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(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project, or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

(e) Fees may be awarded only for work performed after the issuance of a complaint, or in the Default Adjudicative Process for a protest or contract dispute under part 17 of this chapter and the AMS.

[Amdt. 13–18, 53 FR 34655, Sept. 7, 1988, as amended by Amdt. 14–1, 55 FR 15131, Apr. 20, 1990; Amdt. 14–03, 64 FR 32935, June 18, 1999]

## Subpart B—Information Required From Applicants

### § 14.10 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of the agency in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants, including their affiliates) at the time the adversary adjudication was initiated. However, 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 (26 U.S.C. 501(c)(3)), or in the case of a tax-exempt 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 such section; 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) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes this agency to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney for the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

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

### § 14.11 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates when the proceeding was initiated. If any individual, corporation, 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 or 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 that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The administrative law judge may require an applicant to file additional information to determine the 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) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of the net worth exhibit, or any part of it, may submit that portion of the exhibit directly to the ALJ or adjudicative officer in a sealed envelope labeled ''Confidential Financial Information,'' accompanied by a motion to withhold the information.

(1) The motion shall describe the information sought to be withheld and explain, in detail, why it should be exempt under applicable law or regulation, why public disclosure would adversely affect the applicant, and why disclosure is not required in the public interest.

(2) The net worth exhibit shall be served on the FAA counsel, but need not be served on any other party to the proceeding.

(3) If the ALJ or adjudicative officer finds that the net worth exhibit, or any part of it, should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the FAA's established procedures.

[54 FR 46199, Nov. 1, 1989, as amended by Amdt. 14–03, 64 FR 32935, June 18, 1999]

### § 14.12 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceedings by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The administrative law judge may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

## Subpart C—Procedures for Considering Applications

### § 14.20 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding, but in no case later than 30 days after the FAA Decisionmaker's final disposition of the proceeding, or service of the order of the Administrator in a proceeding under the AMS.

(b) If review or reconsideration is sought or taken of a decision to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this part, final disposition means the later of:

(1) Under part 17 of this chapter and the AMS, the date on which the order of the Administrator is served;

(2) The date on which an unappealed initial decision becomes administratively final;

(3) Issuance of an order disposing of any petitions for reconsideration of the FAA Decisionmaker's final order in the proceeding;

(4) If no petition for reconsideration is filed, the last date on which such a petition could have been filed; or

(5) Issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

[54 FR 46199, Nov. 1, 1989, as amended by Amdt. 14–03, 64 FR 32936, June 18, 1999]

### § 14.21 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served