

## § 2554.6

making the claim, or causing the claim to be made, knows or has reason to know that the claim:

- (1) Is false, fictitious or fraudulent;
- (2) Includes or is supported by a written statement which asserts or contains a material fact which is false, fictitious, or fraudulent;
- (3) Includes or is supported by a written statement which is false, fictitious or fraudulent because it omits a material fact that the person making the statement has a duty to include in the statement; or
- (4) Is for payment for the provision of property or services which the person has not provided as claimed.

(b) A statement submitted to the Corporation is a false statement if the person making the statement, or causing the statement to be made, knows or has reason to know that the statement:

- (1) Asserts a material fact which is false, fictitious, or fraudulent; or
- (2) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in the statement. In addition, the statement must contain or be accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement.

### § 2554.6 What does the phrase “know or have reason to know” mean?

A person knows or has reason to know (that a claim or statement is false) if the person:

- (a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent; or
- (b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or
- (c) Acts in reckless disregard of the truth or falsity of the claim or statement.

#### PROCEDURES LEADING TO ISSUANCE OF A COMPLAINT

### § 2554.7 Who investigates program fraud?

The Inspector General, or his designee, is the investigating official responsible for investigating allegations that a false claim or statement has been made. In this regard, the Inspec-

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tor General has authority under the Program Fraud Civil Remedies Act and the Inspector General Act of 1978 (5 U.S.C. App. 3), as amended, to issue administrative subpoenas for the production of records and documents.

### § 2554.8 What happens if program fraud is suspected?

(a) If the investigating official concludes that an action under this Part is warranted, the investigating official submits a report containing the findings and conclusions of the investigation to a reviewing official. The reviewing official is the General Counsel or his or her designee. If the reviewing official determines that the report provides adequate evidence that a person submitted a false claim or statement, the reviewing official transmits to the Attorney General written notice of an intention to refer the matter for adjudication, with a request for approval of such referral. This notice will include the reviewing official’s statements concerning:

- (1) The reasons for the referral;
- (2) The claims or statements upon which liability would be based;
- (3) The evidence that supports liability;
- (4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in the false claim or statement;
- (5) Any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and
- (6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments.

(b) If at any time, the Attorney General or his or her designee requests in writing that this administrative process be stayed, the authority head, as identified in § 2554.9 of this Part, must stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.