

“(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.