

## Department of Justice

## § 25.1

(b) Ordinarily, the determination of an award will be made on the basis of the written record of the underlying proceeding and the filings required or permitted by the foregoing sections of these rules. However, the adjudicative officer may *sua sponte* or on motion of any party to the proceedings require or permit further filings or other action, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Such further action shall occur only when necessary for full and fair resolution of the issues arising from the application and shall take place as promptly as possible. A motion for further filings or other action shall specifically identify the information sought on the disputed issues and shall explain why the further filings or other action is necessary to resolve the issues.

(c) In the event that an evidentiary hearing is required or permitted by the adjudicative officer, such hearing and any related filings or other action required or permitted shall be conducted pursuant to the procedural rules governing adversary adjudications conducted by the Department component in which the underlying adversary adjudication was conducted.

### § 24.306 Decision on application.

The adjudicative officer shall promptly issue a decision on the application which shall include proposed written findings and conclusions on such of the following as are relevant to the decision:

(a) The applicant's status as a prevailing party;

(b) The applicant's qualification as a "party" under 5 U.S.C. 504(b)(1)(B);

(c) Whether the Department's position as a party to the proceeding was substantially justified;

(d) Whether special circumstances make an award unjust;

(e) Whether the applicant during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; and

(f) The amounts, if any, awarded for fees and other expenses, with reasons for any difference between the amount requested and the amount awarded.

### § 24.307 Department review.

The decision of the adjudicative officer will be reviewed to the extent permitted by law by the Department in accordance with the Department's procedures for the type of proceeding involved. The Department will issue the final decision on the application.

### § 24.308 Judicial review.

Judicial review of final Department decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

### § 24.309 Payment of award.

An applicant seeking payment of an award shall submit a copy of the final decision granting the award to the Department's Accounting Office for processing. A statement that review of the underlying decision is not being sought in the United States courts, or that the process for seeking review of the award has been completed, must also be included.

## PART 25—DEPARTMENT OF JUSTICE INFORMATION SYSTEMS

### Subpart A—The National Instant Criminal Background Check System

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AUTHORITY: Pub. L. 103-159, 107 Stat. 1536.

SOURCE: Order No. 2186-98, 63 FR 58307, Oct. 30, 1998, unless otherwise noted.

### Subpart A—The National Instant Criminal Background Check System

#### § 25.1 Purpose and authority.

The purpose of this subpart is to establish policies and procedures implementing the Brady Handgun Violence