proceeding is to resolve fairly and expeditiously any dispute properly before the Board. When, during the normal course of a Board proceeding, the parties agree that a change in established procedure will promote this purpose, the Board will make that change if it is deemed to be feasible and in the best interest of the parties, the Board, and the resolution of the issue(s) in controversy. Although any party may ask the Board to vary from standard proceedings, individuals and small businesses may find variations to be especially useful. The following are examples of these changes: (a) Establishing an expedited schedule of proceedings, such as by limiting the times provided in Rules 1 through 34 for various filings, to facilitate a prompt resolution of the case; (b) Developing a record and rendering a decision on the issue of entitlement prior to reviewing the issue of quantum in a party's claim; (c) Developing a record and rendering a decision on any legal or factual issue in advance of others when that issue is deemed critical to resolving the case or effecting a settlement of any items in dispute; and (d) Developing a record regarding relevant facts through an on-the-record round- table discussion with sworn witnesses, counsel, and the presiding judge rather than through formal direct and cross-examination of each of these same witnesses. This discussion shall be controlled by the presiding judge. It may be conducted, for example, through the presentation of narrative statements of witnesses or on an issue by issue basis. The presiding judge may also request that the parties' counsel or representatives present opening and/or closing statements in lieu of written briefs.	An appellant in an eligible case may elect the small claims procedure under Rule 52 (48 CFR 6101.52) or the accelerated procedure under Rule 53 (48 CFR 6101.53). Parties may jointly elect alternative dispute resolution under Rule 54 (48 CFR 6101.54).

RULE 52 SMALL CLAIMS PROCEDURE	RULE 52 SMALL CLAIMS PROCEDURE
(a) Election. (1) The small claims procedure is available solely at the appellant's election. Such election shall be made no later than 30 calendar days after the appellant's receipt of the agency answer, unless the presiding judge enlarges the time for good cause shown. The appellant may elect this procedure when: (i) There is a monetary amount in dispute and that amount is $50,000 or less, or (ii) (A) There is a monetary amount in dispute and that amount is $150,000 or less, and (B) The appellant is a small business concern (as that term is defined in the Small Business Act and regulations promulgated under that Act). (2) At the request of the respondent, or on its own initiative, the Board may determine whether the amount in dispute and/or the appellant's status makes the election inappropriate. The respondent shall raise any objection to the election no later than 10 working days after receipt of a notice of election. (b) Decision. The presiding judge may issue a decision, which may be in summary form, orally or in writing. A decision which is issued orally shall be reduced to writing; however, such a decision takes effect at the time it is rendered, prior to being reduced to writing. A decision shall be final and conclusive and shall not be set aside except in case of fraud. A decision shall have no value as precedent. (c) Procedure. Promptly after receipt of the appellant's election of the small claims procedure, the Board shall establish a schedule of proceedings that will allow for the timely resolution of the appeal. Pleadings, discovery, and other prehearing activities may be restricted or eliminated. (d) Time of decision. Whenever possible, the presiding judge shall	(a) Election. The small claims procedure is available solely at an appellant's election and is limited to appeals in which there is a monetary amount in dispute and the requirements for expedited disposition set forth in the Contract Disputes Act, 41 U.S.C. 7106(b), are met. An appellant may elect the small claims procedure up to 30 days after receiving the respondent's answer. (b) Procedure. The respondent may object to an election, on the grounds that Rule 52(a) (48 CFR 6101.52(a)) is not satisfied, within 10 days after receiving the election. If the small claims procedure is used, the Board will set a schedule for timely resolution of the appeal. The schedule may restrict or eliminate pleadings, discovery, and other prehearing activities. (c) Decision. The presiding judge may issue a decision in summary form. A decision is final and conclusive, shall not be set aside except for fraud, and is not precedential. If possible, the Board will resolve the appeal within 120 days after the appellant elects the small claims procedure. The Board may extend the appeal schedule if an appellant does not adhere to the established schedule.

RULE 52 SMALL CLAIMS PROCEDURE	RULE 52 SMALL CLAIMS PROCEDURE
resolve an appeal under this procedure within 120 calendar days from the Board's receipt of the election. The time for processing an appeal under this procedure may be extended if the appellant has not adhered to the established schedule. Either party's failure to abide bythe Board's schedule mayresult in the Board drawing evidentiary inferences adverse to the party at fault.	

