

business seeking an award in that capacity) or \$5 million in the case of all other applicants. An applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) and is exempt from taxation under section 501(a) of the Code or, in the case of such an organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under section 501(c)(3) of the Code; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) If the applicant is a partnership, corporation, association, or organization, or a sole owner of an unincorporated business, the application shall state that it did not have more than 500 employees at the time the proceeding was initiated, giving the number of its employees and describing briefly the type and purpose of its organization or business.

(d) The application shall itemize the amount of fees and expenses for which an award is sought.

(e) The application may include any other matters that the applicant believes should be considered in determining whether and in what amount an award should be made.

(f) The application shall be signed by the applicant with respect to the eligibility of the applicant and by the attorney of the applicant with respect to fees and expenses sought. The application shall contain or be accompanied by a written verification under oath or affirmation under penalty of perjury that the information provided in the application and all accompanying material is true and complete to the best of the signer's information and belief.

**§ 24.202 Net worth exhibit.**

(a) Each applicant except a qualified tax exempt organization or a qualified cooperative must submit with its application a detailed exhibit showing its net worth at the time the proceeding was initiated. If any individual, cor-

poration, or other entity directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or if the applicant directly or indirectly owns or controls a majority of the voting shares of other interest of any corporation or other entity, the exhibit must include a showing of the net worth of all such affiliates or of the applicant including the affiliates. The exhibit may be in any form convenient to the applicant, provided that it makes full disclosure of the applicant's and any affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards of 5 U.S.C. 504(b)(1)(B)(i). The adjudicative officer may require an applicant to file additional information to determine the applicant's eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one-year period prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the applicant shall so state.

(c) The net worth exhibit shall be included in the public record of the proceeding.

**§ 24.203 Documentation of fees and expenses.**

(a) The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, engineering report, test, or project, for which an award is sought.

(b) The documentation shall include an affidavit from any attorney, agent, or expert witness representing or appearing in behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed and describing the specific services performed.

(1) The affidavit shall state the services performed. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients during the relevant time periods.

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(2) If no hourly rate is paid by the majority of clients because, for instance, the attorney or agent represents most clients on a contingency basis, the attorney or agent shall provide information about two attorneys or agents with similar experience, who perform similar work, stating their hourly rate.

(c) The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided.

(d) The adjudicative officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

**§ 24.204 Time for submission of application.**

(a) An application must be filed no later than 30 days after final disposition of the proceeding. If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, action on the award of fees shall be stayed pending final disposition of the underlying controversy.

(b) Final disposition means the later of:

(1) The date on which the final agency decision is issued,

(2) The date on which a petition for rehearing or reconsideration is disposed of, or

(3) The date of final resolution of the proceeding, such as settlement or voluntary dismissal, which is not subject to a petition for rehearing or reconsideration.

**Subpart C—Procedures for Considering Applications**

**§ 24.301 Filing and service of documents.**

An application for an award and any other pleading or document related to the application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding.

**§ 24.302 Answer to application.**

(a) Within 30 calendar days after service of the application, Department counsel may file an answer. If Department counsel fails to answer or otherwise fails to contest or settle the application, the adjudicative officer may upon a satisfactory showing of entitlement by the applicant make an award for the applicant's fees and other expenses under 5 U.S.C. 504.

(b) If Department counsel and applicant believe that they can reach a settlement concerning the award, Department counsel may file a statement of intent to negotiate. The filing of such a statement shall extend the time for filing an answer an additional 30 days.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on to support the objection. If the answer is based on any alleged facts not already reflected in the record of the proceeding, Department counsel shall include with the answer either a supporting affidavit or a request for further filings or other action.

**§ 24.303 Comments by other parties.**

Any party to a proceeding other than the applicant and Department counsel may file comments on an application within 30 calendar days after it is served or on an answer within 15 calendar days after it is served.

**§ 24.304 Settlement.**

A prevailing party and Department counsel may agree on a proposed settlement of an award before final action on the application, either in connection with a settlement of the underlying proceeding or after the underlying proceeding has been concluded. If the party and Department counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

**§ 24.305 Extensions of time.**

(a) The adjudicative officer may on motion and for good cause shown grant extensions of time other than for filing an application for fees and expenses after final disposition in the adversary adjudication.