

UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

WASHINGTON, DC

FAA Order Number: ODRA-98-1 EAJA

Matter: Equal Access to Justice Act Application of WEATHER EXPERTS, INC.

Pursuant to FAA Order ODR 97-25

Docket: 96-ODR-00013 EAJA

Served: April 9, 1998

ORDER

In Case No. 96-ODR-00013, Weather Experts, Inc. ("Experts") protested the solicitation and award of a weather observation services contract by the FAA. I sustained the protest, which had been filed with the FAA Office of Dispute Resolution for Acquisition ("ODRA"). Subsequently, Experts submitted the pending application for recovery of attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504)("EAJA").

In this case of first impression, I adopt the attached Findings and Recommendation of the ODRA and hold that: (1) an eligible prevailing party in the adjudicative phase of the dispute resolution process before the ODRA may apply for recovery of attorney's fees under the EAJA; and (2) inasmuch as the FAA's actions related to the subject matter of the instant protest were substantially justified, Experts' EAJA application be, and hereby is DENIED.

This is the final agency order in this matter. To the extent that this decision is subject to review, such review shall be sought in accordance with 49 U.S.C. §46110. A petition for

review must be filed with the United States Court of Appeals for the District of Columbia Circuit, or in the court of appeals of the United States for the circuit in

which the petitioner resides or has its principal place of business. The petition must be filed not later than 60 days after the date that this order is issued. A copy of any such petition must also be filed with the ODRA on the date it is filed with the appropriate circuit court of appeals.

_____/s/_____

JANE F. GARVEY

ADMINISTRATOR

Issued this 9th day of April, 1998