RULE 53 ACCELERATED PROCEDURE	RULE 53 ACCELERATED PROCEDURE
(a) Election. (1) The accelerated procedure is available solely at the appellant's election, and only when there is a monetary amount in dispute and that amount is $100,000 or less. Such election shall be made no later than 30 calendar days after the appellant's receipt of the agency answer, unless the presiding judge enlarges the time for good cause shown. (2) At the request of the respondent, or on its own initiative, the Board may determine whether the amount in dispute is greater than $100,000, such that the election is inappropriate. The respondent shall raise any objection to the election no later than 10 working days after receipt of a notice of election. (b) Decision. Each decision shall be rendered by the presiding judge with the concurrence of one of the other judges assigned to the panel; in the event the two judges disagree, the third judge assigned to the panel will participate in the decision. (c) Procedure. Promptly after receipt of the appellant's election of the accelerated procedure, the Board shall establish a schedule of proceedings that will allow for the timely resolution of the appeal. Pleadings may be simplified, and discovery and other prehearing activities may be restricted or eliminated. (d) Time of decision. Whenever possible, the Board shall resolve an appeal under this procedure within 180 calendar days from the Board's receipt of the election. The time for processing an appeal under this procedure may be extended if the appellant has not adhered to the established schedule. Either party's failure to abide by the Board's schedule may result in the Board drawing evidentiary inferences adverse to the party at fault.	(a) Election. The accelerated procedure is available solely at an appellant's election and is limited to appeals in which there is a monetary amount in dispute and the requirements for accelerated disposition set forth in the Contract Disputes Act, 41 U.S.C. 7106(a), are met.. The appellant may elect the accelerated procedure up to 30 days after receiving the respondent's answer. (b) Procedure. The respondent may object to an election, on the grounds that Rule 53(a) (paragraph (a) of this section) is not satisfied, within 10 days after receiving the election. If the accelerated procedure is used, the Board will set a schedule for timely resolution of the appeal. The schedule may restrict or eliminate pleadings, discovery, and other prehearing activities. (c) Decision. The presiding judge may issue a decision with the concurrence of at least one panel member. If the presiding judge and a panel member disagree, the panel will decide the appeal. If possible, the Board will resolve the appeal within 180 days after the appellant elects the accelerated procedure. The Board may extend the appeal schedule if an appellant does not adhere to the established schedule.

RULE 54 ALTERNATIVE DISPUTE RESOLUTION	RULE 54 ALTERNATIVE DISPUTE RESOLUTION
(a) Availability of alternative dispute resolution (ADR) procedures at the Board. The Board will make its services available for ADR proceedings to help resolve issues in controversy and claims involving procurements, contracts (including interagency agreements), and grants. The use of ADR will not toll any relevant statutory time limitations. (1) Matters not on Board's Contract Disputes Act (CDA) docket. Upon request, the Board will make an ADR Neutral available for an ADR proceeding, even if a contracting officer's decision has not been issued or is not contemplated. To initiate an ADR proceeding for all matters other than docketed CDA appeals, the parties shall jointly request ADR in writing and direct such a request to the Board Chairman. For agencies whose issues in controversy do not fall within the Board's jurisdiction, the Board may provide ADR services on a reimbursable basis. (2) Docketed CDA appeals. Parties are encouraged to consider the advantages of using ADR techniques at any stage of an appeal. Joint requests for ADR services for docketed appeals should be addressed to the Board Chairman, with a copy to the presiding judge. ADR may be used concurrently with standard litigation proceedings such as the filing of pleadings and discovery, or the presiding judge may suspend such proceedings for a reasonable period of time while the parties attempt to resolve the appeal using ADR. (b) Conduct of ADR. (1) Selection of ADR Neutral. The parties may ask the Board Chairman to appoint a judge(s) to serve as the ADR Neutral(s). If desired, the parties may request the appointment of a particular judge(s). In a docketed appeal, the parties may also request that the presiding judge serve as the ADR Neutral for the ADR proceeding. If the parties elect a non-binding ADR procedure and the implementation of the procedure does not result in a settlement, where the procedure has involved ex parte contact, the ADR Neutral may retain the case for adjudication as the presiding judge, but only if the parties and the presiding judge all agree to such retention. If the procedure has not involved ex parte contact, the ADR Neutral, after considering the parties' views, may retain the case as the presiding judge at his/her discretion.	(a) Availability. The CDA requires boards of contract appeals to provide to the fullest extent practicable informal, expeditious, and inexpensive resolution of disputes. Resolution of a dispute at the earliest stage feasible, by the fastest and least expensive method possible, benefits both parties. The Board provides alternative dispute resolution (ADR) services for pre-claim and pre-final decision matters, as well as appeals pending before the Board. The Board may also conduct ADR proceedings for any Federal agency. The use of ADR proceedings does not toll any statutory time limits. (b) Procedures for requesting ADR. Parties may jointly ask the Board Chair to appoint a judge as an ADR Neutral. The parties may request a particular judge or judges, to include the presiding judge. To facilitate full, frank, and open participation, a Neutral will not discuss the substance of the case or the parties' conduct in ADR with other Board personnel, and a Neutral who participates in a nonbinding ADR procedure that does not resolve the dispute is recused from further participation in the matter unless the parties agree otherwise in writing and the Board concurs. (c) Confidentiality. Written material prepared for use in ADR, oral presentations made in ADR, and all discussions between the parties and the Neutral are confidential, subject to 5 U.S.C. 574, and, unless otherwise specifically agreed by the parties, inadmissible as evidence in any Board proceeding, although evidence otherwise admissible before the Board is not rendered inadmissible merely because of its use in ADR. (d) ADR agreement. Parties shall agree in writing to an ADR method and the procedures and requirements for implementing it. The ADR agreement shall provide that the parties and counsel will not subpoena the Neutral in any legal action or administrative proceeding of any kind to provide documents or testimony relating to the ADR. (e) Types of ADR. Parties and the Board may agree on any type of binding or nonbinding ADR suited to a dispute.

