

§ 2430.10

(d) Within fifteen (15) days after service of an answer, the applicant may file a reply. If the reply is based on alleged facts not already in the record of the proceeding, supporting affidavits shall be provided or a request made for further proceedings under § 2430.11.

(e) Any party to a proceeding other than the applicant and the General Counsel may file comments on an application within 30 days after it is served, or on an answer within 15 days after it is served. A commenting party may not participate further in the proceeding on the application unless the Administrative Law Judge determines that such participation is required in order to permit full exploration of matters raised in the comments.

(f) Motions for extensions of time to file documents permitted by this section or § 2430.11 shall be filed with the Administrative Law Judge not less than five (5) days before the due date of the document.

§ 2430.10 Settlement.

The applicant and the General Counsel may agree on a proposed settlement of the award before final action on the application. If an applicant and the General Counsel agree on a proposed settlement of an award before an application has been filed, the proposed settlement shall be filed with the application. All such settlements shall be subject to approval by the Authority.

§ 2430.11 Further proceedings.

(a) The determination of an award may be made on the basis of the documents in the record, or the Administrative Law Judge, upon request of either the applicant or the General Counsel, or on his or her own initiative, may order further proceedings. Such further proceedings may include, but shall not be limited to, an informal conference, oral argument, additional written submissions, or an evidentiary hearing.

(b) A request that the Administrative Law Judge order further proceedings under this section shall specifically identify the disputed issues and the evidence sought to be adduced, and shall explain why the additional proceedings are necessary to resolve the issues.

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(c) An order of the Administrative Law Judge scheduling oral argument, additional written submissions, or an evidentiary hearing, shall specify the issues to be considered in such argument, submission, or hearing.

(d) Any evidentiary hearing held pursuant to this section shall be conducted not earlier than forty-five (45) days after the date on which the application is served. In all other respects, such hearing shall be conducted in accordance with §§ 2423.14, 2423.16, 2423.17, 2423.19 through 2423.21, 2423.23, and 2423.24, insofar as these sections are consistent with the provisions of this part.

§ 2430.12 Administrative Law Judge's decision; contents; service; transfer of case to the Authority; contents of record in case.

(a) Upon conclusion of proceedings under §§ 2430.6 to 2430.11, the Administrative Law Judge shall prepare a decision. The decision shall include written findings and conclusions on the applicant's status as a prevailing party and eligibility, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. The Administrative Law Judge shall cause the decision to be served promptly on all parties to the proceeding. Thereafter, the Administrative Law Judge shall transmit the case to the Authority, including the judge's decision and the record. Service of the Administrative Law Judge's decision and of the order transferring the case to the Board shall be complete upon mailing.

(b) The record in a proceeding on an application for an award of fees and expenses shall consist of the application for an award of fees and expenses and any amendments or attachments thereto, the net worth exhibit, the answer and any amendments or attachments thereto, any reply to the answer, any comments by other parties, motions, rulings, orders, stipulations, written