

time elapsed between the date of acquisition and the date of damage or loss.

(e) *Appreciation.* There will be no allowance for appreciation in the value of the property except that the cost of the item may be adjusted to reflect changes in the purchasing power of the dollar before depreciation is computed. Appreciation will not be allowed solely because the loss occurred or the claimant now resides in an area remote from the place of purchase of the property.

(f) *Expensive articles.* Allowance for expensive items (including heirlooms and antiques) or for items purchased at unreasonably high prices will be based on the fair and reasonable purchase price for substitute articles of a similar nature.

(g) *Acquisition.* Allowance for articles acquired by barter will not exceed the cost of the articles tendered in barter. No reimbursement will be made for articles acquired in black market or other prohibited activities.

(h) *Replacement.* Replacement of damaged or lost property may be made in kind whenever appropriate.

(i) *Amount allowable.* Subject to the limitations of §§180.108(c) through 180.108(h), the amount allowable in settlement of a claim is either:

(1) The depreciated value immediately prior to damage or loss of property damaged beyond economical repair or lost, less any salvage value; or

(2) The reasonable cost of repairs when property is economically repairable, provided that the cost of repairs does not exceed the depreciated value.

(j) *Notification.* The approving authority shall notify the claimant in writing of the action taken on the claim and, if the claim is disapproved or only partially approved, the reasons therefor.

(k) *Carrier or insurer.* In the event a claim submitted against a carrier or insurer under §180.106 had not been settled before settlement of a claim against the Government under this part, the approving authority shall notify such carrier or insurer to pay the proceeds of the claim to OPM to the extent OPM has made payment to the claimant.

(l) *Review.* The action of the approving authority is final; however, the decision may be reconsidered if the claimant so requests and submits a

written explanation why reconsideration is appropriate.

(m) *Attorney's fees.* No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating this or any other provision of sections 240 to 243 of title 31, United States Code, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1000.

[43 FR 47163, Oct. 13, 1978, as amended at 44 FR 76747, Dec. 28, 1979]

## PART 185—PROGRAM FRAUD CIVIL REMEDIES

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AUTHORITY: 31 U.S.C. 3801-3812.

SOURCE: 60 FR 7891, Feb. 10, 1995, unless otherwise noted.

### § 185.101 Purpose.

This subpart implements the Program Fraud Civil Remedies Act of 1986, Public Law 99-509, 6101-6104, 100 Stat. 1874 (October 21, 1986), codified at 31 U.S.C. 3801-3812. Section 3809 requires each authority head to promulgate regulations necessary to implement the provisions of the statute. The subpart 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 authorities or to their agents, and specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments. The moneys collected as a result of these procedures are deposited as miscellaneous receipts in the Treasury of the United States.

### § 185.102 Definitions.

For the purposes of this part—

*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.

*Authority* means the Office of Personnel Management (OPM).

*Authority head* means the Director of the Office of Personnel Management or the Director's designee.

*Benefit* is very broad, and is intended to cover anything of value, including

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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 the authority for property, services, or money (including money representing benefits, grants, loans or insurance);

(b) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority:

(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 the authority 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 § 185.107.

*Defendant* means any person alleged in a complaint under § 185.107 to be liable for a civil penalty or assessment under § 185.103.

*Government* means the United States Government.

*Individual* means a natural person.

*Initial decision* means the written decision of the ALJ required by § 185.110 or § 185.137, and includes a revised initial decision issued following a remand or a motion for reconsideration.

*Investigating Official* means the Inspector General or the Inspector General's designee.

*Knows or has reason to know* means that a person, with respect to a claim or statement: