



Equal Access to Justice Act: Use at Selected Labor and Employment Agencies

GAO-26-108644

Q&A

Report to Congressional Requesters

July 15, 2026

Accessible Version

Why This Matters

Some individuals and organizations may be deterred from challenging or defending themselves against civil or administrative actions involving the federal government because of the cost. These actions may involve disability benefits or unfair labor practices, among other things. To help address this, the Equal Access to Justice Act (EAJA) authorizes the award of legal fees to individuals and organizations that prevail against the federal government in civil or administrative actions, under certain circumstances.

We were asked to review data on EAJA awards paid by the Department of Labor (DOL), Equal Employment Opportunity Commission (EEOC), and National Labor Relations Board (NLRB) and to obtain stakeholder views on EAJA. This report describes these agencies' EAJA awards for fiscal years 2019 through 2025 as well as selected stakeholders' views on the benefits and challenges of EAJA.

Key Takeaways

- On average per year, agencies reported a combined total of about 15,000 EAJA awards from fiscal years 2019 through 2025, according to data that federal agencies reported to the Administrative Conference of the United States (ACUS). The agencies' combined awards averaged over \$116 million per year. Almost all the awards made each year involved the Social Security Administration and the Department of Veterans Affairs.
- For fiscal years 2019 through 2025, DOL reported 11 EAJA awards totaling about \$548,000, NLRB reported 11 EAJA awards totaling about \$437,000, and EEOC reported no EAJA awards, according to ACUS data.
- All five stakeholders we interviewed cited benefits of EAJA. For example, two attorneys who primarily represent clients in labor and employment matters said that for some cases, EAJA enables them to assist clients who otherwise could not afford to pursue cases against the federal government.
- All five stakeholders we interviewed also cited challenges of EAJA. Four stakeholders cited challenges in meeting EAJA eligibility requirements. Specifically, they said it is difficult to establish that a party prevailed against the government, and that unlike some other fee-shifting statutes, EAJA only authorizes awards when the government's position was not substantially justified. Three stakeholders also cited challenges in recovering legal fees. For example, two attorneys cited the financial risks and time involved in requesting an EAJA award, especially in cases where they believed a federal agency was likely to show that its position was substantially justified.

What is EAJA and when does it apply?

EAJA was enacted in 1980 in part to address some individuals' and organizations' ability to challenge or defend themselves against civil actions involving the federal government by allowing parties to recover legal fees.¹

In general, parties are responsible for paying their own legal fees regardless of who wins. Fee-shifting statutes such as EAJA authorize exceptions to this general rule by allowing prevailing parties to be reimbursed for their legal fees.²

EAJA awards are generally made when³

- **a party prevails against the federal government in a civil court case or in certain agency administrative proceedings.**⁴
- **the party meets certain net worth and other requirements.** The following parties may be eligible to receive an EAJA award: individuals with a net worth of \$2 million or less, businesses and other entities with a net worth of \$7 million or less and with no more than 500 employees, 501(c)(3) nonprofits, and certain associations.⁵
- **the government's position was not substantially justified.** EAJA only authorizes awards in cases where the government's position was not "substantially justified." In other words, if a prevailing party alleges that the government's position was not substantially justified, and the government cannot show its position was legally and factually reasonable, then the party may be eligible to receive an EAJA award.

A party may negotiate the recovery of legal fees through a settlement agreement or make a formal request for an EAJA award to the court or agency to recover legal fees.⁶ Most EAJA awards arise from federal courts in civil cases, and some arise from federal agencies in certain agency administrative proceedings.

EAJA awards are generally paid by the specific agency that the individual or organization prevailed against.⁷ These awards cover legal fees including attorney fees and other expenses, such as expenses for expert witnesses.⁸

When have federal agencies been required to report on EAJA awards?

EAJA originally required annual reporting to Congress on EAJA awards.⁹ A 1995 law repealed the reporting requirements.¹⁰ In 2019, EAJA reporting requirements were reinstated.¹¹ The new requirements direct federal agencies to report to ACUS on EAJA awards arising from civil court cases, certain agency administrative proceedings, and settlement agreements. ACUS is an executive branch agency that identifies and promotes improvements in government procedures, such as how federal agencies conduct regulatory programs.

How many EAJA awards did federal agencies report paying for fiscal years 2019 through 2025?

On average per year, agencies reported a combined total of about 15,000 EAJA awards from fiscal years 2019 through 2025, according to data that federal agencies reported to ACUS.¹² The agencies' combined EAJA awards averaged over \$116 million per year.

