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## **DEPARTMENT OF HOMELAND SECURITY**

### **Office of the Secretary**

#### **6 CFR Part 13**

**[Docket No. DHS-2025-0316]**

**RIN 1601-AB20**

### **Implementation of the Administrative False Claims Act**

**AGENCY:** Office of the Secretary, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule updates the Department of Homeland Security (DHS) administrative procedures for assessing penalties and recovering funds procured by fraud under departmental programs. This rule implements the Administrative False Claims Act of 1986, as amended by the National Defense Authorization Act (NDAA) for Fiscal Year 2025. This final rule implements the NDAA to reflect the updated penalty levels, new definitions, and the option for the Board of Contract Appeals judges to act as presiding officers. This final rule also makes minor clarifications and DHS procedural changes.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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## Abbreviations

§	Section
AFCA	Administrative False Claims Act of 2023
CBCA	Civilian Board of Contract Appeals
CFR	Code of Federal Regulation
DHS	Department of Homeland Security
DOJ	Department of Justice
FCA	False Claims Act of 1863
FR	Federal Register
NDAA	Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025
OMB	Office of Management and Budget
PFCRA	Program Fraud Civil Remedies Act of 1986
RFA	Regulatory Flexibility Act
U.S.C.	United States Code

## I. Background and Regulatory History

### A. Statutory Authority

On December 23, 2024, the President signed the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025 (hereinafter “the Act” or “National Defense Authorization Act (NDAA)”) (Public Law 118-159) into law. The Act makes key modifications to the Program Fraud Civil Remedies Act (PFCRA)<sup>1</sup> to streamline and modernize the process for prosecuting false claims and statements which the Department of Justice (DOJ) declines to prosecute. The NDAA renames the PFCRA to the Administrative False Claims Act (AFCA) and directs agencies to promulgate new regulations as necessary and modify existing regulations to carry out the Act.<sup>2</sup>

<sup>1</sup> Subtitle B of Title VI of the Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-509, 100 Stat. 1934 (1986) (codified at 31 U.S.C. 3801-3812).

<sup>2</sup> FY 2025 NDAA Sec. 5203(j) (codified at 31 U.S.C. 3801 note) (“Not later than 180 days after the date of enactment of this Act, each authority head, as defined in section 3801 of title 31, United States Code, shall— (1)

## **B. History**

Congress enacted the False Claims Act (FCA), 31 U.S.C. 3729 – 3733, in 1863 providing that any person who knowingly submitted false claims to the government was liable for double the government’s damages plus a penalty of \$2,000 for each false claim. In 1986, Congress made significant changes to the FCA, including increasing damages from double damages to treble damages and raising the penalties from \$2,000 to a range of \$5,000 to \$10,000.<sup>3</sup>

In addition to the 1986 changes to the FCA, Congress also enacted the PFCRA to give agencies the ability to initiate administrative proceedings on claims of \$150,000 or less, when the DOJ elects not to pursue FCA remedies. Federal agencies may administratively pursue these “small” false claims and certified false statements within six years of the claim being made. A person may be penalized \$5,000 per claim or statement and may also be assessed up to double the amount falsely claimed. The PFCRA thus provided an administrative remedy to complement the FCA.

DHS implemented PFCRA using an interim final rule, published October 12, 2005.<sup>4</sup> The rule set forth procedures governing the imposition of 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 DHS or any of its components at 6 CFR part 13.

## **C. Administrative False Claims Act**

The Administrative False Claims Act maintains administrative procedures for imposing civil penalties and assessments against individuals who make, submit, or present, or cause to be made, submitted or presented, claims or written statements that are made to authorities or their agency and are false, fictitious or fraudulent.

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promulgate regulations and procedures to carry out this Act and the amendments made by this Act; and (2) review and update existing regulations and procedures of the authority to ensure compliance with this Act and the amendments made by this Act.”).

<sup>3</sup> False Claims Act Amendments Act of 1986, Pub. L. 99–562, sec. 2.

<sup>4</sup> 70 FR 59209 (Oct. 12, 2005).

