

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON, DC

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**ORDER**

**FAA Order Number:** Odra-13-699

**Matter:** Protests of Diversified Management Solutions, Inc.  
**Docket Nos.:** 13-ODRA-00633 (EAJA), 00634 (EAJA) and -00635 (EAJA)

**Date Served:** December 12, 2013

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**ORDER**

Diversified Management Solutions, Inc. (“DMSI”) filed an Application for award of attorneys’ fees and expenses pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 (“EAJA”) in connection with three DMSI bid protests, i.e., Docket Numbers 13-ODRA-00633, -00634 and -00635 (“Protests”). The Protests challenged the proposed awards of contracts by the Federal Aviation Administration (“FAA”) Contract Weather Observation Program Office (“Program Office”). Two of the Protests, i.e., Cases -00634 and -00635, were dismissed after the Program Office took voluntary corrective action. The remaining Case, -00633, was sustained in a Final Agency Order dated September 13, 2013. *See* FAA Order Number Odra-13-686.

In its Findings and Recommendations concerning the EAJA Application, the Odra found DMSI not to be a prevailing party within the meaning of the EAJA in Case Numbers -00634 and -00635, and thus not entitled to recover fees incurred in those cases. With respect to Case Number -00633, the Odra found DMSI to be an eligible, prevailing party within the meaning of the EAJA. The Odra further found that the Program Office’s actions were without substantial justification in law and fact, and that no special circumstances would render an award unjust. The Odra concluded that a portion of the amount claimed in the Application for Case Number -00633 is recoverable

under the EAJA and recommended that DMSI be reimbursed pursuant to the EAJA in the amount of \$5,683.75.

Pursuant to a Delegation from the FAA Administrator of final decisional authority over EAJA matters,\* I adopt and incorporate herein the attached ODRA Findings and Recommendations, and hereby order that the Center reimburse DMSI pursuant to the Equal Access to Justice Act in the amount of \$5,683.75.

This is the final Agency Order in this matter. Any review of this Order shall be sought in accordance with 5 U.S.C. § 504(c)(2) and the FAA EAJA Regulation at 14 C.F.R. § 14.29, within thirty (30) days of the service of this Order.

Issued for the FAA Administrator  
this 12<sup>th</sup> day of December, 2013

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Anthony N. Palladino  
Director and Administrative Judge  
FAA Office of Dispute Resolution  
For Acquisition

\* Final decisional authority over EAJA matters within the ODRA's jurisdiction has been delegated to the ODRA Director. *See* Delegation of Authority, dated October 12, 2011.