During this period, the Social Security Administration and the Department of Veterans Affairs reported paying nearly all the EAJA awards each year. This may be due to the types of cases involving these two agencies. We previously reported that, for the most part, cases involving these two agencies largely consist of claims for benefits associated with medical disabilities, which sets them apart from the types of cases that other federal agencies address.¹³

Table 1 shows EAJA award data for these two agencies and for all other agencies reporting EAJA awards combined for fiscal years 2019 through 2025.

Table 1: Equal Access to Justice Act (EAJA) Awards Reported by Federal Agencies, Fiscal Years 2019–2025

Fiscal year	Number of agencies that reported paying EAJA awards	Total number of EAJA awards reported	Total number of EAJA awards reported by Social Security Administration	Total number of EAJA awards reported by Department of Veterans Affairs	Total number of EAJA awards reported by other agencies combined
2019	15	8,334	8,223	Not reported ^a	111
2020	16	15,596	8,888	6,567	141
2021	16	15,691	8,369	7,119	203
2022	17	18,341	11,710	6,473	158
2023	16	15,762	9,295	6,350	117
2024	19	15,710	9,593	6,009	108
2025	17	15,406	8,447	6,834	125

Source: GAO summary of Administrative Conference of the United States (ACUS) information for fiscal years 2019–2025. | GAO-26-108644

Note: This includes EAJA awards made pursuant to a settlement agreement and those arising from federal courts and agencies, as agencies are required to report both to ACUS.

^aFor fiscal year 2019, four agencies, including the Department of Veterans Affairs (VA), did not report EAJA information to ACUS. According to ACUS, except for VA, these agencies likely had no or few awards to report.

Table 2 shows EAJA award amounts for the Social Security Administration, the Department of Veterans Affairs, and for all other agencies reporting EAJA awards combined for fiscal years 2019 through 2025.

Table 2: Equal Access to Justice Act (EAJA) Award Amounts Reported by Federal Agencies, Fiscal Years 2019–2025

Fiscal year	Number of agencies that reported paying EAJA awards	Total amount of EAJA awards reported	Total amount of EAJA awards reported by Social Security Administration	Total amount of EAJA awards reported by Department of Veterans Affairs	Total amount of EAJA awards reported by other agencies combined
2019	15	\$58,779,453	\$45,842,213	Not reported ^a	\$12,937,239
2020	16	\$101,420,591	\$50,178,105	\$38,213,806	\$13,028,681
2021	16	\$112,229,032	\$46,962,148	\$43,508,911	\$21,757,974
2022	17	\$179,508,529	\$68,380,977	\$94,664,784	\$16,462,768
2023	16	\$115,476,483	\$55,327,622	\$48,875,967	\$11,272,893
2024	19	\$119,381,989	\$58,075,052	\$49,322,904	\$11,984,033
2025	17	\$128,597,948	\$53,220,860	\$53,527,170	\$21,849,919

Source: GAO summary of Administrative Conference of the United States (ACUS) information for fiscal years 2019–2025. | GAO-26-108644

Note: This includes EAJA award amounts made pursuant to a settlement agreement and those arising from federal courts and agencies, as agencies are required to report both to ACUS.

^aFor fiscal year 2019, four agencies, including the Department of Veterans Affairs (VA), did not report EAJA information to ACUS. According to ACUS, except for VA, these agencies likely had no or few awards to report.

For fiscal years 2019 through 2025, DOL, NLRB, and EEOC reported paying a relatively small portion of the total EAJA awards and amounts.¹⁴ Table 3 shows EAJA awards and amounts paid by these agencies for fiscal years 2019 through 2025.

Table 3: Equal Access to Justice Act (EAJA) Awards as Reported by the Department of Labor (DOL), National Labor Relations Board (NLRB), and Equal Employment Opportunity Commission (EEOC), Fiscal Years 2019–2025

Fiscal year	Number of EAJA awards reported by DOL	Total amount of EAJA awards reported by DOL	Number of EAJA awards reported by NLRB ^a	Total amount of EAJA awards reported by NLRB	Number of EAJA awards reported by EEOC	Total amount of EAJA awards reported by EEOC
2019	1	\$87,824	5	\$70,000	0	\$0
2020	1	\$62,500	0	\$0	0	\$0
2021	4	\$72,600	0	\$0	0	\$0
2022	3	\$138,266	1	\$150,000	0	\$0
2023	1	\$110,221	1	\$56,374	0	\$0
2024	0	\$0	2	\$55,000	0	\$0
2025	1	\$76,190	2	\$105,539	0	\$0
Total	11	\$547,601	11	\$436,913	0	\$0

Source: GAO summary of Administrative Conference of the United States (ACUS) information for fiscal years 2019–2025. | GAO-26-108644

Note: This includes EAJA awards made pursuant to a settlement agreement and those arising from federal courts and agencies, as agencies are required to report both to ACUS.

