Employment and Training Administration, Labor

§ 636.8

(f) Criminal investigation. Notwithstanding any other provision of this part, investigation by the Department of any matter concerning a potential Federal criminal violation shall be conducted as the Inspector General shall direct pursuant to the powers granted by the Inspector General Act of 1978, Pub. L. 95–452, 92 Stat. 1101.

§ 636.7 Subpoenas.

(a) Subpoenas in non-Inspector General investigations. (1) The Department, through the appropriate Assistant Secretary, may issue a subpoena directing the person named therein to appear before a designated representative at a designated time and place to verify or to produce documentary evidence, or both, relating to any matter arising under the Act being investigated. The Assistant Secretary, Solicitor or the Associate Solicitor for Employment and Training Legal Services, for good cause shown, may extend the time prescribed for compliance with such subpoenas.

(2) Any motion to limit or quash any investigational subpoena shall be filed with the Chief Administrative Law Judge within 10 days after service of the subpoena, or, if the return date is less than 10 days after service of the subpoena, within such other time as may be allowed by the assigned Administrative Law Judge.

(3) The timely filing of a motion to limit or quash any investigational subpoena shall be filed with the Chief Administrative Law Judge within 10 days after service of the subpoena, or, if the return date is less than 10 days after service of the subpoena, within such other time as may be allowed by the assigned Administrative Law Judge.

(4) All motions to limit or quash investigational subpoenas, and the responses thereto, shall be part of the public record of the Office of the Administrative Law Judges except as otherwise ordered or provided under these regulations.

(b) Noncompliance. (1) In cases of failure to comply with compulsory processes, appropriate action may be initiated including actions for enforcement, forfeiture, penalties or criminal actions.

(2) The Solicitor of Labor, with the consent of the Attorney General, may:

(i) Institute in the appropriate district court on behalf of the Department an enforcement proceeding in connection with the failure or refusal of a person, partnership, corporation, recipient or other entity to comply with or to obey a subpoena if the return date or any extension thereof has passed; or

(ii) Request on behalf of the Department the institution of civil actions, as appropriate, if the return date or any extension thereof has passed including seeking civil contempt in cases where a court order enforcing compulsory process has been violated.

§ 636.8 Initial and final determination; request for hearing at the Federal level.

(a) Initial determination. Upon the conclusion of a review of the entire administrative record of an investigation conducted pursuant to §636.6 or after the conclusion of the comment period for audits, the Grant Officer shall make an initial determination of the matter in controversy including the allowability of questioned costs or activities. Such determination shall be based upon the requirements of the Act, regulations, grants or other agreements, under the Act. The determination may conclude either:

(1) That based upon the entire record there is no violation of the Act, regulations, grants or other agreements under the Act; or

(2) That there is evidence to support the allegation, or finding of questioned costs or activities.

(b) Contents of initial determination. (1) In the event that the Grant Officer makes a finding that there is evidence to support the allegation of a violation the initial determination shall:

(i) Be in writing;

(ii) State the basis of the determination, including factual findings and conclusions;

(iii) Specify the costs or activities disallowed;

(iv) Specify the corrective actions required and/or that sanctions may be imposed; and

(v) Give notice of an opportunity for informal resolution of the matters as necessary to the appropriate parties, which should include all interested parties specified by the Grant Officer.
§ 636.9 Opportunity for informal review.

(a) Parties to a complaint under §636.10 may choose to waive their rights to an administrative hearing before the Office of Administrative Law Judges (OALJ) by choosing to transfer the settlement of their dispute to an individual acceptable to all parties for the purpose of conducting an informal review of the stipulated facts and rendering a decision in accordance with applicable law. A written decision will be issued within 60 days after the matter is submitted for informal review.

(b) The waiver of the right to request a hearing before the OALJ will automatically be revoked if a settlement has not been reached within the 60 days provided in paragraph (a) of this section.

(c) The decision rendered under this informal review process shall be treated as a final decision of an Administrative Law Judge pursuant to section 166(b) of the Act.

§ 636.10 Hearings before the Office of Administrative Law Judges.

(a) Jurisdiction. (1) Within 21 days of receipt of the Grant Officer’s final determination, except for determinations under §636.8(e)(3) dismissing the complaint without an opportunity to request a hearing, or on the expiration of

(ii) List those matters upon which the parties continue to disagree;

(iii) List any modifications to the factual findings and conclusions set in the initial determination;

(iv) List any sanctions, and required corrective actions, including any other alteration or modification of the plan, grant, agreement or program ordered by the Grant Officer; and

(v) Inform the parties of their opportunity to request a hearing pursuant to these regulations.

(3) If it is determined in the final notice that the complaint does not allege and/or the evidence does not indicate that there is reason to believe there may have been a violation of the Act, regulations, grants or other agreements under the Act, the Grant Officer shall dismiss the complaint without an offer of a hearing. Such dismissal shall constitute final agency action.

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(a) Parties to a complaint under §636.10 may choose to waive their rights to an administrative hearing before the Office of Administrative Law Judges (OALJ) by choosing to transfer the settlement of their dispute to an individual acceptable to all parties for the purpose of conducting an informal review of the stipulated facts and rendering a decision in accordance with applicable law. A written decision will be issued within 60 days after the matter is submitted for informal review.

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