
Defense Sector False Claims Act

Government Contracts

Clients engaged in False Claims Act (FCA) matters seek the skill and experience of veteran FCA investigations teams and former Department of Defense (DOD) and Department of Justice (DOJ) lawyers. We combine the strengths of a top-ranked litigation and investigations practice that has handled some of the most renowned internal and government investigations with a preeminent regulatory practice comprised of lawyers with previous experience in senior positions at the DOJ, the DOD and other agencies of the federal government. Our lawyers have been directly responsible for the litigation, management and settlement of major FCA investigations and proceedings during periods of previous government service—and now defend against them. On FCA matters—including those stemming from allegations of procurement fraud or other regulatory infractions involving substantial civil, administrative and criminal exposure—we have assisted clients at essentially every point in the process. We have conducted countless internal investigations in instances in which clients have reason to believe that an FCA violation may have occurred, and have provided advice on any voluntary disclosure obligations flowing from the discovered conduct. Relying on our firm's additional experience in government contracting, we have designed and implemented improved compliance and training programs to ensure the conduct is not repeated.

We have also helped clients respond to federal subpoenas and other forms of information requests, including subpoenas issued by the DOJ, the inspectors general of numerous federal agencies, and other government enforcement bodies. In each instance, we work closely with our clients to formulate a cost-effective strategy aimed at resolving the matter at preliminary stages of the inquiry and without any admission of liability. On many engagements, we have been successful in reaching administrative resolutions at the agency level through constructive dialogue with suspension and debarment officials, minimizing further collateral impact.

We approach each matter with a deep understanding of the government's objectives—which is fundamental to resolving the most serious matters in which the DOJ has served a grand jury or other subpoena and in which a *qui tam* plaintiff may be involved. In such instances, we have obtained favorable resolution without any formal action being filed. In other instances, we have obtained early dismissal or resolution of suits brought by *qui tam* plaintiffs and the government by focusing on precedent-setting legal defenses. By conducting credible internal investigations and negotiating with the DOJ, we help clients avoid criminal prosecution and accomplish

appropriate resolutions of parallel criminal, civil and administrative proceedings. In the rare instance that an FCA case goes to trial, we rely on a deep bench of litigators who have taken FCA matters to trial and have won both at the trial level and on appeal.

Experience

We obtain favorable pre-trial settlements of cases with significant FCA exposure:

- Negotiated a global settlement of all FCA claims and other civil liability for a major aerospace company in connection with multiple criminal and civil investigations arising from allegations of conflicts of interest and the use of competitor proprietary information.
- Successfully resolved, for a nominal sum and without any admission of liability, a *qui tam* action brought by a former employee who alleged that a defense contractor had misrepresented the quality of certain circuit boards supplied to the US military.
- Represented a government contractor in an FCA case alleging that the company failed to supply the General Services Administration with office products from permissible countries under the Buy American Act and Trade Agreements Act.
- Obtained early dismissal for a defense contractor in *qui tam* litigation alleging misrepresentation of costs in connection with a major Navy weapons program, following the government's assertion of the State Secrets privilege.
- Secured the dismissal on favorable terms of a *qui tam* FCA suit brought against a defense contractor and the company's former CEO arising from the sale of allegedly defective products to the US Air Force.
- Obtained early dismissal for a non-bank small business loan lender in an FCA civil action based on allegations of false certifications in connection with a Small Business Administration loan program.
- Assisted an international construction company with the resolution of false claims act allegations regarding the source and origin of construction materials on a government-financed construction project in the Middle East.
- Won a dismissal of an FCA suit against a defense contractor client on the basis of the FCA's public disclosure bar.

We successfully tried to verdict a major *qui tam* action involving alleged bid-rigging of construction contracts. In the course of the case, which lasted more than a decade and involved a seven-week jury trial, we briefed and argued dozens of legal issues that arise in FCA litigation.

We resolve the contractor responsibility matters often associated with FCA cases:

- Secured a decision to terminate debarment proceedings on behalf of an Air Force contractor, without an administrative agreement or any adverse action; settled asserted civil fraud claim without admission of liability or payment of multiple damages or penalties; and resolved related contract dispute with no-cost termination for convenience.
- Resolved on favorable terms an investigation and related debarment proceeding of a medical device manufacturer by the Defense Criminal Investigative Service and a

US Attorney's Office arising from the sale of allegedly defective medical devices to the US Army.