^aIn some cases for NLRB, multiple awards were made to different parties for the same case. Each is counted as a separate award.

What is known about the EAJA awards DOL reported paying for fiscal years 2019 through 2025?

ACUS data show that of the 11 EAJA awards DOL reported paying for fiscal years 2019 through 2025,

- eight involved the Office of Foreign Labor Certification within the Employment and Training Administration,
- two involved the Employee Benefits Security Administration, and
- one involved the Wage and Hour Division.

Also, of the 11 awards, 10 arose from civil court cases and one arose from an agency administrative proceeding. Additionally, eight of the eleven awards were made through settlement agreements, two were awarded by a court, and one was awarded by an administrative law judge.

Department of Labor (DOL) Equal Access to Justice Act (EAJA) Awards Data Prior to 2019

We asked DOL officials for any EAJA data the agency might have maintained for fiscal years 1995 through 2018 (when reporting on EAJA awards was not required). DOL officials said the office that maintained historical EAJA data was no longer operating or staffed, and that providing the data would entail significant resources.

Source: GAO analysis of information provided by DOL officials. | GAO-26-108644

What is known about the EAJA awards NLRB reported paying for fiscal years 2019 through 2025?

ACUS data show that all 11 EAJA awards NLRB reported paying during fiscal years 2019 through 2025 arose from civil court cases. In addition, all the awards were made through settlement agreements. NLRB officials we interviewed said the agency's cases rarely involve EAJA. They said most cases filed with NLRB that involved unfair labor practices were dismissed, withdrawn, or resolved through settlements.¹⁵

National Labor Relations Board (NLRB) Equal Access to Justice Act (EAJA) Awards Data Prior to 2019

We asked NLRB officials for any EAJA data the agency might have maintained for fiscal years 1995 through 2018 (when reporting on EAJA awards was not required). NLRB officials said they did not systematically track EAJA awards during most of that time. However, officials provided the following information for fiscal years 2012 through 2018:

- Officials identified four EAJA awards totaling about \$224,000.
- Officials identified 12 EAJA requests that were denied during that period.

Source: GAO analysis of information provided by NLRB officials. | GAO-26-108644

What is known about the EAJA awards EEOC reported paying for fiscal years 2019 through 2025?

For fiscal years 2019 through 2025, ACUS data show that EEOC reported paying no EAJA awards. EEOC officials we interviewed said the agency's cases rarely involve EAJA. They said most cases involve statutes that contain fee-shifting provisions, such as Title VII of the Civil Rights Act of 1964.¹⁶ Officials also said that in some Age Discrimination in Employment Act of 1967 cases, a prevailing party might be eligible for an EAJA award, but none had been awarded for the period of our review.

Equal Employment Opportunity Commission (EEOC) Equal Access to Justice Act (EAJA) Awards Data Prior to 2019

We asked EEOC officials for any EAJA data the agency might have maintained for fiscal years 1995 through 2018 (when reporting on EAJA awards was not required). EEOC officials identified two EAJA awards, for \$4,246 and \$90,000, related to age discrimination cases. The officials also said seven EAJA award requests were denied during that period and two requests were withdrawn. Most were denied because EAJA did not apply (e.g., a different fee-shifting statute applied). In other instances, the party did not meet EAJA eligibility requirements.

Source: GAO analysis of information provided by EEOC officials. | GAO-26-108644

What are selected stakeholders' views on the benefits of EAJA?

All five stakeholders we interviewed cited benefits of EAJA, although the benefits discussed were not specific to proceedings involving DOL, EEOC, and NLRB. For example, one attorney who primarily represents farm workers and another attorney who represents employees contesting certain union activities said that for some cases, EAJA enabled them to assist clients who otherwise could not afford to pursue cases against the government. An attorney from another organization said that without the recovery of legal fees under EAJA, their organization would not have been able to challenge the adoption of federal labor rules because of budget challenges.

What are selected stakeholders' views on the challenges of EAJA?

All five stakeholders we interviewed cited challenges to EAJA such as meeting EAJA eligibility requirements and recovering legal fees under EAJA. These stakeholders did not identify challenges specific to proceedings involving DOL, EEOC, and NLRB.

