

part or any other part of the FCA's regulations.

PART 624 [RESERVED]

PART 625—APPLICATION FOR AWARD OF FEES AND OTHER EXPENSES UNDER THE EQUAL ACCESS TO JUSTICE ACT

Subpart A—General Provisions

- Sec.
 625.1 Purpose.
 625.2 Proceedings covered.
 625.3 Eligibility of applicants.
 625.4 Standards for awards.
 625.5 Allowable fees and expenses.
 625.6 Rulemaking on maximum rates for attorney fees.
 625.7 Awards against other agencies.

Subpart B—Applicant Information Required

- 625.10 Contents of application.
 625.11 Net worth exhibit.
 625.12 Documentation of fees and expenses.
 625.13 When an application may be filed.

Subpart C—Procedures for Considering Applications

- 625.20 Settlement.
 625.21 Filing and service of documents.
 625.22 Answer to application.
 625.23 Reply.
 625.24 Comments by other parties.
 625.25 Further proceedings.
 625.26 Recommended decision.
 625.27 Board decision.
 625.28 Judicial review.
 625.29 Payment of award.

AUTHORITY: 5 U.S.C. 504, 12 U.S.C. 2252.

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Subpart A—General Provisions

§ 625.1 Purpose.

These rules implement the Equal Access to Justice Act, 5 U.S.C. 504 (EAJA). The EAJA provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (designated by the EAJA as "adversary adjudications") before Federal agencies. An eligible party may receive an award when it prevails over an agency, unless the agency's position was substantially justified or special circumstances

make an award unjust. The rules in this part explain how the EAJA applies to Farm Credit Administration (FCA) proceedings. The rules describe the parties eligible for awards, how such parties may apply for awards, and the procedures and standards that govern FCA consideration of applications.

§ 625.2 Proceedings covered.

(a) The EAJA applies to adversary adjudications conducted by the FCA either on its own behalf or in connection with any other agency of the United States that participates in or in any way is a part of the adversary adjudication. Adversary adjudications are:

(1) Adjudications under 5 U.S.C. 554 in which the position of the FCA or other agency is presented by an attorney or other representative who enters an appearance and participates in the proceeding; and

(2) Enforcement proceedings under 12 U.S.C. 2261-2273.

(b) The failure of the FCA to identify a type of proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes that the proceeding is covered by the EAJA; whether the proceeding is covered shall then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered and excluded from coverage by the EAJA, any award made will include only fees and expenses related to covered issues.

(d) Proceedings under this part may be conducted by the FCA Board (Board) or by the presiding officer (referred to as the "adjudicative officer" in the EAJA), as defined in § 622.2(f) of this chapter. If the Board conducts proceedings, reference to the "presiding officer" in this part shall mean the Board, in applicable context. Where the Board presides, the recommended decision under § 625.26 of this part will be omitted and the Board will make a final decision on the application in accordance with § 625.27 of this part.

(e) If a court reviews the underlying decision of the adversary adjudication, an award for fees and other expenses may be made only pursuant to 28 U.S.C. 2412(d)(3).