The NDAA renamed the PFCRA to AFCA and made a number of substantive changes. First, Congress amended the definition of a presiding officer to allow agencies who do not employ and have available administrative law judges appointed under 5 U.S.C. 3105 to submit appropriate cases to a member of a board of contract appeals established by 41 U.S.C. 7105. In such cases, Congress provided that the required hearing shall be conducted by the presiding officer according to rules and procedures promulgated by the board of contract appeals, rather than the referring agency. Second, Congress increased the maximum value of disputed claims that may be heard by a presiding officer to \$1,000,000 and mandated that this ceiling be adjusted annually for inflation in the same manner as civil monetary penalties under the Federal Civil Penalties Inflation Adjustment Act. Third, Congress amended the collection of civil penalties under 31 U.S.C. 38 to permit agencies to be reimbursed for any expended costs in support of the investigation or prosecution of the action from the recovered amounts, with such recovered amounts remaining available to the agency until expended. Finally, Congress modified the statute of limitations for bringing an action to the later of 6 years after the date of violation or 3 years after the date on which facts material to the action are known or reasonably should have been known by the agency head, but in no event more than 10 years after the violation.

## **II. Discussion of the Rule**

This final rule implements the AFCA by amending existing 6 CFR part 13. DHS also takes this opportunity to make minor clarifications and procedural changes. The amendments implement the statutory changes as follows:

### **§ 13.1 Basis, purpose, scope, and effect**

DHS updates paragraph (a) to reference the AFCA and removes paragraph (b) that contained an outdated effective date and discussed claims filed under the previous component regulations that pre-dated DHS' October 12, 2005, interim final rule.

### **§ 13.2 Definitions**

DHS updates the definitions to incorporate the *Material, Obligation, and Presiding Officer* definitions found in the NDAA sec. 5203(i). DHS also makes conforming changes to the *ALJ* and *Claim* definitions to reflect the changes in the AFCA. NDAA sec. 5203(i). Specifically, DHS updates the *ALJ* definition to implement AFCA's use of Board of Contract Appeals judges to preside over hearings and expands the scope of the *Claims* definition to include any request, demand or submission which has the effect of concealing or improperly avoiding or decreasing an obligation to pay or transmit property, services, or money to the authority.

In addition to implementing the statutory changes, DHS updates the *Reviewing Official* definition to reflect DHS's delegated authority process, and the definition of *Representative* to reflect that the term refers to the defendant's representatives, not the Government's.

### **§ 13.3 Basis for civil penalties and assessments**

DHS adds in paragraph (a)(5) the new AFCA exception for cases under 31 U.S.C. 3801(a)(3)(C) concerning the level of assessments in lieu of damages sustained by the Government. NDAA sec. 5203(b). In addition, DHS rewords paragraph (b)(1)(i)(B) to clarify when a statement constitutes fraud.

### **§ 13.6 Prerequisites for issuing a Complaint**

DHS amends this section to reflect the new maximum penalty of \$1,000,000 from the existing \$150,000, as well as adds a new paragraph (d) providing for the maximum penalty to be adjusted for inflation according to the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. 2461). NDAA sec. 5203(c).

### **§ 13.8 Service of Complaint**

DHS clarifies that the Presiding Officer will follow the Rules of Procedure of the Civilian Board of Contract Appeals (CBCA) when a board judge is serving in that role. NDAA sec. 5203(g).

### **§ 13.13 Parties to the hearing**

DHS updates this section to remove paragraph (b) and accurately reflect the AFCA. The AFCA does not provide for a private plaintiff to participate in a hearing, whereas the False Claims Act does provide such participation under a qui tam action.<sup>5</sup> Given the AFCA’s exclusion of such an action, DHS updates this section to reflect only the parties identified in the AFCA for participation in the hearing.

### **§ 13.16 Disqualification of Reviewing Official or Presiding Officer**

DHS updates paragraph (d) to reflect the law as it relates to motions for disqualification. The statute requires motions for disqualification to be accompanied by a “sufficient” affidavit. As written, § 13.16 requires an affidavit “alleging personal bias or other reason for disqualification” and requires the affidavit to include specific facts that support the party’s belief that personal bias or other reason for disqualifications exists. The change in paragraph (d) provides that the Reviewing Official or Presiding Officer may require additional information if the affidavit is lacking in sufficiency.

