

§ 142.1

- 142.18 Can the reviewing official or ALJ be disqualified?
- 142.19 How are issues brought to the attention of the ALJ?
- 142.20 How are papers served?
- 142.21 How will the hearing be conducted and who has the burden of proof?
- 142.22 How is evidence presented at the hearing?
- 142.23 Are there limits on disclosure of documents or discovery?
- 142.24 Can witnesses be subpoenaed?
- 142.25 Can a party or witness object to discovery?
- 142.26 Can a party informally discuss the case with the ALJ?
- 142.27 Are there sanctions for misconduct?
- 142.28 Where is the hearing held?
- 142.29 Are witness lists exchanged before the hearing?

DECISIONS AND APPEALS

- 142.30 How is the case decided?
- 142.31 Can a party request reconsideration of the initial decision?
- 142.32 When does the initial decision of the ALJ become final?
- 142.33 What are the procedures for appealing the ALJ decision?
- 142.34 Are there any limitations on the right to appeal to the Administrator?
- 142.35 How does the Administrator dispose of an appeal?
- 142.36 Can I obtain judicial review?
- 142.37 What judicial review is available?
- 142.38 Can the administrative complaint be settled voluntarily?
- 142.39 How are civil penalties and assessments collected?
- 142.40 What if the investigation indicates criminal misconduct?
- 142.41 How does SBA protect the rights of defendants?

AUTHORITY: 15 U.S.C. 634(b); 31 U.S.C. 3803(g)(2).

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OVERVIEW AND DEFINITIONS

§ 142.1 Overview of regulations.

(a) *Statutory basis.* This part implements the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801-3812 ("the Act"). The Act provides SBA and other federal agencies with an administrative remedy to impose civil penalties and assessments against persons making false claims and statements. The Act also provides due process protections to all persons who are subject

13 CFR Ch. I (1-1-01 Edition)

to administrative proceedings under this part.

(b) *Possible remedies for program fraud.* In addition to any other penalty which may be prescribed by law, a person who submits, or causes to be submitted, a false claim or a false statement to SBA is subject to a civil penalty of not more than \$5,000 for each statement or claim, regardless of whether property, services, or money is actually delivered or paid by SBA. If SBA has made any payment, transferred property, or provided services in reliance on a false claim, the person submitting it is also subject to an assessment of not more than twice the amount of the false claim. This assessment is in lieu of damages sustained by SBA because of the false claim.

§ 142.2 What kind of conduct will result in program fraud enforcement?

(a) Any person who makes, or causes to be made, a false, fictitious, or fraudulent claim or written statement to SBA is subject to program fraud enforcement. A "person" means any individual, partnership, corporation, association, or other legal entity.

(b) If more than one person makes a false claim or statement, each person is liable for a civil penalty. If more than one person makes a false claim which has induced SBA to make payment, an assessment is imposed against each person. The liability of each such person to pay the assessment is joint and several, that is, each is responsible for the entire amount.

(c) No proof of specific intent to defraud is required to establish liability under this part.

§ 142.3 What is a claim?

(a) Claim means any request, demand, or submission:

- (1) Made to SBA for property, services, or money;
- (2) Made to a recipient of property, services, or money from SBA or to a party to a contract with SBA for property or services, or for the payment of money. This provision applies only when the claim is related to the property, services or money from SBA or to the contract with SBA; or