

STAFF, INC.,)	AGBCA No. 98-106-10
)	
Applicant)	
)	
Application for Attorneys')	
Fees and Expenses Under)	
The Equal Access To Justice Act)	
)	
Representing the Applicant:)	
)	
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)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

March 10, 1999

OPINION BY ADMINISTRATIVE JUDGE HOWARD A. POLLACK

BACKGROUND

This arises out of an Application by Staff, Inc. (Staff or Applicant), of Redmond, Oregon, under the Equal Access to Justice Act (EAJA or Act), 5 U.S.C. § 504 (1994) for award of attorneys' fees and costs of \$20,899.11. The underlying appeal arose out of a precommercial thinning contract with the Forest Service (FS) in the Tongass National Forest, Thorne Bay, Alaska. By decision dated October 10, 1997, the Board awarded Applicant partial recovery in AGBCA No. 96-112-1 and in AGBCA

No. 96-159-1. (Appeal of Staff, Inc., AGBCA Nos. 96-112-1, 96-159-1, 97-2 BCA ¶ 29,285).

Staff initially filed its EAJA Application on November 10, 1997. The Board docketed the Application as AGBCA No. 98-106-10. Upon review of the Application, it was evident that while the Application was filed within 30 days of the Board's decision, it was not filed within 30 days of final disposition, since as of November 10, 1997, the appeal period had not run on the decision. The Board thus advised the parties that the Application was premature, explaining that the 30 days from final disposition is to be calculated from when the decision is no longer appealable.

Accordingly, Applicant was advised that if it wished to file a timely Application, it must do so within the proper window. Thereafter, Applicant did file a timely Application, which the Board docketed as AGBCA No. 98-152-10. On February 19, 1999, the Board issued a decision on that Application and awarded Appellant a portion of the dollars claimed.

DISCUSSION

The Application that was docketed as AGBCA No. 98-106-10 was premature. The matter has since been dealt with on the merits in AGBCA No. 98-152-10, which was a timely Application on the same underlying matters.

DECISION

The Application in AGBCA No. 98-106-10 is dismissed.

HOWARD A. POLLACK
Administrative Judge

Concurring:

JOSEPH A. VERGILIO
Administrative Judge

EDWARD HOURY
Administrative Judge

Issued at Washington, D. C.
March 10, 1999