DHS updates paragraph (e)(2) to clarify that if a board judge disqualifies himself or herself reassignment would take place in accordance with the relevant Board Rules. The legislative change allowing CBCA judges to serve as Presiding Officers necessitates updating this paragraph to avoid conflicts between the CBCA rules and DHS’s regulations. NDAA sec. 5203(g).

### **§ 13.45 Deposit in Treasury of United States**

DHS updates this entire section to reflect monetary changes between PFCRA and AFCA. Specifically, the statute now permits amounts collected under AFCA to be credited to the relevant Federal entity first, with remaining amounts being deposited in the Treasury. NDAA sec. 5203(d).

### **§ 13.46 Compromise or settlement**

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<sup>5</sup> A qui tam action is a type of legal proceeding where a private citizen initiates a lawsuit on behalf of the government to recover funds obtained through fraudulent activities. The FACA permits a qui tam action, but not the AFCA.

DHS updates this section to reflect the Reviewing Official’s requirement to notify the Attorney General prior to entering an agreement to compromise or settle under the AFCA in writing not later than 30 days. NDAA sec. 5203(f).

### **§ 13.47 Limitations**

DHS updates this section to reflect the new statute of limitation in the AFCA. Specifically, the statute extends the 6-year statute of limitations to up to 10 years in circumstances where the *Authority Head* was not aware of the violation, provided the notice is sent within 3 years of the *Authority Head* learning of the violation. NDAA sec. 5203(h).

### **Technical Changes**

DHS makes non-substantive and technical changes throughout Part 13. Specifically, DHS updates the reference to the AFCA from the PFRCA, clarifies DHS’s procedures, and updates references to the new *Presiding Officer* definition.

## **III. Statutory and Regulatory Requirements**

### **A. Administrative Procedure Act**

DHS has issued this final rule without prior notice and opportunity for comment because this is a rule of agency organization, procedure, or practice (“procedural rule”). *See* 5 U.S.C. 553(b)(A). DHS further finds good cause under the APA to issue this rule without prior notice and comment and for immediate effect because comments would be unnecessary under 5 U.S.C. 553(b)(B). The procedural-rule exception “covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency.” *JEM Broad. Co., Inc. v. FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994) (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980)); *see also* *Mendoza v. Perez*, 754 F.3d 1002, 1023-24 (D.C. Cir. 2014); *Am. Hosp. Ass’n v. Bowen*, 834 F.2d 1037, 1047 (D.C. Cir. 1987) (holding that procedural rules are those that do not “encode a substantive value judgment or put a stamp of approval or disapproval on a given type of behavior”).

This final rule merely updates DHS' existing regulations to reflect the statutory changes made by the FY 2025 NDAA and to make other minor hearing procedure changes. DHS has no discretion in the statutory changes. DHS does not make substantive policy choices or imposed obligations beyond those required by statute. The other changes are procedural in nature and increase clarity for the public, but do not have a substantive impact on the public. Accordingly, notice and comment is unnecessary and delaying the rule's effective date would not meaningfully enhance public participation or implementation. Accordingly, DHS is proceeding without advance notice and opportunity for comment. In addition, swift implementation ensures that DHS can promptly address fraudulent claims and so protect federal funds.

**B. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)**

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review), direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that "any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.

The Office of Management and Budget (OMB) has not designated this rule a "significant regulatory action," under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it.

This rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866. See OMB Memorandum M-25-20, "Guidance Implementing Section 3 of Executive Order 14192, titled 'Unleashing Prosperity Through

Deregulation” (Mar. 26, 2025).

### **C. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The RFA’s regulatory flexibility analysis requirements apply only to those rules for which an agency is required to publish a general notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other law. See 5 U.S.C. 604(a). DHS did not issue a notice of proposed rulemaking for this action. Therefore, a regulatory flexibility analysis is not required for this rule. Nonetheless, DHS has determined that this rule will not have a significant economic impact on a substantial number of small entities. This rule is purely procedural.

