

§ 142.39

(d) The Attorney General has exclusive authority to compromise or settle the case while any judicial review or any action to recover penalties and assessments is pending.

(e) The investigating official may recommend settlement terms to the reviewing official, the Administrator, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the Administrator or the Attorney General, as appropriate.

§ 142.39 How are civil penalties and assessments collected?

31 U.S.C. 3806 and 3808(b) authorize the Attorney General to bring specific actions for collection of such civil penalties and assessments including administrative offset under 31 U.S.C. 3716. The penalties and assessments may not, however, be administratively offset against an overpayment of federal taxes (then or later owed) to the defendant by the United States.

§ 142.40 What if the investigation indicates criminal misconduct?

(a) Any investigating official may:

(1) Refer allegations of criminal misconduct directly to the Department of Justice for prosecution or for suit under the False Claims Act or other civil proceeding;

(2) Defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution; or

(3) Issue subpoenas under other statutory authority.

(b) Nothing in this part limits the requirement that SBA employees report suspected violations of criminal law to the SBA Office of Inspector General or to the Attorney General.

§ 142.41 How does SBA protect the rights of defendants?

These procedures separate the functions of the investigating official, reviewing official, and the ALJ, each of whom report to a separate organizational authority in accordance with 31 U.S.C. 3801. Except for purposes of settlement, or as a witness or a representative in public proceedings, no investigating official, reviewing official, or SBA employee or agent who helps in-

13 CFR Ch. I (1-1-12 Edition)

vestigate, prepare, or present a case may (in such case, or a factually related case) participate in the initial decision or the review of the initial decision by the Administrator. This separation of functions and organization is designed to assure the independence and impartiality of each government official during every stage of the proceeding. The representative for SBA may be employed in the offices of either the investigating official or the reviewing official.

PART 143—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Subpart A—General

Sec.

- 143.1 Purpose and scope of this part.
- 143.2 Scope of subpart.
- 143.3 Definitions.
- 143.4 Applicability.
- 143.5 Effect on other issuances.
- 143.6 Additions and exceptions.

Subpart B—Pre-Award Requirements

- 143.10 Forms for applying for grants.
- 143.11 State plans.
- 143.12 Special grant or subgrant conditions for “high-risk” grantees.

Subpart C—Post-Award Requirements

FINANCIAL ADMINISTRATION

- 143.20 Standards for financial management systems.
- 143.21 Payment.
- 143.22 Allowable costs.
- 143.23 Period of availability of funds.
- 143.24 Matching or cost sharing.
- 143.25 Program income.
- 143.26 Non-Federal audit.

CHANGES, PROPERTY, AND SUBAWARDS

- 143.30 Changes.
- 143.31 Real property.
- 143.32 Equipment.
- 143.33 Supplies.
- 143.34 Copyrights.
- 143.35 Subawards to debarred and suspended parties.
- 143.36 Procurement.
- 143.37 Subgrants.