

## DD. GENERAL COUNSEL'S REBUTTAL

### OVERVIEW:

Pursuant to § [2423.30\(c\)](#), a party who has the right to appear at a hearing has the right to submit rebuttal evidence. After Respondent rests, the GC has what is usually a last opportunity to present evidence that rebuts the Respondent's case.

### OBJECTIVE:

To provide guidance on what the Trial Attorney considers in determining whether to put on rebuttal evidence when the Respondent has rested its case.

### FACTORS CONSIDERED IN DETERMINING WHETHER TO PRESENT REBUTTAL:

Rebuttal evidence is limited to addressing claims and evidence presented by the Respondent during its defense. Rebuttal is not for the purpose of addressing matters raised in the GC's case-in-chief. The decision to offer rebuttal evidence requires careful and objective consideration of the state of the record. If Respondent has presented a potentially meritorious defense and the failure to address this evidence will hurt the GC's case, then rebuttal is appropriate. Note, however, that in Indian Health Service, Winslow Service Unit, Winslow, Arizona, 54 FLRA No. 17, 54 FLRA 126, 127 (1998), the Authority found that the ALJ did not abuse discretion by denying GC's Trial Attorney an opportunity to recall a prior witness to provide rebuttal testimony.

RESERVED