

§ 2204.108

29 CFR Ch. XX (7–1–04 Edition)

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(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.

[46 FR 48080, Sept. 30, 1981, as amended at 62 FR 35964, July 3, 1997]

§ 2204.108 Delegation of authority.

The Commission delegates to each judge authority to entertain and, subject to § 2204.309, take final action on applications for an award of fees and expenses arising from the OSH Act cases that are assigned to the judge under section 12(j) of the OSH Act, 29 U.S.C. 661(i). However, the Commission retains its right to consider an application for an award of fees and expenses without assignment to a judge or to assign such an application to a judge other than the one to whom the underlying OSH Act case is assigned. When entertaining an application for an award of fees and expenses pursuant to this section, each judge is authorized to take any action that the Commission may take under this part, with the exception of actions provided in §§ 2204.309 and 2204.310.

Subpart B—Information Required From Applicants

§ 2204.201 Contents of application.

(a) An application for an award of fees and expenses under the EAJA 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 Secretary that the applicant alleges was not substantially justified. The application also shall state the number of employees of the applicant and describe briefly the type

and purpose of its organization or business.

(b) The application also shall include a statement that the applicant's net worth does not exceed \$2 million (if an individual) or \$7 million (for all other applicants). 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 also may include any other matters that the applicant wishes the Commission 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 of the applicant. It also shall contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true.

[46 FR 48080, Sept. 30, 1981, as amended at 52 FR 5456, Feb. 23, 1987]

§ 2204.202 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association shall provide with its application a detailed exhibit showing the net worth of the applicant as of the date specified by § 2204.105(c). The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The Commission may require an applicant to file additional information to determine its eligibility for an award.