

§ 134.507

13 CFR Ch. I (1–1–99 Edition)

- (2) You are a party, as defined in 5 U.S.C. 551(3); and
 - (3) You are the prevailing party; and
 - (4) You meet certain net worth and employee eligibility requirements set forth in § 134.407.
- (b) You are not eligible for possible reimbursement if you participated in the administrative proceeding only on

behalf of persons or entities that are ineligible.

§ 134.507 How do I know which eligibility requirement applies to me?

Follow this chart to determine your eligibility. You should calculate your net worth and the number of your employees as of the date the administrative proceeding was initiated.

If your participation in the proceeding was:	Eligibility requirements:
(1) As an individual rather than a business owner (2) As owner of an unincorporated business (3) As a partnership, corporation, association, organization, or unit of local government. (4) As a charitable or other tax-exempt organization described in 26 U.S.C. 501(c)(3) or a cooperative association as defined in 12 U.S.C. 1141j(a).	(1) Personal net worth may not exceed 2 million dollars. (2) Personal net worth may not exceed 7 million dollars, and No more than 500 employees. (3) Business net worth may not exceed 7 million dollars, and No more than 500 employees. (4) No net worth limitations, and No more than 500 employees.

§ 134.508 What are the special rules for calculating net worth and number of employees?

- (a) Your net worth must include the value of any assets disposed of for the purpose of meeting an eligibility standard, and must exclude any obligation incurred for that purpose. Transfers of assets, or obligations incurred, for less than reasonably equivalent value will be presumed to have been made for the purpose of meeting an eligibility standard.
- (b) If you are an owner of an unincorporated business, or a partnership, corporation, association, organization, or unit of local government, your net worth must include the net worth of all of your affiliates. "Affiliates" are:
- (1) Corporations or other business entities which directly or indirectly own or control a majority of the voting shares or other ownership interests in the applicant concern; and
 - (2) Corporations or other business entities in which the applicant concern directly or indirectly owns or controls a majority of the voting shares or other ownership interests.
- (c) Your employees include all those persons regularly working for you at the time the administrative proceeding was initiated, whether or not they were at work on that date. Part-time employees must be included on a proportional basis. You must include the employees of all your affiliates in your total number of employees.

§ 134.509 What is the difference between a fee and an expense?

A fee is a charge to you for the professional services of attorneys, agents, or expert witnesses rendered in connection with your case. An expense is the cost to you of any study, analysis, engineering report, test, project, or similar matter prepared in connection with your case.

§ 134.510 Are there limitations on reimbursement for fees and expenses?

- (a) Awards will be calculated on the basis of fees and expenses actually incurred. If services were provided by one or more of your employees, or were made available to you free, you may not seek an award for those services. If services were provided at a reduced rate, fees and expenses will be calculated at that reduced rate.
- (b) In determining the reasonableness of the fees for attorneys, agents or expert witnesses, the ALJ will consider at least the following:
- (1) That provider's customary fee for like services;
 - (2) The prevailing rate for similar services in the community in which that provider ordinarily performs services;
 - (3) The time actually spent in representing you; and
 - (4) The time reasonably spent in light of the difficulty and complexity of the issues.