

§ 4.101

necessary to the just and expeditious conduct of the appeal.

[46 FR 57499, Nov. 24, 1981, as amended at 50 FR 8325, Mar. 1, 1985; 67 FR 4368, Jan. 30, 2002]

PREHEARING PROCEDURE RULES

§ 4.101 Who may appeal.

Any contractor may appeal to the Board from decisions of contracting officers of any bureau or office of the Department of the Interior, or of any other agency with respect to which the Board exercises contract appeals jurisdiction, on disputed questions under contract provisions requiring the determination of such appeals by the head of the agency or his duly authorized representative or Board.

§ 4.102 Appeals—how taken.

(a) *Notice of appeal.* Notice of an appeal must be in writing (a suggested form of notice appears as appendix I to subpart C herein following § 4.128). The original, together with two copies, may be filed with the Board or the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within 90 days from the date of receipt of the contracting officer's decision, if the appeal is subject to the Contract Disputes Act of 1978; otherwise, within the time specified therefor in the contract.

(b) *Contents of notice of appeal.* A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract (by number), the Department's bureau or office involved in the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an authorized officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in § 4.107 may be filed with the notice of appeal, or the contractor may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

(c) *Failure of CO to issue decision on claims of \$50,000 or less.* Where the contractor has submitted a claim of \$50,000 or less to the contracting officer and

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has requested a written decision within 60 days from receipt of the request, and the contracting officer has not complied, the contractor may file a notice of appeal as provided in paragraph (a) of this section, citing the failure of the contracting officer to issue a decision. (See § 4.100(a)(2).)

(d) *Failure of CO to issue decision on claims in excess of \$50,000.* Where the contractor has submitted a claim in excess of \$50,000 to the contracting officer and the contracting officer has failed to issue a decision within a reasonable time, the contractor may file a notice of appeal as provided in paragraph (a) of this section, citing the failure to issue a decision. (See § 4.100(a)(2).)

(e) *Optional stay of proceeding.* Upon docketing of appeals filed pursuant to paragraphs (c) or (d) of this section, the Board may at its option, stay further proceedings pending issuance of a final decision by the contracting officer within such period of time as is determined by the Board. (See § 4.100(a)(2).)

§ 4.103 Forwarding and docketing of appeals.

(a) *Forwarding of appeal.* When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing (or the date of receipt, if the notice was otherwise conveyed) and within 5 days shall forward said notice of appeal to the Board by certified mail. He shall also promptly notify the Department's Office of the Solicitor, in accordance with instructions of the Solicitor, that the appeal has been received in order that a Department counsel may be appointed.

(b) *Docketing of appeals.* When a notice of appeal in any form has been received by the Board, it shall be docketed promptly. Notice in writing of the fact of docketing, together with a copy of these rules, shall be mailed promptly by certified mail to the appellant. Also, a copy of such notice, together with a copy of the notice of appeal if not originally filed with the contracting officer, shall be mailed promptly by certified mail to the contracting officer. Such notice shall acknowledge receipt of the appeal and advise appellant of the appeal number assigned to the appeal.