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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 1230 and 2554

RIN 3045-AA67

Annual Civil Monetary Penalties Inflation Adjustment

AGENCY: Corporation for National and Community Service.

ACTION: Interim final rule.

SUMMARY: The Corporation for National and Community Service (CNCS) is updating its regulations to reflect required annual inflation-related increases to the civil monetary penalties in its regulations, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: *Effective date:* This rule is effective January 15, 2017.

Comment due date: Technical comments may be submitted until [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send your comments electronically through the Federal government's one-stop rulemaking Web site at www.regulations.gov. Also, you may mail or deliver your comments to Phyllis Green, Executive Assistant, Office of General Counsel, at the Corporation for National and Community Service, 250 E Street SW., Washington, D.C. 20525. Due to continued delays in CNCS's receipt of mail, we strongly encourage comments to be submitted online electronically. The TDD/TTY number is 800 833-3722. You may request this notice in an alternative format for the visually impaired.

FOR FURTHER INFORMATION CONTACT: Phyllis Green, Executive Assistant,

Office of General Counsel, at 202–606–6709 or email to pgreen@cns.gov. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 800-833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background

The Corporation for National and Community Service (CNCS) is a federal agency that engages more than five million Americans in service through its AmeriCorps, Senior Corps, Social Innovation Fund, and Volunteer Generation Fund programs to further its mission to improve lives, strengthen communities, and foster civic engagement through service and volunteering. For more information, visit NationalService.gov.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114-74) (the “Act”), which is intended to improve the effectiveness of civil monetary penalties and to maintain the deterrent effect of such penalties, requires agencies to adjust the civil monetary penalties for inflation annually.

II. Method of Calculation

CNCS has two civil monetary penalties in its regulations. A civil monetary penalty under the Act is a penalty, fine, or other sanction that is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law and is assessed or enforced by an agency pursuant to Federal law and is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts. ([See 28 U.S.C. 2461 note](#)).

The inflation adjustment for each applicable civil monetary penalty is determined using the percent increase in the Consumer Price Index for all Urban Consumers (CPI-U)

for the month of October of the year in which the amount of each civil money penalty was most recently established or modified. In the December 16, 2016, OMB Memo for the Heads of Executive Agencies and Departments, M-17-11, *Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*, OMB published the multiplier for the required annual adjustment. The cost-of-living adjustment multiplier for 2017, based on the CPI-U for the month of October 2016, not seasonally adjusted, is 1.01636.

CNCS identified two civil penalties in its regulations: (1) the penalty associated with Restrictions on Lobbying (45 CFR 1230.400) and (2) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 2554.1).

The civil monetary penalties related to Restrictions on Lobbying (Section 319, Pub. L. 101-121; 31 U.S.C. 1352) range from \$18,936 to \$189,361. Using the 2017 multiplier, the new range of possible civil monetary penalties is from \$19,246 to \$192,459.

The Program Fraud Civil Remedies Act of 1986 (Pub. L. 99-509) civil monetary penalty has an upper limit of \$10,781. Using the 2017 multiplier, the new upper limit of the civil monetary penalty is \$10,957.

III. Summary of Final Rule

This final rule adjusts the civil monetary penalty amounts related to Restrictions on Lobbying (45 CFR 1230.400) and the Program Fraud Civil Remedies Act of 1986 (45 CFR 2554.1). The range of civil monetary penalties related to Restrictions on Lobbying increase from “\$18,936 to \$189,361” to “\$19,246 to \$192,459.” The civil monetary penalties for the Program Fraud Civil Remedies Act of 1986 increase from “up to

\$10,781” to “up to \$10,957.”

IV. Regulatory Procedures

A. Determination of Good Cause for Publication without Notice and Comment

CNCS finds, under 5 U.S.C. 553(b)(3)(B), that there is good cause to except this rule from the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b). Because CNCS is implementing a final rule pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which requires CNCS to update its regulations based on a prescribed formula, CNCS has no discretion in the nature or amount of the change to the civil monetary penalties. Therefore, notice and comment for these proscribed updates is impracticable and unnecessary. As an interim final rule, no further regulatory action is required for the issuance of this legally binding rule. If you would like to provide technical comments, however, they may be submitted until **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

B. Review Under Procedural Statutes and Executive Orders

CNCS has determined that making technical changes to the amount of civil monetary penalties in its regulations does not trigger any requirements under procedural statutes and Executive Orders that govern rulemaking procedures.

V. Effective Date

This rule is effective January 15, 2017. The adjusted civil penalty amounts apply to civil penalties assessed on or after January 15, 2017, when the violation occurred after November 2, 2015. If the violation occurred prior to November 2, 2015, or a penalty was assessed prior to August 1, 2016, the pre-adjustment civil penalty amounts in effect prior

to August 1, 2106, will apply.

List of Subjects

45 CFR Part 1230

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

45 CFR Part 2554

Claims, Fraud, Organization and functions (Government agencies), Penalties.

For the reasons discussed in the preamble, under the authority of 42 U.S.C. 12651c(c), the Corporation for National and Community Service amends chapters XII and XXV, title 45 of the Code of Federal Regulations as follows:

PART 1230 – NEW RESTRICTIONS ON LOBBYING

1. The authority citation for part 1230 continues to read as follows:

Authority: Section 319, Pub. L. 101-121 (31 USC 1352); Pub. L. 93-113; 42 U.S.C. 4951, *et seq.*; 42 U.S.C. 5060

§ 1230.400 [Amended]

2. Amend § 1230.400:

- a. In paragraphs (a), (b), and (e), by removing “\$18,936” and adding in its place “\$19,246” each place it appears.
- b. In paragraphs (a), (b), and (e), by removing “\$189,361” and adding in its place “\$192,459” each place it appears.

Appendix A to Part 1230 [Amended]

3. Amend appendix A to part 1230 by:

- a. Removing “\$18,936” and adding in its place “\$19,246” each place it appears.
- b. Removing “\$189,361” and adding in its place “\$192,459” each place it

appears.

PART 2554 – PROGRAM FRAUD CIVIL REMEDIES ACT REGULATIONS

- 4. The authority citation for part 2554 continues to read as follows:

Authority: Pub. L. 99-509, Secs. 6101-6104, 100 Stat. 1874 (31 U.S.C. 3801-3812); 42 U.S.C. 12651c-12651d.

§ 2554.1 [Amended]

- 5. Amend § 2554.1 by removing “\$10,781” in paragraph (b) and adding in its place “\$10,957.”

Dated: December 28, 2016.

Jeremy Joseph,

General Counsel.

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