§ 16.303 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the 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, in accordance with the agency's standard settlement procedure. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 16.304 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 16.305 Decision.

The adjudicative officer shall issue a recommended decision on the application which 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 decisions 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. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 16.306 Review by the Secretary.

The Secretary, for purposes of this subsection, means the Secretary of Labor or a person, board or other organizational unit authorized to perform the review function. Either the applicant or agency counsel may seek review of the recommended decision on the fee application, or the Secretary may decide to review the decision on his or her own initiative, in accordance with the Department of Labor's regular review procedures. If neither the applicant nor agency counsel seeks review and the Secretary does not take review on his or her own initiative, the adjudicative officer's decision on the application shall become a final decision of the Department 45 days after it is issued. If review is taken, the Secretary will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

§ 16.307 Judicial review.

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

§ 16.308 Payment of award.

An applicant seeking payment of an award shall submit to the Comptroller for the Department of Labor a copy of the final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The request for payment shall be addressed to: Comptroller, U.S. Department of Labor, Frances S. Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

PART 17—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF LABOR PROGRAMS AND ACTIVITIES

Sec.

17.1 What is the purpose of these regulations?
17.2 What definitions apply to these regulations?