

be mailed to the other parties within a period of fourteen days from the date of receiving the complete list of parties. After the hearing officer is appointed, however, no new or different claim may be submitted except with the hearing officer's consent.

(b) *Pre-hearing conference.* At the request of the parties or at the discretion of the American Arbitration Association, a pre-hearing conference with a representative of the American Arbitration Association and the parties or their counsel will be scheduled in appropriate cases to arrange for an exchange of information and the stipulation of uncontested facts so as to expedite the proceedings.

(c) *Fixing of locale.* The parties may mutually agree on the locale where the hearing is to be held. If the locale is not designated within 45 days from the time the complete list of parties is received, the American Arbitration Association shall have power to determine the locale. Its decision shall be final and binding. If any party requests, and informs the other parties of its request, that the hearing be held in a specific locale and the other parties file no objection thereto within 14 days of the request, the locale shall be the one requested.

(d) *Time and place.* The hearing officer shall fix the time and place for each hearing. The American Arbitration Association will mail notice to each party at least 14 days in advance.

§ 791.29 Appointment of hearing officer.

(a) *Qualifications of hearing officer.* All hearing officers shall be neutral, subject to disqualification for the reasons specified in paragraph (f) of this section.

(b) *Appointment from panel.* Promptly after receiving the complete list of parties at the close of the notice period described in § 791.22, the American Arbitration Association shall submit simultaneously to each party to the dispute an identical list of names. Each party to the dispute shall have thirty days from the mailing date in which to cross off any names objected to, number the remaining names to indicate the order of preference, and return the list to the American Arbitration Association. If a

party does not return the list within the time specified, all persons named therein shall be deemed acceptable to that party. From among the persons who have been approved on all lists, and in accordance with the designated order of mutual preference, the American Arbitration Association shall invite the acceptance of a hearing officer to serve. If the parties fail to agree upon any of the persons named, or if acceptable hearing officers are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the American Arbitration Association shall have the power to make the appointment without the submission of any additional list.

(c) *Nationality of hearing officer in international dispute.* If one of the parties is a national or resident of a country other than the United States, the hearing officer shall upon the request of any party, be appointed from among the nationals of a country other than that of the parties.

(d) *Number of hearing officers.* The dispute shall be heard and determined by one hearing officer unless the American Arbitration Association, in its discretion, directs that a greater number of hearing officers be appointed.

(e) *Notice of appointment.* Notice of the appointment of the hearing officer, together with a copy of these rules, and the signed acceptance of the hearing officer shall be filed prior to the opening of the first hearing.

(f) *Disclosure and challenge procedure.* A person appointed as hearing officer shall disclose to the American Arbitration Association any circumstances likely to affect impartiality, including any bias or any financial or personal interest in the result of the hearing or any past or present relationship with the parties or their counsel. Upon receipt of such information from such hearing officer or other source, the American Arbitration Association shall communicate such information to the parties, and, if it deems it appropriate to do so, to the hearing officer and others. Thereafter, the American Arbitration Association shall determine whether the hearing officer should be disqualified and shall inform the parties of its decision, which shall be conclusive.

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(g) *Vacancies.* If any hearing officer should resign, die, withdraw, refuse, be disqualified or be unable to perform the duties of the office, the American Arbitration Association may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of these rules and the matter shall be reheard unless the parties shall agree otherwise.

§ 791.30 Hearing procedures.

(a) *Representation by counsel.* Any party may be represented by counsel. A party intending to be so represented shall notify the other parties and the American Arbitration Association of the name and address of counsel at least 5 days prior to the date set for the hearing at which counsel is first to appear. When a hearing is initiated by counsel, or where an attorney replies for the other party, such notice is deemed to have been given.

(b) *Stenographic record.* The American Arbitration Association shall make the necessary arrangements for the taking of a stenographic record. The parties shall share the cost of such record.

(c) *Attendance at hearings.* The hearing officer shall have the power to require the exclusion of anyone, including a party or other essential person, during the testimony of any witness to protect confidential business information. It shall be discretionary with the hearing officer to determine the propriety of the attendance of any other person.

(d) *Oaths.* Hearing officers shall swear or affirm their neutrality and their dedication to a fair and equitable resolution. Witnesses shall swear or affirm that they are telling the truth.

(e) *Order of proceedings.* (1) A hearing shall be opened by the filing of the oath of the hearing officer and by the recording of the place, time and date of the hearing, the presence of the hearing officer and parties, and counsel, if any, and by the receipt by the hearing officer of the request for hearing and answer, if any.

(2) The hearing officer may, at the beginning of the hearing, ask for statements clarifying the issues involved.

(3) The party or parties seeking reimbursement shall then present a claim

and proofs and witnesses, who shall submit to questions or other examination. The party or parties from whom reimbursement is sought shall then present a defense and proofs and witnesses, who shall submit to questions or other examination. The hearing officer has discretion to vary this procedure but shall afford full and equal opportunity to all parties for the presentation of any material or relevant proofs.

(4) Exhibits, when offered by any party, shall be received in evidence by the hearing officer. The names and addresses of all witnesses and exhibits in order received shall be made a part of the record.

(f) *Hearing in the absence of a party.* A hearing may proceed in the absence of any party which, after due notice, fails to be present or fails to obtain an adjournment. An award shall not be made solely on the default of a party. The hearing officer shall require the parties who are present to submit such evidence as the hearing officer may require for the making of an award.

(g) *Evidence.* (1) The parties may offer such evidence as they desire and shall produce such additional evidence as the hearing officer may deem necessary to an understanding and determination of the dispute. The hearing officer shall be the judge of the relevancy and materiality of the evidence offered and conformity to legal rules of evidence shall not be necessary. All evidence shall be taken in the presence of all the hearing officers and of all the parties, except where any of the parties is absent in default, has waived the right to be present, or has been excluded by the hearing officer to protect confidential business information.

(2) All documents not filed with the hearing officer at the hearing, but arranged for by agreement of the parties, shall be filed with the American Arbitration Association for transmission to the hearing officer, according to the agreed-upon schedule. All parties shall be afforded opportunity to examine such documents.

(h) *Evidence by affidavit and filing of documents.* The hearing officer shall receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as the hearing officer