

Office of the Secretary, USDA

§ 1.301

of the United States is entitled to travel expenses in connection with such appearance in accordance with the Agriculture Travel Regulations.

(b) An employee of USDA who attends a judicial or administrative proceeding on behalf of the United States is not entitled to receive fees for such attendance.

(c) An employee of USDA who attends a judicial or administrative proceeding on behalf of a party other than the United States when such appearance is in his or her official capacity or arises out of or relates to his or her employment with USDA is entitled to travel expenses in accordance with the Agriculture Travel Regulations to the extent that such expenses are not paid for by the court, agency, or official compelling his or her appearance or by the party on whose behalf he or she appears.

(d) An employee of USDA who attends a judicial or administrative proceeding on behalf of a party other than the United States when such appearance is in his or her official capacity or arises out of or relates to his or her employment with USDA is required to collect the authorized fees for such service and remit such fees to his or her USDA agency.

§ 1.218 Penalty.

An employee who testifies or produces records in a judicial or administrative proceeding in violation of the provisions of this regulation shall be subject to disciplinary action.

§ 1.219 Delegations.

(a) Except as provided in paragraphs (b), (c), or (d) of this section, the head of a USDA agency may delegate his or her responsibilities under this subpart, including the requirement to be notified of the receipt of a subpoena as provided in §§ 1.214(a) and 1.216(a) of this part, to employees of his or her agency as follows:

(1) In the National office of the agency, to a level no lower than two levels below the agency head;

(2) In a field component of an agency, to a level no lower than the official who heads a state office.

(b) Notwithstanding paragraph (a) of this section, the Chief of the Forest

Service may delegate his responsibilities under this subpart as follows:

(1) In the National office of the Forest Service, to a level no lower than a Deputy Chief of the Forest Service;

(2) In a field component of the Forest Service, to a level no lower than a Regional Forester or Station Director.

(c) Notwithstanding paragraph (a) of this section, the General Counsel may delegate his responsibilities under this subpart as follows:

(1) In the National office of the Office of the General Counsel, to a level no lower than an Assistant General Counsel;

(2) In the field component of the Office of the General Counsel, to Regional Attorneys who may redelegate their responsibilities to Associate Regional Attorneys and Assistant Regional Attorneys who report to them.

(d) The responsibilities assigned to heads of agencies and to Assistant and Under Secretaries in § 1.214(b)(2) of this part may not be redelegated.

[58 FR 62495, Nov. 29, 1993; 58 FR 64353, Dec. 6, 1993]

Subpart L—Procedures Related to Administrative Hearings Under the Program Fraud Civil Remedies Act of 1986

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

SOURCE: 56 FR 9582, Mar. 7, 1991, unless otherwise noted. Correctly designated at 57 FR 3909, Feb. 3, 1992.

§ 1.301 Basis, purpose and scope.

(a) *Basis.* This subpart implements the Program Fraud Civil Remedies Act of 1986, Public Law No. 99-509, Sections 6101-6104, 100 Stat. 1874 (1986). This statute added 31 U.S.C. 3801-3812. Section 3809 of Title 31, United States Code, requires the Secretary to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This subpart—

(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

§ 1.302

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

(c) *Scope.* The procedures for imposing civil penalties and assessments established by this subpart are intended to enhance existing administrative enforcement efforts against fraud and to provide an additional remedy against false, fictitious, and fraudulent claims and statements in the programs administered by this Department.

§ 1.302 Definitions.

(a) *Agency* means a constituent organizational unit of the USDA.

(b) *Agency Fraud Claims Officer—(AFCO)* means an officer or employee of an agency who is designated by the head of that agency to receive the reports of the investigating official, evaluate evidence, and make a recommendation to the reviewing official with respect to the determination required under § 1.305 of this part.

(c) *ALJ* means an Administrative Law Judge in USDA appointed pursuant to 5 U.S.C. 3105 or detailed to the USDA pursuant to 5 U.S.C. 3344.

(d) *Authority* means the USDA.

(e) *Benefits* means, except as otherwise defined in this subpart, anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

(f) *Claim* means any request, demand, or submission—

(1) Made to USDA for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from USDA or to a party to a contract with USDA—

(i) For property or services if the United States—

(A) Provided such property or services; or

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services; or

(ii) For the payment of money (including money representing grants,

7 CFR Subtitle A (1–1–05 Edition)

loans, insurance, or benefits) if the United States—

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to USDA which has the effect of decreasing an obligation to pay or account for property, services, or money.

(g) *Complaint* means the written notice served by the reviewing official on the respondent under § 1.307 of this part.

(h) *Days* means business days for all periods referred to in these regulations of 10 days or less and calendar days for all periods referred to in these regulations in excess of 10 days.

(i) *Family* means the individual's parents, spouse, siblings, children, and grandchildren with respect to an individual making a claim or statement for benefits.

(j) *Government* means the United States Government.

(k) *Household* means a family or one or more individuals occupying a single residence.

(l) *Individual* means a natural person.

(m) *Investigating official* means the Inspector General of USDA or an officer or employee of the Office of 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.

(n) *Judicial officer* means an official of USDA delegated authority by the Secretary, pursuant to the Act of April 4, 1940 (7 U.S.C. 450c-450g) and Reorganization Plan No. 2 of 1953, 67 Stat. 633, as amended by Public Law No. 97-325 (7 U.S.C. 2201n.), to perform the adjudicating function for the Department under § 2.35 of this title, or the Secretary if he exercises the authority so delegated.

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

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