

(9) “statement” means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(A) with respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(B) with respect to (including relating to eligibility for)—

(i) a contract with, or a bid or proposal for a contract with; or

(ii) a grant, loan, or benefit from,

an authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit,

except that such term does not include any statement made in any return of tax imposed by the Internal Revenue Code of 1986.

(b) For purposes of paragraph (3) of subsection (a)—

(1) each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim;

(2) each claim for property, services, or money is subject to this chapter regardless of whether such property, services, or money is actually delivered or paid; and

(3) a claim shall be considered made, presented, or submitted to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.

(c) For purposes of paragraph (9) of subsection (a)—

(1) each written representation, certification, or affirmation constitutes a separate statement; and

(2) a statement shall be considered made, presented, or submitted to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.

(Added Pub. L. 99-509, title VI, §6103(a), Oct. 21, 1986, 100 Stat. 1934; amended Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103-272, §4(f)(1)(Q), July 5, 1994, 108 Stat. 1362; Pub. L. 110-69, title VII, §7017, Aug. 9, 2007, 121 Stat. 684; Pub. L. 110-409, §10, Oct. 14, 2008, 122 Stat. 4314.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (a)(1)(C), (F), (4)(A), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Internal Revenue Code of 1986, referred to in subsec. (a)(3), (9), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

2008—Subsec. (a)(1)(F). Pub. L. 110-409 added subpar. (F).

2007—Subsec. (a)(1)(E). Pub. L. 110-69 added subpar. (E).

1994—Subsec. (a)(7)(B)(ii). Pub. L. 103-272 substituted “section 3803 of this title” for “section 3803 of such title”.

1986—Subsec. (a)(3), (9). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

EFFECTIVE DATE

Pub. L. 99-509, title VI, subtitle B (§§6101-6104), §6104, Oct. 21, 1986, 100 Stat. 1948, provided that: “This subtitle and the amendments made by this subtitle [see Short Title note below] shall take effect on the date of enactment of this Act [Oct. 21, 1986], and shall apply to any claim or statement made, presented, or submitted on or after such date.”

SHORT TITLE

Pub. L. 99-509, title VI, subtitle B (§§6101-6104), §6101, Oct. 21, 1986, 100 Stat. 1934, provided that: “This subtitle [enacting this chapter, amending section 504 of Title 5, Government Organization and Employees, and enacting provisions set out as notes under this section] may be cited as the ‘Program Fraud Civil Remedies Act of 1986.’”

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

CONGRESSIONAL FINDINGS AND PURPOSES

Pub. L. 99-509, title VI, subtitle B (§§6101-6104), §6102, Oct. 21, 1986, 100 Stat. 1934, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) false, fictitious, and fraudulent claims and statements in Government programs are a serious problem;

“(2) false, fictitious, and fraudulent claims and statements in Government programs result in the loss of millions of dollars annually by allowing persons to receive Federal funds to which they are not entitled;

“(3) false, fictitious, and fraudulent claims and statements in Government programs undermine the integrity of such programs by allowing ineligible persons to participate in such programs; and

“(4) present civil and criminal remedies for such claims and statements are not sufficiently responsive.

“(b) PURPOSES.—The purposes of this subtitle [see Short Title note above] are—

“(1) to provide Federal agencies which are the victims of false, fictitious, and fraudulent claims and statements with an administrative remedy to recompense such agencies for losses resulting from such claims and statements, to permit administrative proceedings to be brought against persons who make, present, or submit such claims and statements, and to deter the making, presenting, and submitting of such claims and statements in the future; and

“(2) to provide due process protections to all persons who are subject to the administrative adjudication of false, fictitious, or fraudulent claims or statements.”

§ 3802. False claims and statements; liability

(a)(1) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know—

(A) is false, fictitious, or fraudulent;

(B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(C) includes or is supported by any written statement that—

- (i) omits a material fact;
- (ii) is false, fictitious, or fraudulent as a result of such omission; and
- (iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or

(D) is for payment for the provision of property or services which the person has not provided as claimed,

shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than \$5,000 for each such claim. Except as provided in paragraph (3) of this subsection, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter to be in violation of the preceding sentence.

(2) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that—

- (A) the person knows or has reason to know—
 - (i) asserts a material fact which is false, fictitious, or fraudulent; or
 - (ii)(I) omits a material fact; and
 - (II) is false, fictitious, or fraudulent as a result of such omission;

(B) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and

(C) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement,

shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than \$5,000 for each such statement.

(3) An assessment shall not be made under the second sentence of paragraph (1) with respect to a claim if payment by the Government has not been made on such claim.

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection—

(A) a determination under section 3803(a)(2) of this title that there is adequate evidence to believe that a person is liable under subsection (a) of this section; or

(B) a determination under section 3803 of this title that a person is liable under subsection (a) of this section,

may provide the authority with grounds for commencing any administrative or contractual action against such person which is authorized by law and which is in addition to any action against such person under this chapter.

(2) A determination referred to in paragraph (1) of this subsection may be used by the authority, but shall not require such authority, to

commence any administrative or contractual action which is authorized by law.

(3) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, a determination referred to in paragraph (1) of this subsection shall not be considered as a conclusive determination of such person's responsibility pursuant to Federal procurement laws and regulations.

(Added Pub. L. 99-509, title VI, §6103(a), Oct. 21, 1986, 100 Stat. 1937.)

§ 3803. Hearing and determinations

(a)(1) The investigating official of an authority may investigate allegations that a person is liable under section 3802 of this title and shall report the findings and conclusions of such investigation to the reviewing official of the authority. The preceding sentence does not modify any responsibility of an investigating official to report violations of criminal law to the Attorney General.

(2) If the reviewing official of an authority determines, based upon the report of the investigating official under paragraph (1) of this subsection, that there is adequate evidence to believe that a person is liable under section 3802 of this title, the reviewing official shall transmit to the Attorney General a written notice of the intention of such official to refer the allegations of such liability to a presiding officer of such authority. Such notice shall include—

(A) a statement of the reasons of the reviewing official for the referral of such allegations;

(B) a statement specifying the evidence which supports such allegations;

(C) a description of the claims or statements for which liability under section 3802 of this title is alleged;

(D) an estimate of the amount of money or the value of property or services requested or demanded in violation of section 3802 of this title; and

(E) a statement of any exculpatory or mitigating circumstances which may relate to such claims or statements.

(b)(1) Within 90 days after receipt of a notice from a reviewing official under paragraph (2) of subsection (a), the Attorney General or an Assistant Attorney General designated by the Attorney General shall transmit a written statement to the reviewing official which specifies—

(A) that the Attorney General or such Assistant Attorney General approves or disapproves the referral to a presiding officer of the allegations of liability stated in such notice;

(B) in any case in which the referral of allegations is approved, that the initiation of a proceeding under this section with respect to such allegations is appropriate; and

(C) in any case in which the referral of allegations is disapproved, the reasons for such disapproval.

(2) A reviewing official may refer allegations of liability to a presiding officer only if the Attorney General or an Assistant Attorney General designated by the Attorney General ap-