

§ 13.6

6 CFR Ch. I (1–1–10 Edition)

§ 13.6 Prerequisites for issuing a Complaint.

(a) The Reviewing Official may issue a Complaint under § 13.7 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 § 13.3(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 § 13.3(a) does not exceed \$150,000.

(b) For the purposes of this section, a related group of Claims submitted at the same time will 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 will be construed to limit the Reviewing Official's authority to join in a single Complaint against a Person's 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.

§ 13.7 Complaint.

(a) On or after the date the Department of Justice 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 § 13.8.

(b) The Complaint will 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;

(3) Instructions for filing an answer to request a hearing, including a specific Statement of the Defendant's

right to request a hearing by filing an answer and to be represented by a Representative; and

(4) That failure to file an answer within 30 days of service of the Complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal, as provided in § 13.10.

(5) That the Defendant may obtain copies of relevant material and exculpatory information pursuant to the process outlined in § 13.20.

(c) At the same time the Reviewing Official serves the Complaint, he or she will serve the Defendant with a copy of the regulations in this part.

§ 13.8 Service of Complaint.

(a) Service of a Complaint must be Made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure. Service of a Complaint is complete upon receipt.

(b) Proof of service, stating the name and address of the Person on whom the Complaint was served, and the manner and date of service, may be Made by:

(1) Affidavit of the Individual serving the Complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the Defendant or his or her Representative; or

(4) In case of service abroad, authentication in accordance with the Convention on Service Abroad of Judicial and Extrajudicial Documents in Commercial and Civil Matters.

§ 13.9 Answer.

(a) The Defendant may request a hearing by serving an answer on the Reviewing Official within 30 days of service of the Complaint. Service of an answer will be Made by delivering a copy to the Reviewing Official or by placing a copy in the United States mail, postage prepaid and addressed to the Reviewing Official. Service of an answer is complete upon such delivery or mailing. An answer will be deemed to be a request for hearing.

(b) In the answer, the Defendant: