

§ 1230.405

(b) Any person who fails to file or amend the disclosure form (see Appendix B) to be filed or amended if required herein, shall be subject to a civil penalty of not less than \$23,728 and not more than \$237,267 for each such failure.

(c) A filing or amended filing on or after the date on which an administrative action for the imposition of a civil penalty is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. An administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

(d) In determining whether to impose a civil penalty, and the amount of any such penalty, by reason of a violation by any person, the agency shall consider the nature, circumstances, extent, and gravity of the violation, the effect on the ability of such person to continue in business, any prior violations by such person, the degree of culpability of such person, the ability of the person to pay the penalty, and such other matters as may be appropriate.

(e) First offenders under paragraph (a) or (b) of this section shall be subject to a civil penalty of \$23,728, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between \$23,728 and \$237,267, as determined by the agency head or his or her designee.

(f) An imposition of a civil penalty under this section does not prevent the United States from seeking any other remedy that may apply to the same conduct that is the basis for the imposition of such civil penalty.

[55 FR 6737, 6755, Feb. 26, 1990, as amended at 81 FR 40820, June 23, 2016; 82 FR 1607, Jan. 6, 2017; 83 FR 2075, Jan. 16, 2018; 83 FR 67097, Dec. 28, 2018; 84 FR 70903, Dec. 26, 2019; 86 FR 13823, Mar. 11, 2021; 87 FR 2729, Jan. 19, 2022; 88 FR 3930, Jan. 23, 2023]

§ 1230.405 Penalty procedures.

Agencies shall impose and collect civil penalties pursuant to the provisions of the Program Fraud and Civil Remedies Act, 31 U.S.C. sections 3803 (except subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812, insofar as these pro-

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visions are not inconsistent with the requirements herein.

§ 1230.410 Enforcement.

The head of each agency shall take such actions as are necessary to ensure that the provisions herein are vigorously implemented and enforced in that agency.

Subpart E—Exemptions

§ 1230.500 Secretary of Defense.

(a) The Secretary of Defense may exempt, on a case-by-case basis, a covered Federal action from the prohibition whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such a determination.

(b) The Department of Defense may issue supplemental regulations to implement paragraph (a) of this section.

Subpart F—Agency Reports

§ 1230.600 Semi-annual compilation.

(a) The head of each agency shall collect and compile the disclosure reports (see Appendix B) and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained in the disclosure reports received during the six-month period ending on March 31 or September 30, respectively, of that year.

(b) The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

(c) Information that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees. Such information shall not be available for public inspection.