### **D. Unfunded Mandates Reform Act of 1995**

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which the agency published a proposed rule, which includes any Federal mandate that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. The inflation adjusted value of \$100 million in 1995 is approximately \$200 million in 2023 based on the Consumer Price Index for All Urban Consumers (CPI-U). This final rule is exempt from the written statement requirement, because DHS did not publish a notice of proposed rulemaking for this rule. In addition, this final rule does not contain a Federal mandate as the term is defined under UMRA. The requirements of title II of UMRA, therefore, do not apply, and DHS has not prepared a statement under UMRA.

**E. Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act)**

This final rule is not a “rule” as defined by the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121. See 5 U.S.C. 804(3)(C) (defining the term “rule” to exclude “any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties”). DHS will nonetheless submit this final rule to both houses of Congress and the Comptroller General before the rule takes effect.

**F. Executive Order 13132 (Federalism)**

This final rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of E.O. 13132, Federalism, 64 FR 43255 (Aug. 4, 1999), this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

**G. Executive Order 12988 (Civil Justice Reform)**

This final rule was drafted and reviewed in accordance with E.O. 12988, Civil Justice Reform. This final rule was written to provide a clear legal standard for affected conduct and was reviewed carefully to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. DHS has determined that this rule meets the applicable standards provided in section 3 of E.O. 12988.

**H. Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)**

This final rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the

Federal Government and Indian Tribes.

## I. National Environmental Policy Act

DHS and its components analyze final actions to determine whether the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, applies to them and, if so, what degree of analysis is required. DHS Directive 023-01 Rev. 01 and Instruction Manual 023-01-001-01 Rev. 01 (Instruction Manual)<sup>6</sup> establish the policies and procedures that DHS and its components use to comply with NEPA, 42 U.S.C. 4321 *et seq.*<sup>7</sup>

NEPA allows Federal agencies to establish categories of actions (“categorical exclusions”) that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment (EA) or environmental impact statement (EIS).<sup>8</sup> *See* 42 U.S.C. 4336(a)(2), 4336e(1). The Instruction Manual, Appendix A lists the DHS Categorical Exclusions.<sup>9</sup>

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.<sup>10</sup>

This rule amends DHS’s existing regulations at 6 CFR part 13 to update the procedural requirements for assessing administrative false claim penalties. DHS has reviewed the rule and finds that the rule is of a strictly administrative or procedural nature, and that no significant

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<sup>6</sup> The Instruction Manual contains DHS’s procedures for implementing NEPA and was issued November 6, 2014, available at <https://www.dhs.gov/publication/directive-023-01-rev-01-and-instruction-manual-023-01-001-01-rev-01-and-catex>.

<sup>7</sup> The Council on Environmental Quality (CEQ) regulations, 40 CFR parts 1500 through 1508, also discuss NEPA implementing procedures. DHS is aware of the November 12, 2024 decision in *Marin Audubon Society v. FAA*, 121 F.4th 902 (D.C. Cir. 2024), *reh’g en banc denied*, No. 23-1067, 2025 WL 374897 (D.C. Cir. Jan. 31, 2025). To the extent that a court may conclude that the CEQ regulations implementing NEPA are not judicially enforceable or binding on this agency action, DHS notes that its NEPA procedures and approach here are fully consistent with the NEPA statute in addition to being consistent with the CEQ regulations. Even in the absence of the CEQ regulations, DHS would proceed as it has here.

<sup>8</sup> *See also* 40 CFR 1507.3(e)(2)(ii) and 1501.4.

<sup>9</sup> *See* Appendix A, Table 1.

<sup>10</sup> *Instruction Manual 023-01* at V.B(2)(a)–(c).

impact on the environment, or any change in environmental effect will result from the rule.

Accordingly, DHS finds that the promulgation of this final rule's amendments clearly fits within categorical exclusion A3 established in DHS's NEPA implementing procedures as an administrative change with no change in environmental effect, is not part of a larger federal action, and does not present extraordinary circumstances that create the potential for a significant environmental effect.

#### **J. Paperwork Reduction Act**

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

#### **List of Subjects in 6 CFR Part 13**

Administrative practice and procedure, Claims, Fraud, Penalties.

For the reasons stated in the preamble, DHS amends 6 CFR part 13 as follows:

#### **PART 13 – ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS**

1. The authority citation for part 13 continues to read as follows:

**Authority:** Pub. L. 107-296, 116 Stat. 2135 (6 U.S.C., Ch. 1, sections 101 et seq.); 5 U.S.C. 301; 31 U.S.C. 3801-3812.

