

(b) Respondent in a NEA suspension or debarment action.

(c) NEA debarment or suspension official;

(d) NEA grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction;

§ 3254.30 What policies and procedures must I follow?

The NEA policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in Subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by section 220 of the OMB guidance (i.e., 2 CFR 180.220) as supplemented by section 220 in this part (i.e., § 3254.220). For any section of OMB guidance in Subparts A through I of 2 CFR 180 that has no corresponding section in this part, NEA policies and procedures are those in the OMB guidance.

Subpart A—General

§ 3254.137 Who in the NEA may grant an exception to let an excluded person participate in a covered transaction?

The NEA Chairman has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB guidance at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 3254.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB guidance at 2 CFR 180.220(c) allows a Federal agency to do so (also see options lower tier coverage in the figure in the Appendix to 2 CFR part 180), NEA does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions
§ 3254.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with Subpart C of the OMB guidance in 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 3254.437 What method do I use to communicate to a participant the requirements described in the OMB guidance at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435 of the OMB guidance, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by Subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subpart E—I [Reserved]

Title 45 Public Welfare—Chapter XI—National Endowment for the Arts

PART 1154—[REMOVED]

■ 2. Under authority Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235) part 1154 is removed.

Dated: January 31, 2007.

Karen Elias,

Acting General Counsel, National Endowment for the Arts.

[FR Doc. 07–576 Filed 2–8–07; 8:45 am]

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OFFICE OF PERSONNEL MANAGEMENT

[3206–AL05]

5 CFR Part 950

Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations—Eligibility and Public Accountability Standards

AGENCY: Office of Personnel Management.

ACTION: Final rule, Technical Amendment.

SUMMARY: The Office of Personnel Management (OPM) is making a technical amendment to the final regulations concerning the Combined Federal Campaign (CFC). This technical amendment corrects the final rule issued on November 20, 2006 by re-inserting text that was erroneously removed.

FOR FURTHER INFORMATION CONTACT: Mark W. Lambert by telephone at (202) 606–2564; by FAX at (202) 606–5056; or by e-mail at cfc@opm.gov.

DATES: This technical amendment is effective on February 9, 2007.

SUPPLEMENTARY INFORMATION: In the final regulations issued on November 20, 2006, OPM erroneously removed regulatory text in 5 CFR 950.203(a)(1) that had required a charitable organization applying to participate in the CFC to provide, in addition to its certification, “documentation describing the health and human welfare benefits provided by the organization within the previous year.” Although OPM has changed the manner in which it collects this documentation (as of 2007, it is included on the “Statement of Services” Attachment A to the application whereas in previous years it was a separate attachment to the application), OPM did not intend to remove the regulatory provision. As stated in the Supplementary Information to both the Proposed Rule, 71 FR 37003 (June 29, 2006) and the Final Rule, “no changes were proposed to this standard and it remains the same as the existing regulation.” 71 FR 67276, 67277 (November 20, 2006). The denotation “(a) * * *” regarding regulatory changes under section 950.203 Public Accountability Standards, similarly indicates OPM’s intention to retain the provision at 5 CFR 950.203(a)(1) as it had previously existed. OPM believes that this documentation is an important requirement to ensure that only organizations that are currently providing human health and welfare services are admitted to participate in the CFC. As such, OPM is re-inserting this provision into the regulations via this technical amendment.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. Charitable organizations applying to the CFC have an existing, independent obligation to comply with the eligibility and public accountability standards contained in current CFC regulations. This technical amendment will not cause significant additional burden.

List of Subjects in 5 CFR Part 950

Administrative practice and procedures, Charitable contributions, Government employees, Military personnel, Nonprofit organizations and Reporting and recordkeeping requirements.

Office of Personnel Management.

Linda M. Springer,
Director, U.S. Office of Personnel Management.

