

fees shall be stayed pending final disposition of the underlying controversy.

Subpart C—Procedures for Considering Applications

§ 6.12 Filing and service of documents.

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

§ 6.13 Answer to application.

(a) Within 30 days after service of an application, counsel representing the agency against which an award is sought shall file an answer to the application.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 60 days and further extensions may be granted by the adjudicative officer upon request by agency counsel and the applicant.

(c) The answer shall explain any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer supporting affidavits.

§ 6.14 Decision.

The adjudicative officer shall issue an initial decision on the application within 60 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, 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.

§ 6.15 Agency review.

Either the applicant or agency counsel may seek review of the initial decision on the fee application, or the agency may decide to review the decision on its own initiative. If neither the applicant nor agency counsel seeks a review and the agency does not take review on its own initiative, the initial decision on the application shall become a final decision of the agency 30 days after it is issued. Whether to review a decision is a matter within the discretion of the agency. If review is taken, the agency will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

§ 6.16 Judicial review.

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

§ 6.17 Payment of award.

An applicant seeking payment of an award shall submit to the agency a copy of the agency's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. An applicant shall be paid the amount awarded unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

PART 7—EMPLOYEE INVENTIONS

Sec.

- 7.1 Purpose.
- 7.2 Responsibilities of the Department.
- 7.3 Responsibilities of heads of offices.
- 7.4 Responsibilities of the General Counsel.
- 7.5 Responsibilities of employees.
- 7.6 Effect of awards.
- 7.7 Appeals.
- 7.8 Delegation.

AUTHORITY: 80 Stat. 379; 5 U.S.C. 301, sec. 6, E.O. 10096; 3 CFR, 1949-1953 Comp., p. 292, as amended by E.O. 10930; 3 CFR, 1959-1963 Comp., p. 456.

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