

grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, SSA may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements,

(2) Withholding advance payments otherwise due to the grantee, or

(3) Other action permitted by law.

(b) Except where otherwise provided by statutes or regulations, SSA will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR chapter II). Litigation or the filing of any form of appeal does not extend the date from which interest is computed.

Subpart E—Entitlement [Reserved]

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 438

RIN 0960–AE29

Restrictions on Lobbying

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: These final rules establish new regulations dealing with the restrictions on lobbying contained in the Common Rule, “New Restrictions on Lobbying,” commonly referred to as the Byrd Anti-Lobbying Amendment common rule. The Social Security Independence and Program Improvements Act of 1994 established SSA as an independent agency separate from the Department of Health and Human Services (HHS), effective on March 31, 1995. To implement our own set of grants regulations, we have essentially codified the text of the Common Rule. These final rules, along with the final rules we are publishing elsewhere in today’s **Federal Register**, establish SSA grants regulations, separate from those of HHS, effective upon publication.

EFFECTIVE DATE: These final rules are effective May 27, 2003.

FOR FURTHER INFORMATION CONTACT: Phyllis Y. Smith, Chief Grants Management Officer, Office of Operations Contracts and Grants, Office of Acquisition and Grants, SSA, 1710 Gwynn Oak Ave., Baltimore, MD 21207–5279; telephone (410) 965–9518; FAX (410) 966–9310.

SUPPLEMENTARY INFORMATION:

I. Background

Section 319 of Pub. L. 101–121, enacted October 23, 1989, amended title 31, United States Code, by adding a new section 1352, entitled “Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions,” commonly known as the Byrd Anti-Lobbying Amendment. This law prohibits the recipient of a Federal contract, grant, loan or cooperative agreement from using appropriated funds to pay any person to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions:

- The awarding of any Federal contract,
- The making of any Federal grant,
- The making of any Federal loan,
- The entering into of any cooperative agreement, and
- The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

The law also imposes requirements for disclosure and certification related to lobbying by recipients of any of the covered Federal actions. As called for by section 319 of Public Law 101–121, on December 18, 1989 (published December 20, 1989), the Office of Management and Budget (OMB) issued interim final guidance entitled “Governmentwide Guidance for New Restrictions on Lobbying,” which called for governmentwide implementation of, and compliance with, the requirements of section 1352.

HHS implements the provisions of the Byrd Anti-Lobbying Amendment common rule through its regulations at 45 CFR part 93. Prior to March 31, 1995, SSA was an operating component of HHS. As a result of Public Law 103–296, SSA became an independent agency on March 31, 1995. However, pursuant to section 106(b) of that law, the HHS regulations at 45 CFR part 93 have remained applicable to SSA. In order to implement our own set of grants regulations dealing with lobbying, we are essentially adopting the text of the anti-lobbying common rule at 20 CFR part 438. Part 438 is similar in all material respects to 45 CFR part 93 and to the governmentwide anti-lobbying common rule, which implements the requirements of section 319, Public Law 101–121 (31 U.S.C. 1352). HHS regulations at 45 CFR part 93 will cease to be applicable to SSA on the effective

date of these regulations, in accordance with section 106(b) of Public Law 103–296.

II. Differences Between Part 438 and Common Rule/Part 93

A. In § 438.100(a), we have corrected the spelling of the word “agreement” where it is initially used in the term “cooperative agreement.”

B. In the second sentence of § 408.300(c), we have changed the word “or” to “of.” The sentence properly reads “For example, drafting of a legal document accompanying a bid * * *.”

C. Throughout new part 438, we have replaced, where appropriate, references to “awarding agency(ies)” with references to SSA. We have also made numerous nonsubstantive changes to make these rules easier for the public to read and understand.

Regulatory Procedures

Justification for Final Rule

Section 702(a)(5) of the Social Security Act (Act) makes the regulations we prescribe subject to the rulemaking procedures established under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553. These procedures generally require publication of notice of the proposed rulemaking and the solicitation of comments from interested persons. However, the APA provides exceptions to notice and comment procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest.

After due consideration, we have determined that under 5 U.S.C. 553(b)(B), good cause exists for waiver of notice of proposed rulemaking because such procedure would be unnecessary. These final regulations adopt as SSA regulations the provisions of the governmentwide anti-lobbying common rule without substantive change. Pursuant to section 106(b) of Public Law 103–296, the HHS regulations at 45 CFR part 93, which implement the provisions of the anti-lobbying common rule, remain applicable to SSA until such time as these regulations become effective. The differences in these regulations over those of the anti-lobbying common rule or those of 45 CFR part 93 are not substantive. Accordingly, promulgation of these regulations pursuant to notice and comment rulemaking is unnecessary and may be dispensed with pursuant to 5 U.S.C. 553(b)(B).

Waiver of 30-Day Delay in Effective Date

As indicated above, section 702(a)(5) of the Act makes the regulations we