

§ 1174.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Any person shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each claim that person makes that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the authority, recipient, or party when such a claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision of a State, acting for or on behalf of the authority.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section may also be subject to an assessment of not more than twice the amount of that claim or the portion thereof that violates paragraph (a)(1) of this section. Such assessment shall be in lieu of damages that the Government sustained because of such a claim.

(b) *Statements.* (1) Any person shall be subject, in addition to any other remedy prescribed by law, to a civil penalty of not more than \$5,000 for each written statement that person makes that the person knows or has reason to know—

(i) Asserts a material fact which is false, fictitious or fraudulent; or

(ii) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such a statement; and

(iii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the statement's contents.

(2) A person will only be subject to a civil penalty under paragraph (b)(1) of this section if the written statement made by the person contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the statement's contents.

(3) Each written representation, certification, or affirmation constitutes a separate statement.

(4) A statement shall be considered made to the authority when it is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision of a State, acting for or on behalf of the authority.

(c) Proof of specific intent to defraud is not required to establish liability under this section.

(d) In any case in which more than one person is liable for making a false, fictitious, or fraudulent claim or statement under this section, each person may be held liable for a civil penalty and assessment.

(e) In any case in which more than one person is liable for making a claim under this section on which the Government has made payment, the authority may impose an assessment against any such person or jointly and severally against any combination of persons.

(f) *Civil monetary penalty inflation adjustments.* (1) The penalty amounts provided in table 1 to this paragraph (f) apply to violations of this section that occurred prior to December 31, 2023, with each row listing the penalty amounts for violations that occurred in a particular time frame.

(2) For claims or statements made on or after January 1, 2024, the maximum penalty which may be assessed under this section is the larger of:

(i) The amount for the previous calendar year; or

(ii) An amount adjusted for inflation, calculated by multiplying the amount for the previous calendar year by the percentage by which the Consumer Price Index for All Urban Consumers published by the Department of Labor (CPI-U) for the month of October preceding the current calendar year exceeds the CPI-U for the month of October of the calendar year two years prior to the current calendar year, adding that amount to the amount for the previous calendar year, and rounding the total to the nearest dollar.

Table 1 to Paragraph (f)—Civil Monetary  
Penalty Inflation Adjustments for Violations  
Prior to December 31, 2023

<b>Date of violation</b>	<b>Penalty</b>
October 14, 2008-December 31, 2015	\$5,000
January 1, 2016-December 31, 2016	10,781
January 1, 2017-December 31, 2017	10,957
January 1, 2018-December 31, 2018	11,181
January 1, 2019-December 31, 2019	11,463

<b>Date of violation</b>	<b>Penalty</b>
January 1, 2020-December 31, 2020	11,665
January 1, 2021-December 31, 2021	11,803
January 1, 2022-December 31, 2022	12,537
January 1, 2023-December 31, 2023	13,508

(g) *Notice of civil monetary penalty inflation adjustments on or after January 1, 2024.* The authority will publish in the Federal Register notice of the maximum penalty amount which may be assessed under this section for calendar years after 2023 (calculated using the formula in paragraph (f)(2) of this section) on an annual basis on or before January 15 of each calendar year.

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