

(c) Nothing in this section shall preclude or limit the investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act, 31 U.S.C. 3729–3731, or for other civil relief, or to preclude or limit such official's discretion to defer or postpone a report or referral to avoid interference with an investigation into criminal misconduct or a criminal prosecution.

(d) Nothing in this section modifies any responsibility of the investigating official to report violations of criminal law to the Attorney General.

§ 16.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 16.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 16.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 16.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value, if any, of property, services, or other benefits requested or demanded in violation of § 16.3 of this part; or, if no monetary value can be put on the property, service or benefit, a statement regarding the non-monetary consequences to the agency of a false statement.

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known or an absence of any information indicating that the person may be unable to pay such an amount.

§ 16.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 16.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1), and

(2) In the case of allegations of liability under § 16.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 16.3(a) does not exceed \$150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (e.g., grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person, claims that are unrelated or were not submitted simultaneously, regardless of the amount of money or the value of property or services demanded or requested, as long as the total amount for each claim does not exceed \$150,000.

§ 16.7 Complaint.

(a) On or after the date the Attorney General or his designee approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 16.8.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;