2. The heading for part 13 is revised to read as set forth above.

3. Amend § 13.1 by:

a. Revising paragraph (a); and

b. Removing paragraph (d).

The revision reads as follows:

#### **§ 13.1 Basis, purpose, scope and effect.**

(a) *Basis.* This part implements the Administrative False Claims Act, as established by Pub. L. 118-159, 138 Stat. 2440 (Dec. 23, 2024), to be codified at 31 U.S.C. 3801-3812. Section 3809 of title 31, United States Code, requires each authority to promulgate regulations necessary to implement the provisions of the statute.

\* \* \* \* \*

4. Amend § 13.2 by:

a. Revising paragraphs (a) and (e)(3);

b. Redesignating paragraphs (n), (o), (p), and (q) as paragraphs (p), (r), (s), and (t), respectively;

c. Adding new paragraphs (n), (o), and (q); and

d. Revising newly redesignated paragraphs (r) and (s).

The revisions and additions read as follows:

**§ 13.2 Definitions.**

\* \* \* \* \*

(a) *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.

\* \* \* \* \*

(e) \* \* \*

(3) Made to the Authority which has the effect of concealing or improperly avoiding or decreasing an obligation to pay or transmit property, services, or money to the authority, except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1986.

\* \* \* \* \*

(n) *Material* has the meaning given the term in 31 U.S.C. 3729(b).

(o) *Obligation* has the meaning given the term in 31 U.S.C. 3729(b).

\* \* \* \* \*

(q) *Presiding Officer* means a member of the board of contract appeals pursuant to 41 U.S.C. 7105, except when the Department of Homeland Security (DHS) employs an available ALJ under 31 U.S.C. 3801(a)(7).

(r) *Representative of the Defendant* means an attorney who is a member in good standing of the bar of any State, Territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. This definition is not intended to foreclose pro se appearances. That is, an Individual may appear for himself or herself, and a corporation or other entity may appear by an owner, officer, or employee of the corporation or entity.

(s) *Reviewing Official* means the General Counsel of the Department of Homeland Security, or other officer or employee of the Department who is designated by the General Counsel and eligible under 31 U.S.C. 3801(a)(8). For purposes of this part, the Associate General Counsel, General Law, or designee, is designated legal counsel to the Reviewing Official.

\* \* \* \* \*

5. Amend § 13.3 by revising paragraphs (a)(5) and (b)(1)(i)(B) to read as follows:

**§ 13.3 Basis for civil penalties and assessments.**

(a) \* \* \*

(5) If the Government has Made any payment (including transferred property or provided services) on a Claim, a Person subject to a civil penalty under paragraph (a)(1) of this section will also be subject to an assessment of not more than twice the amount of such Claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Except for cases under 31 U.S.C. 3801(a)(3)(C), such assessment will be in lieu of damages sustained by the Government because of such Claim.

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) Omits a material fact, resulting in a false, fictitious, or fraudulent Statement, where the Person making, presenting, or submitting it had a duty to include such material fact; and

\* \* \* \* \*

6. Amend § 13.6 by:

a. In paragraph (a)(2), removing the amount “\$150,000” and adding in its place the amount “\$1,000,000”; and

b. Adding paragraph (d).

The addition reads as follows:

**§ 13.6 Prerequisites for issuing a Complaint.**

\* \* \* \* \*

(d) The maximum amount in paragraph (a)(2) of this section shall be adjusted for inflation in the same manner and to the same extent as civil monetary penalties under the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. 2461).

**§ 13.8 [AMENDED]**

7. Amend § 13.8 in paragraph (a) by adding at the end of the first sentence the words “or the Rules of Procedure of the Civilian Board of Contract Appeals (Board Rules) when the Presiding Officer is a board judge”.

8. Revise § 13.13 to read as follows:

**§ 13.13 Parties to the hearing.**

The parties to the hearing will be the Defendant and the Authority.

**§ 13.14 [AMENDED]**

9. Amend § 13.14 in paragraphs (a)(1) and (b) by removing the word “ALJ” and adding in its place the words “Presiding Officer”.