RULE 54 ALTERNATIVE DISPUTE RESOLUTION	RULE 54 ALTERNATIVE DISPUTE RESOLUTION
(2) The ADR agreement. Before an ADR proceeding can occur, the parties must execute a written ADR agreement. This agreement should set forth, among other things, the identity of the ADR Neutral to be used, the role and authority of the Neutral, the ADR techniques to be employed, the scope and extent of any discovery relating to ADR, the location and schedule for the ADR proceeding, and the extent to which dispute resolution communications in conjunction with the ADR proceeding are to be kept confidential (Rule 54(b)(3)). (3) Confidentiality of ADR communications and materials. Written material prepared specifically for use in an ADR proceeding, oral presentations made at an ADR proceeding, and all discussions in connection with such proceedings are considered "dispute resolution communications" as defined in 5 U.S.C. 571(5) and are subject to the confidentiality requirements of 5 U.S.C. 574. Unless otherwise specifically agreed by the parties, confidential dispute resolution communications shall be inadmissible as evidence in any pending or future Board proceeding involving the parties or the issue in controversy which is the subject of the ADR proceeding. However, evidence otherwise admissible before the Board is not rendered inadmissible because of its use in an ADR proceeding. The Board will not retain written materials used in an ADR proceeding after the proceeding is concluded or otherwise terminated. Parties may request a protective order in an ADR proceeding in the manner provided in Rule 9(c). (c) Types of ADR. ADR is not defined by any single procedure or set of procedures. Board judges, when engaged as ADR Neutrals, most commonly use a combination of facilitative and evaluative mediation approaches, as explained in paragraphs (c)(1) through (c)(7) of this section. However, the Board will consider the use of any ADR technique or combination of techniques proposed by the parties in their ADR agreement which is deemed to be fair, reasonable, and in the best interest of the parties, the Board, and the resolution of the issue(s) in controversy. The following are descriptions of some available techniques: (1) Facilitative mediation. Facilitative mediations usually begin with a joint session, where the parties each make informal presentations to one another and the ADR Neutral regarding the facts and circumstances giving rise to the issues in controversy as well as an	

explanation of their respective legal positions. The ADR Neutral, as a mediator, aids the parties in settling their dispute, frequently by meeting with each party separately in confidential sessions and engaging in ex parte discussions with each of the parties, for the purpose of facilitating the formulation and transmission of settlement offers.

(2) Evaluative mediation. In addition to engaging in facilitative mediation, if authorized under the terms of the parties' ADR agreement, the ADR Neutral may also discuss informally the strengths and weaknesses of the parties' respective positions in either joint sessions or confidential sessions.

(3) Mini-trial. The parties make abbreviated presentations to an ADR Neutral who sits with the parties' designated principal representatives as a mini-trial panel to hear and evaluate evidence relating to an issue in controversy. The ADR Neutral may thereafter meet with the principal representatives to attempt to mediate a settlement. The mini-trial process may also be a prelude to the Neutral's provision of a non-binding advisory opinion (Rule 54(c)(4)) or to the Neutral's rendering of a binding decision (Rule 54(c)(5)).

(4) Non-binding advisory opinion. The parties present to the ADR Neutral information upon which the Neutral bases a non-binding, advisory opinion regarding the merits of the dispute. The opinion may be delivered to the parties jointly, either orally or in writing. The manner in which the information is presented will vary, depending upon the circumstances of the dispute and the terms of the parties' ADR agreement. Presentations may range from an informal proffer of evidence together with limited argument from the parties, to a more formal presentation, with oral testimony, exchange of documentary evidence, and argument from counsel.

(5) Summary binding decision. This is a binding ADR procedure similar to binding arbitration under which, by prior agreement of the parties, the ADR Neutral renders a brief written decision which is binding, non-precedential, and non-appealable. As in a procedure under which the Neutral provides a non-binding advisory opinion, the manner in which information is presented for a summary binding decision may vary

RULE 54 ALTERNATIVE DISPUTE RESOLUTION	RULE 54 ALTERNATIVE DISPUTE RESOLUTION
depending on the circumstances of the particular dispute and the wishes of the parties as set out in their ADR agreement. (6) Other procedures. In addition to other ADR techniques, including modifications to those listed in paragraphs (c)(1) through (c)(5) of this section, the parties may use ADR neutrals outside the Board and techniques which do not require direct Board involvement. (7) Selective use of standard procedures. Parties considering ADR proceedings are encouraged to adapt for their purposes any provisions in Rules 1 through 34 of the Board's rules which they believe will be useful.	