

(b) The grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions;

(c) Records retention as required in § 24.42;

(d) Property management requirements in §§ 24.31 and 24.32; and

(e) Audit requirements in § 24.26.

§ 24.52 Collection of amounts due.

(a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements,

(2) Withholding advance payments otherwise due to the grantee, or

(3) Other action permitted by law.

(b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Chapter II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Subpart E—Entitlements [Reserved]

PART 25—PROGRAM

FRAUD CIVIL REMEDIES

Sec.

- 25.1 Basis and purpose.
- 25.2 Definitions.
- 25.3 Basis for civil penalties and assessments.
- 25.4 Investigation.
- 25.5 Review by the reviewing official.
- 25.6 Prerequisites for issuing a complaint.
- 25.7 Complaint.
- 25.8 Service of complaint.
- 25.9 Answer.
- 25.10 Default upon failure to file an answer.
- 25.11 Referral of complaint and answer to the ALJ.
- 25.12 Notice of hearing.
- 25.13 Parties to the hearing.
- 25.14 Separation of functions.
- 25.15 Ex parte contacts.
- 25.16 Disqualification of reviewing official or ALJ.

- 25.17 Rights of parties.
- 25.18 Authority of the ALJ.
- 25.19 Prehearing conferences.
- 25.20 Disclosure of documents.
- 25.21 Discovery.
- 25.22 Exchange of witness lists, statements, and exhibits.
- 25.23 Subpoena for attendance at hearing.
- 25.24 Protective order.
- 25.25 Fees.
- 25.26 Form, filing and service of papers.
- 25.27 Computation of time.
- 25.28 Motions.
- 25.29 Sanctions.
- 25.30 The hearing and burden of proof.
- 25.31 Determining the amount of penalties and assessments.
- 25.32 Location of hearing.
- 25.33 Witnesses.
- 25.34 Evidence.
- 25.35 The record.
- 25.36 Post-hearing briefs.
- 25.37 Initial decision.
- 25.38 Reconsideration of initial decision.
- 25.39 Appeal to authority head.
- 25.40 Stays ordered by the Department of Justice.
- 25.41 Stay pending appeal.
- 25.42 Judicial review.
- 25.43 Collection of civil penalties and assessments.
- 25.44 Right to administrative offset.
- 25.45 Deposit in Treasury of United States.
- 25.46 Compromise or settlement.
- 25.47 Limitations.

AUTHORITY: Secs. 6101–6104, Pub. L. 99–509, 100 Stat. 1874 (31 U.S.C. 3801–3812); Sec. 4, as amended, and sec. 5, Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–134, 110 Stat. 1321, 28 U.S.C. 2461 note.

SOURCE: 55 FR 47854, Nov. 16, 1990, unless otherwise noted.

FRAUD CIVIL REMEDIES

§ 25.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Public Law 99–509, section 6101–6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801–3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part (1) establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and (2)

§ 25.2

specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 25.2 Definitions.

ALJ means an Administrative Law Judge in the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344.

Authority means the Department of Commerce.

Authority head means the Secretary of the Department of Commerce, or designee.

Benefit means, except as the context otherwise requires, anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

Claim means any request, demand, or submission—

(a) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(1) For property or services if the United States—

(i) Provided such property or services;

(ii) Provided any portion of the funds for the purchase of such property or services; or

(iii) Will reimburse such recipient or party for the purchase of such property or services; or

(2) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(c) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services, or money.

Complaint means the administrative complaint served by the reviewing official on the respondent under § 25.7.

Department means the Department of Commerce.

15 CFR Subtitle A (1–1–02 Edition)

Government means the United States Government.

Individual means a natural person.

Initial decision means the written decision of the ALJ required by §§ 25.10 or 25.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

Investigating official means the Inspector General of the Department of Commerce or an officer or employee of the Office of the Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

Knows or has reason to know, means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in deliberative ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

Makes, wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, *making* or *made*, shall likewise include the corresponding forms of such terms.

Person means any individual, partnership, corporation, association, or private organization and includes the plural of that term.

Representative means any attorney who is a member in good standing of the bar of any State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

Respondent means any person alleged in a complaint under § 25.7 to be liable for a civil penalty or assessment under § 25.3.

Reviewing official means the General Counsel of the Department or his or her designee who is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule.

Statement means any representation, certification, affirmation, document,