**§ 13.15 [AMENDED]**

10. Amend § 13.15 by:

a. Removing the words “ALJ’s office” and adding in their place the words “Presiding Officer’s office”; and

b. Removing the word “ALJ” adding in its place the words “Presiding Officer”.

11. Amend § 13.16 by:

- a. Revising the section heading;
- b. Removing the word “ALJ” wherever it appears and adding in its place the words “Presiding Officer”;
- c. Adding a sentence to the end of paragraph (d); and
- d. Revising paragraph (e)(2).

The revisions and addition read as follows:

**§ 13.16 Disqualification of Reviewing Official or Presiding Officer.**

\* \* \* \* \*

(d) \* \* \* \* \* The Reviewing Official or Presiding Officer may request additional information to support an affidavit found to lack specific facts that support the party's belief that personal bias or other reason for disqualification exists.

(e) \* \* \*

(2) If the Presiding Officer disqualifies himself or herself, the case will be reassigned promptly to another Presiding Officer. If a board judge disqualifies himself or herself, the case will be reassigned in accordance with relevant Board Rules.

\* \* \* \* \*

12. Revise § 13.45 to read as follows:

**§ 13.45 Deposit in Treasury of United States.**

(a)(1) Any amount collected under this part shall be credited first to reimburse the authority or other Federal entity that expended costs in support of the investigation or prosecution of the action, including any court or hearing costs; and

(2) Amounts reimbursed shall remain available until expended and be deposited in:

(i) The appropriations account of the authority or other Federal entity from which the costs described in paragraph (a)(1) of this section were obligated;

(ii) A similar appropriations account of the authority or other Federal entity; or

(iii) If the authority or other Federal entity expended nonappropriated funds, another appropriate account.

(b) Any amount remaining after reimbursements described in paragraph (a)(1) of this section shall be deposited as miscellaneous receipts in the Treasury of the United States.

13. Amend § 13.46 by:

a. In paragraphs (b) and (c), removing the word “ALJ” and adding in its place the words “Presiding Officer”;

b. Redesignating paragraph (f) as paragraph (g); and

c. Adding a new paragraph (f).

The addition reads as follows:

**§ 13.46 Compromise or settlement.**

\* \* \* \* \*

(f) The reviewing official must notify the Attorney General in writing not later than 30 days before entering into any agreement to compromise or settle allegations of liability under 31 U.S.C. 3802 and before the date on which the reviewing official is permitted to refer allegations of liability to a Presiding Officer under 31 U.S.C. 3803(b).

\* \* \* \* \*

14. Amend § 13.47 by revising paragraph (a) and adding paragraph (d) to read as follows:

**§ 13.47 Limitations.**

(a) The notice of hearing with respect to a Claim or Statement must be served in the manner specified in § 13.8 not later than the later of:

(1) 6 years after the date on which such Claim or Statement is Made; or

(2) 3 years after the date on which facts material to the action are known or reasonably should have been known by the authority head, but in no event more than 10 years after the date on which the violation is committed.

\* \* \* \* \*

(d) To the extent not inconsistent with statute, the Presiding Officer may modify hearing procedures to be consistent with this part in accordance with the Civilian Board of Contract Appeals or ALJ Rules of Procedure.

**§§ 13.9 through 13.12, 13.17 through 13.19, 13.21 through 13.24, 13.26, and 13.28 through 13.39 [AMENDED]**

15. In addition to the amendments set forth above, in 6 CFR part 13, remove the word “ALJ” wherever it appears and add in its place the words “Presiding Officer” in the following sections:

- a. Section 13.9;
- b. Section 13.10;
- c. Section 13.11;
- d. Section 13.12;
- e. Section 13.17;
- f. Section 13.18;
- g. Section 13.19;
- h. Section 13.21;
- i. Section 13.22;
- j. Section 13.23;
- k. Section 13.24;
- l. Section 13.26;
- m. Section 13.28;
- n. Section 13.29;
- o. Section 13.30;
- p. Section 13.31;
- q. Section 13.32;
- r. Section 13.33;
- s. Section 13.34;

- t. Section 13.35;
- u. Section 13.36;
- v. Section 13.37;
- w. Section 13.38; and
- x. Section 13.39.

**Kristi Noem,**  
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