

**GENERAL ORDER
RELATING TO PREHEARING SUBMISSION OF
EXHIBITS FOR GENERAL DOCKET HEARINGS**

WHEREAS, consistent with best practices and exhibit requirements in Texas district courts, the State Office of Administrative Hearings (SOAH) uses a secure, web-based file sharing platform for the submission of case exhibits to the presiding Administrative Law Judge(s) prior to the scheduled hearing; and

WHEREAS, SOAH will replace the email-like system used for this purpose (MOVEit Transfer) with an enhanced, electronic document upload portal (Kiteworks) to promote ease of use, improve information security, and increase agency efficiencies; and

WHEREAS, the Chief Clerk will no longer accept prehearing submissions of exhibits through MOVEit Transfer after October 31, 2024, and all SOAH-issued MOVEit guest accounts will be disabled thereafter and no longer supported by SOAH's Information Technology division; and

WHEREAS, the workflow required for the prehearing submission of case exhibits using the SOAH Kiteworks Secure Upload portal is revised accordingly;

IT IS THEREFORE ORDERED that, effective as of the date of this General Order, the filing of exhibits in General Docket evidentiary hearings shall be subject to the procedures and requirements set forth below.

1. **For general docket cases referred to SOAH on or after September 16, 2024**, Administrative Law Judges (ALJs) shall issue an initial order instructing the parties to submit witness lists, exhibits, and other evidence to be offered at hearing by uploading the documents to SOAH, via the agency's Kiteworks platform, *at least three (3) business days before the scheduled hearing*. Different deadlines may apply to emergency hearings.

2. **At least three (3) business days before the hearing**, the parties shall submit all witness lists, and all exhibits and evidence to be offered at hearing using the SOAH Kiteworks Secure Upload portal, unless a different deadline is prescribed by the judge.
3. The portal is always publicly available for the prehearing submission of exhibits on SOAH's E-Services website at <https://www.soah.texas.gov/e-filing-soah> by selecting "Kiteworks Secure File Sharing."
4. Parties **SHALL** comply with the following instructions when uploading **Prehearing Exhibits**:
 - All exhibits must be clearly labeled to identify the submitting party, the exhibit number, and a brief description. Parties may submit up to 10 individual files or folders per upload. The contents of any folders that are uploaded must be clearly identified.
 - Include a separate list of submitted exhibits (Exhibit Index);
 - Number each exhibit sequentially;
 - Paginate or bates stamp multipage documents; and
 - If multiple exhibits are combined into a single PDF for submission, then the document must be bookmarked to allow the judge and parties to locate each exhibit within the electronic record.
 - **Confidential Exhibits must be separated from non-confidential exhibits.** Parties shall make *separate uploads* in Kiteworks to submit Confidential documents, if any. The party must select the appropriate security classification in the "Designate Classification" field in Kiteworks, and any confidential files and folders must also be clearly labeled as "CONFIDENTIAL."
5. Parties **SHALL** comply with the following instructions when uploading **Witness Lists**:
 - Identify each witness that the party will call to testify;
 - Describe what the witness will testify about; and
 - Estimate how long the witness will testify.

6. **The formal prefiling of exhibits is only allowed by Judge’s Order or SOAH Rule.**¹ Unless expressly ordered by the presiding ALJ under Rule 155.155(a)(5), only exhibits to prefiled testimony, under Rule 155.429(c), exhibits attached as a necessary supporting document to a pleading or motion, under Rule 155.101(b)(1)(D)(ix), and exhibits to written submissions, under Rule 155.101(b)(1), may be electronically filed into the administrative record using eFile Texas prior to the scheduled hearing. *See* Rule § 155.101(b)(1)(G).
7. The uploading of exhibits to the SOAH Kiteworks Secure Upload portal fulfills the parties’ obligation to furnish exhibits *to the presiding judge*, as required by Rule 155.429(b)(4)(B). However, it **does not** satisfy the parties’ independent obligations to exchange exhibits *with the opposing party* prior to the hearing. *Id.* It also **does not** constitute filing of the exhibits, as required by Rule 155.101. *See* Rule §§ 155.101(b)(1)(A); (b)(1)(D).
8. The parties shall be prepared to present evidence at the hearing to show that they exchanged exhibits with the opposing party. *See* Rule §155.429(b)(4)(B).
9. Exhibits uploaded to SOAH that are not offered and admitted at the hearing will be deemed withdrawn from the record.
10. **No later than the first business day** following conclusion of a hearing for which no court reporter was assigned, the parties shall eFile only the exhibits that were admitted as evidence or accompanied by an offer of proof. Rule § 155.101(b)(1)(G)(iii). The admitted exhibits and offer of proof will constitute the official evidentiary record of the proceeding. *See* Rule § 155.101(b)(1)(A) (requiring that exhibits, like all documents, be filed in electronic form). Any exhibit filing that does not comport with these procedures will be returned to the party to be corrected and refiled. *See* Rule § 155.101(b)(1).

¹ All citations to SOAH Rule(s) herein refer to SOAH’s Rules of Procedure for General Hearings in Title I, Chapter 155 of the Texas Administrative Code (available at www.soah.texas.gov/administrative-rules-and-laws).

11. The parties are directed to confer about admitted exhibits, prepare an index of admitted exhibits (Exhibit Index), and work to combine admitted exhibits into bookmarked PDF files for filing.
 - The Exhibit Index should list exhibits in chronological order and clearly reference the exhibit number.
 - The exhibit number, together with the same identifying information contained in the Exhibit Index, shall be included as a title page for each exhibit. *See* Rule § 155.101(b)(1)(D)(vii).
 - All pages must include page numbers.
 - Non-documentary exhibits, if any, and confidential exhibits shall be filed separately from non-confidential exhibits.
 - The parties may elect to file the exhibits jointly, using a shared Exhibit Index.
 - The filed version of any document must exclude any unnecessary information; parties should file only the sections of exhibits that have been identified as relevant and admitted by the ALJ.
 - A party who is discovered to have tampered with the administrative record of a proceeding by the improper filing of exhibits may be subject to sanctions.

12. Under certain circumstances involving self-represented litigants, SOAH may file admitted exhibits in eFile Texas on behalf of the self-represented litigant.

13. If an exhibit needs to be corrected after the record has closed, the presiding ALJ will issue an order notifying the participants that the record must be reopened to correct exhibits, allow time for answers, require revised exhibits be submitted, and then close the record. Alternatively, the ALJ may convene a post hearing conference to resolve these issues on the record to ensure both due process and an accurate record.

This Order supersedes the General Order of April 20, 2022, relating to the submission of exhibits for General Docket Hearings, and also supersedes any current orders issued by SOAH judges that may require the use of MOVEit for the prehearing submission of exhibits after October 31, 2024.

Signed on September 16, 2024.

A handwritten signature in black ink, appearing to read 'Kristofer S. Monson', written over a horizontal line.

Kristofer S. Monson

Chief Administrative Law Judge

State Office of Administrative Hearings