■ Accordingly, OPM amends 5 CFR part 950 as follows:

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

■ 1. The authority citation for part 950 continues to read as follows:

Authority: E.O. 12353 (March 23, 1982), 47 FR 12785 (March 25, 1982). 3 CFR, 1982 Comp., p. 139. E.O. 12404 (February 10, 1983), 48 FR 6685 (February 15, 1983), Pub. L. 100–202, and Pub. L. 102–393 (5 U.S.C. 1101 Note).

■ 2. Amend § 950.203 to revise paragraph (a)(1) to read as follows:

§ 950.203 Public accountability standards.

(a) * * *

(1) Certify that the organization is a human health and welfare organization providing services, benefits, or assistance to, or conducting activities affecting, human health and welfare. The organization's application must provide documentation describing the health and human welfare benefits provided by the organization within the previous year.

* * * * *

[FR Doc. E7–2160 Filed 2–8–07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 13

[DHS–2005–0059]

RIN 1601–AA11

Program Fraud Civil Remedies

AGENCY: Office of the Secretary, DHS.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, the Program Fraud Civil Penalties interim rule published by the Department of Homeland Security (DHS) on October 12, 2005. This rule finalizes uniform administrative procedures for DHS to implement the Program Fraud Civil Remedies Act of 1986 (the Act).

DATES: The interim rule is adopted as final as of March 12, 2007.

FOR FURTHER INFORMATION CONTACT:

Michael Russell, Acting Deputy Associate General Counsel, Division of General Law, Office of the General Counsel, Department of Homeland Security, Washington, DC 20528. Telephone: 202–205–4634 or facsimile:

202–772–9735, not toll free calls; or e-mail: michael.d.russell@dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Program Fraud Civil Remedies Act of 1986, codified at 31 U.S.C. 3801–3812 and adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), establishes an administrative remedy against anyone who makes a false Claim or written Statement to any of certain Federal agencies, including DHS. In brief, any person who submits a Claim or written Statement to an affected agency knowing or having reason to know that it is false, fictitious, or fraudulent, is liable for a penalty of up to \$5,500 per false Claim or Statement and, in addition, with respect to Claims, for an assessment of up to double the amount falsely Claimed. The Act requires each affected Federal agency to publish rules and regulations necessary to implement the provisions of the Act. 31 U.S.C. 3809.

The interim rule, published on October 12, 2005, at 70 FR 59209, contains 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. The final rule adopts those regulations as final.

II. Comment on the Interim Rule

DHS solicited public comments on the interim rule and the comment period closed on November 15, 2005. DHS received one comment. The commenter expressed concern that the penalty of \$5,500 per false Claim or Statement is far too low, because, the commenter asserted, the cost to the government for fraud exceeds this amount. The Act being implemented here limits the penalty and DHS is not authorized to exceed those limitations. The commenter also expressed concerns about how the government gives out money generally; these comments were beyond the scope of the rulemaking because the rule is limited to implementing the Program Fraud and Civil Remedies Act of 1986, and did not address government grant programs generally, or individual eligibility issues.

III. Regulatory Analyses

Executive Order 12866

This final rule is considered by DHS to be a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review. 58 FR 51735, October 4, 1993 (Executive Order). Under Executive Order 12866 a significant regulatory action is subject to an Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Executive Order defines “significant regulatory action” as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$ 100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. As discussed in the interim rule, because this rule announces procedures for a unique and relatively new cabinet-level department, and because DHS engages in uncommon relief and assistance efforts such as those following Hurricane Katrina, this rule may raise novel policy issues. 70 FR 59209, 59211 (Oct. 12, 2005). Accordingly, the rule was reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) mandates that an agency conduct an RFA analysis when an agency is “required by section 553 * * *, or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for interpretative rule involving the internal revenue laws of the United States * * *.” 5 U.S.C. 603(a). RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). DHS determined that good cause existed under 5 U.S.C. 553(b)(B) to exempt this rule from the notice and comment requirements of 5 U.S.C. 553(b). See 70 FR 59209, 59210 (Oct. 12, 2005). Therefore, no RFA analysis under 5 U.S.C. 603 is required for this rule.