

the hearing, reach a determination and render an initial decision in an equitable manner.

**§223.5 Agency representative.**

The General Counsel shall appoint an agency representative to present evidence and otherwise participate in the hearing.

**§223.6 Time, date and place of hearing.**

The examiner shall establish a reasonable time, date and place to conduct the hearing. In establishing a date, the examiner shall give due regard to the former employee's need for:

- (a) Adequate time to prepare a defense properly, and
- (b) An expeditious resolution of allegations that may be damaging to his or her reputation.

**§223.7 Rights of parties at hearing.**

A hearing shall include, at a minimum, the following rights for both parties:

- (a) To represent oneself or to be represented by counsel;
- (b) To examine or cross-examine witnesses;
- (c) To submit evidence (including the use of interrogatories);
- (d) To present oral arguments; and
- (e) To receive a transcript of recording of the proceedings on request.

In any hearing, the agency has the burden of proof and must establish substantial evidence of a violation.

**§223.8 Initial decision.**

The examiner shall issue an initial decision based exclusively on matters of record in the proceedings and shall set forth all findings of fact and conclusions of law relevant to the matters at issue.

**§223.9 Appeal.**

Within twenty days of the date of initial decision, either party may appeal the decision to the Administrator. The opposing party shall have ten days after receipt of a copy of the appeal to reply.

**§223.10 Final decision.**

- (a) In cases where the former employee failed to request a hearing after

receiving adequate notice, the General Counsel shall decide the matter on its merits based upon the evidence gathered to date, including any written reply of the former employee.

- (b) In cases of appeal under §223.9, the Administrator shall accept, reject or modify the initial decision based solely on the record of the proceedings or those portions cited by the parties to limit the issues.

**§223.11 Appropriate action.**

The Administrator may take appropriate action in the case of any individual who is found in violation of the statutory or regulatory post employment restrictions after a final decision by:

- (a) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, the Agency on any matter of business for a period not to exceed five years, which may be accomplished by directing Agency employees to refuse to participate in such appearance or to accept any such communication; and
- (b) Taking other appropriate disciplinary action.

**PART 224—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT**

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AUTHORITY: 22 U.S.C. 2381; 31 U.S.C. 3801-3812.

SOURCE: 52 FR 45313, Nov. 27, 1987, unless otherwise noted.

**§ 224.1 Basis and purpose.**

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99-509, sections 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 to 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 the Agency for International Development or to its agents, and (2) specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

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**§ 224.2 Definitions.**

*A.I.D.* means the Agency for International Development.

*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.

*Benefit* means, in the context of "statement," 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 A.I.D. for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from A.I.D. or to a party to a contract with A.I.D.—

(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 A.I.D. 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 defendant under § 224.7.

*Defendant* means any person alleged in a complaint under § 224.7 to be liable for a civil penalty or assessment under § 224.3.

*Government* means the United States Government.

*Individual* means a natural person.

*Initial decision* means the written decision of the ALJ required by § 224.10 or § 224.37, and includes a revised initial