EAJA Eligibility Requirements

Four of the stakeholders cited challenges to meeting EAJA eligibility requirements, including:

- **Establishing that a party prevailed against the federal government.** Two stakeholders cited challenges in establishing that a party prevailed against the federal government. For example, one attorney said that the definition of "prevailing party" had narrowed over time due to various court decisions, making it more difficult to meet this requirement.

- **Being eligible for an award only when the government’s position was not substantially justified.** Four stakeholders said that EAJA could be challenging because unlike some other fee-shifting statutes, even after a party prevails, the party must allege that the government’s position was not substantially justified. One attorney said they did not formally request EAJA awards in most of their cases because of this requirement; they said the legal threshold is low for the government to defend its position as being substantially justified.

Recovery of Legal Fees

Three stakeholders cited challenges to recovering legal fees under EAJA, including:

- **Making a formal request for an award.** Two stakeholders said making a formal request for an award under EAJA could be time-consuming. These attorneys cited the financial risks and time involved in requesting an EAJA award, especially in cases where they believed a federal agency was likely to show that its position was substantially justified. They said that in these cases, it was sometimes preferable to include legal fees as part of a settlement agreement, which was often faster than making a formal request under EAJA. They said sometimes they might settle for a lesser amount than what they would have been entitled to had they made a formal request under EAJA and received an award.
- **Being reimbursed at a lower rate compared to some other fee-shifting statutes.** Two attorneys shared challenges with the rate for recoverable attorney fees under EAJA. One attorney said that the fee reimbursement rate under EAJA was lower than the market rate for attorneys and the rates under other fee-shifting statutes, such as the Fair Labor Standards Act and Title VII of the Civil Rights Act of 1964. EAJA caps the rate for recoverable attorney fees at \$125 per hour, with limited exceptions. An increase in the cost of living or a special factor, such as the limited availability of qualified attorneys, may justify a higher fee. The attorney speculated that EAJA’s rate might be lower because the federal government is responsible for paying the legal fees, and not private employers like under other fee-shifting statutes, for example. The other attorney said that EAJA’s lower rate might deter some parties from trying to recover legal fees under EAJA altogether.

Agency Comments

We provided a draft of this report to the Administrative Conference of the United States (ACUS), the Department of Labor (DOL), the Equal Employment Opportunity Commission (EEOC), and the National Labor Relations Board (NLRB) for review and comment. We received technical comments from ACUS, which we incorporated as we deemed appropriate.

How GAO Did This Study

To inform our work overall, we reviewed relevant federal laws, regulations, case law, and legislative documents.

To describe EAJA use at DOL, EEOC, and NLRB, we reviewed data from a database managed by ACUS.¹⁷ The data include the number and amount of EAJA awards, by agency, across the federal government for fiscal years 2019 through 2025, the most recent data available at the time of our review. To assess the reliability of these data, we reviewed the data for errors, missing data, or other flaws and obtained information from ACUS about how it collected, reviewed, and maintained the data over this period. We determined the data were sufficiently reliable to provide information on the number and amounts of EAJA awards governmentwide and for the three agencies we reviewed.

In addition, we interviewed officials from DOL, EEOC, and NLRB who were knowledgeable about EAJA. We also requested data from these agencies on EAJA awards for fiscal years 1995 through 2018, when reporting on EAJA awards was not required. Though we did not assess the completeness or accuracy of the information agencies provided for this period, we included some of it for contextual purposes.

To obtain stakeholders' views on the benefits and challenges of EAJA, we contacted 21 potential stakeholders who were knowledgeable about labor and employment issues including academics, attorneys, and industry representatives. We primarily identified these stakeholders through a review of academic and legal literature on EAJA and a review of available EAJA data, such as ACUS data on EAJA awardees at DOL, EEOC, and NLRB. Of the 21 stakeholders we contacted, 16 told us they had no knowledge of or position on EAJA use at DOL, EEOC, and NLRB or did not respond to our inquiry.

We interviewed the remaining five stakeholders, including (1) four attorneys (one from an organization that advocates on behalf of small businesses and three from nonprofit organizations that provide legal services) and (2) one industry representative from a trade association. We then analyzed their responses to identify common themes, which we described in this report. These stakeholders' perspectives are not generalizable.

We conducted this performance audit from July 2025 to July 2026 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

List of Addressees

The Honorable Tim Walberg
Chairman
Committee on Education and Workforce
House of Representatives

The Honorable Virginia Foxx
House of Representatives

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 12 days from the report date. At that time, we will send copies to the appropriate congressional committees and other interested parties. In addition, the report is available at no charge on the GAO website at <https://www.gao.gov>.

