

## SUBCHAPTER E—ADMINISTRATIVE REMEDIES FOR FRAUDULENT CLAIMS OR STATEMENTS

### PART 355—REGULATIONS UNDER THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

AUTHORITY: 31 U.S.C. 3809.

SOURCE: 52 FR 47706, Dec. 16, 1987, unless otherwise noted.

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#### § 355.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99-509, 6101-6104, 100 Stat. 1874 (Oct. 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 the 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 authorities or to their agents, and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

#### § 355.2 Definitions.

*ALJ* means an Administrative Law Judge detailed to the authority pursuant to 5 U.S.C. 3344.

*Authority* means Railroad Retirement Board.

*Authority head* means the three-member Railroad Retirement Board.

*Benefits* means, except as the context otherwise requires, anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

*Board* means Railroad Retirement Board.

*Claim* means any request, demand, or submission—

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

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

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(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 §355.7.

*Defendant* means any person alleged in a complaint under §355.7 to be liable for a civil penalty or assessment under §355.3.

*Government* means the U.S. Government.

*Individual* means a natural person.

*Initial decision* means the written decision of the ALJ required by §355.10 or §355.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

*Investigating official* means the Inspector General of the Railroad Retirement Board or an officer or employee of the Office of the Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

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

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(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.

*Makes*, wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, *making* or *made* shall likewise include the corresponding forms of such terms.

*Person* means any individual, partnership, corporation, association, private organization, state, political subdivision of a state, municipality, county, district, and Indian tribe, and includes the plural of that term.

*Presiding officer* means ALJ.

*Representative* means an attorney who is a member in good standing of the bar of any state, territory, or possession of the United States or of the District of Columbia.

*Reviewing official* means the General Counsel of the Board or his or her designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official; and

(b) Not employed in the organizational unit of the authority in which the investigating official is employed; and

(c) Is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

*Statement* means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, loan, or benefit from the authority, or any state, political subdivision of a state, or other party, if the U.S. Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such state, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.