

Equal Access to Justice Act



Revised June 2010

The Equal Access to Justice Act (EAJA) allows small businesses, individuals and public interest groups that are parties to litigation against the government to recover attorney fees and costs if they are the prevailing party. The collected fees are a direct use of taxpayer dollars. EAJA, as passed in 1980, requires the public reporting of payments made to these plaintiffs. Despite reporting requirements, the government has not disclosed payment information since 1995.

The Open Equal Access to Justice Act (Open EAJA) of 2010 addresses the lack of transparency and accountability within this process. Open EAJA would reinstate the reporting requirements and require the U.S. Department of Justice to publish a database of EAJA payments. The database would contain records of plaintiff organizations, attorney's fees and monetary awards distributed. This public database would provide an open and transparent process in how these tax dollars are spent. Open EAJA would also authorize an audit of the last 15 years as reporting requirements have not been met.

Open EAJA was introduced in March 2010 in the U.S. House of Representatives (H.R. 4717) by Representatives Cynthia Lummis (R- WY) and Stephanie Herseth-Sandlin (D-SD) and in the U.S. Senate (S. 3122) by Senator John Ensign (R- NV).

There is a lack of accountability and transparency in the administration and distribution of EAJA payments. NACD fears this lack of oversight leads to abuse of the EAJA, and results in fewer resources available for on-the-ground natural resource improvements.

NACD supports the Open EAJA of 2010 and encourages support for H.R. 4717 and S. 3122

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