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Endnotes

¹Pub. L. No. 96-481, tit. II, 94 Stat. 2321, 2325 (1980) (codified as amended at 5 U.S.C. § 504; 28 U.S.C. § 2412). References to “legal fees” in this report include attorney or agent fees and other expenses recoverable under EAJA.

²See GAO, *Equal Access to Justice Act: Its Use in Selected Agencies*, GAO/HEHS-98-58R (Washington, D.C.: Jan. 1998) for other examples of fee-shifting statutes at DOL and EEOC. For example, the Fair Labor Standards Act and Title VII of the Civil Rights Act of 1964, enforced by DOL and EEOC, respectively, both contain fee-shifting provisions. According to NLRB officials, no fee-shifting statute other than EAJA applies to its proceedings.

³In addition to specifying when a court or agency “shall award” fees, EAJA made judicially recognized exceptions to the general rule that parties are responsible for paying their own legal fees regardless of who wins, apply to the federal government in civil court cases. 28 U.S.C. § 2412(b). As ACUS noted in its most recent annual report, most awards are made under the authority of 28 U.S.C. § 2412(d), the general conditions for which are articulated here.

⁴We use “certain agency administrative proceedings” in this report to refer to adversary adjudications. Adversary adjudications are generally administrative proceedings that are brought in a special agency forum, rather than in a court, and in which the government position is represented.

⁵Other entities include partnerships, corporations, and units of local government, for example. See 5 U.S.C. § 504(b)(1)(B); 28 U.S.C. § 2412(d)(2)(B).

⁶5 U.S.C. § 504(a)(2); 28 U.S.C. § 2412(d)(1)(B). For the purposes of this report, we use “EAJA award” to reflect legal fees that arise out of federal courts and agencies as well as those made pursuant to a settlement agreement.

⁷According to ACUS, nearly all EAJA awards are paid from agencies’ appropriations, and in some cases, awards are paid from the Treasury Judgment Fund. The Treasury Judgment Fund is managed by the Bureau of the Fiscal Service and pays for eligible judicial or administrative awards, judgments, and settlements against the U.S. government on behalf of federal agencies.

⁸5 U.S.C. § 504(b)(1)(A); 28 U.S.C. § 2412(d)(2)(A).

⁹ACUS was originally required to report on EAJA awards arising from certain agency administrative proceedings. At the same time, the Administrative Office of the United States Courts and later the Department of Justice reported on the award of fees and other expenses arising from certain judicial court cases.

¹⁰Federal Reports Elimination and Sunset Act of 1995, Pub. L. No. 104-66, §§ 1091(b) and 3003, 109 Stat. 707, 722, 734.

¹¹Reporting requirements were reinstated under the John D. Dingell, Jr. Conservation, Management, and Recreation Act. Pub. L. No. 116-9, tit. IV, § 4201, 133 Stat. 580, 762 (2019) (codified as amended at 5 U.S.C. § 504; 28 U.S.C. § 2412).

¹²See ACUS annual reports to Congress for fiscal years 2019 through 2025. “EAJA Reports,” Administrative Conference of the United States, accessed April 17, 2026, <https://www.acus.gov/eaja/reports>. The Office of the Chairman of ACUS prepares an annual report on EAJA awards against the government during each fiscal year.

¹³We previously reported on EAJA use in a 1998 report. See GAO/HEHS-98-58R.

¹⁴We previously reported on EAJA use at DOL, EEOC, and NLRB in a 1998 report. We found that from fiscal year 1982 through 1997, DOL reported paying 74 EAJA awards totaling about \$700,000, EEOC reported paying one EAJA award totaling \$264,328, and NLRB reported paying 59 EAJA awards totaling about \$1.5 million. See GAO/HEHS-98-58R for additional information on scope and methods. Also, ACUS published a report in 2013 that includes some data on EAJA awards made in fiscal year 2010.

¹⁵According to NLRB's Performance and Accountability Reports for fiscal years 2019 through 2025, of the unfair labor practices cases filed by the public, approximately 30 to 40 percent were found to have merit, and over 90 percent of those cases settled each year.

¹⁶EAJA does not supersede other, more specific federal statutes that authorize or restrict fee awards.

¹⁷The Office of the Chairman of ACUS has established and maintains a publicly available, searchable online database containing detailed information about each EAJA award. The database includes EAJA awards in both adversary adjudications and federal court cases.