agreement, or the amount sought as compensation or award, as well as the basis used in calculating such fee, compensation or award and whether a lump sum or periodic payments are sought.

(10) In an application for just compensation pursuant to section 173 of the Act, the ownership of the invention that is the subject matter of the patent application at the time the Department communicated the restricted data shall be set forth, and any restricted data contained in the application shall be specifically identified.

(11) In an application for compensation under the authority provided in the Invention Secrecy Act (35 U.S.C. 183), for the damage caused by imposition of a secrecy order on a patent application and/or for the use of the invention by the Government, the date of the secrecy order, the date of the notice that the patent application is in condition for allowance, and, if known to the applicant, the date of the first use of the invention by the Government.

§ 780.52 Notice and hearing.

The Board shall, in its discretion, afford the applicable party an opportunity for a hearing for the presentation of relevant evidence. Thirty (30) days notice shall be given of the time and place of such hearing. After expiration of the notice period, the Board shall proceed with a hearing and render its decision.

§ 780.53 Criteria for decisions for royalties, awards and compensation.

(a) In deciding a reasonable royalty fee for a patent licensed under section 158 or sections 153b or 153e of the Act, the Board shall consider:

(1) The economic value of the compulsory license and the Board shall strive to provide adequate remuneration for the circumstances of each case.

(2) Any defense, general or special, that a defendant could plead in an action for infringement;

(3) The extent to which such patent was developed through federally financed research or with other Federal support;

(4) The degree of utility, novelty, and importance of the invention or discovery; and

(5) The cost to the owner of the patent of developing such invention or discovery or of acquiring such patent.

(b) In deciding whether or not to grant an award, under section 157 of the Act, for the making of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy, the Board shall take into account the considerations set forth in §780.53(a) of this part and the actual use of such invention or discovery.

(c) In deciding whether or not to provide compensation, pursuant to section 173 of the Act, to a person who owns a patent application that contains restricted data not belonging to the United States which the Department has communicated to a foreign nation, the Board shall take into account the considerations set forth in §780.53(b) of this part and the damage to the applicant resulting from such communication.

(d) In the course of its review of an application to provide compensation, pursuant to 35 U.S.C. 183, to an applicant whose patent was withheld because of a secrecy order issued at the request of the Department, the Board shall take into account the considerations set forth in §780.53(b) of this part and:

(1) The damage sustained by the applicant as a result of the secrecy order; and

(2) The use of the invention by the Government resulting from the disclosure of such invention to the Department.