

Department of Justice (DOJ) Reports False Claims Act Cases Continue Pace of Record Recoveries, Settlements

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Heralding its success in resolving civil cases involving fraud against the government during fiscal year 2013, the **U.S. Department of Justice (DOJ)** [has announced](#) it secured \$3.8 billion in settlements and judgments from civil cases under the **False Claims Act (FCA)**, the government's primary weapon to combat false claims for government funds and property under government contracts (e.g., national security and defense contracts) and government programs (e.g., Medicare, veterans benefits and federally insured loans and mortgages). This is the fourth year in a row the DOJ has obtained more than \$3 billion from FCA cases.

The FY2013 recovery was surpassed only by the nearly \$5 billion obtained in FY2012. This brings the total amount recovered by the DOJ since 2009 to \$17 billion — nearly half from FCA cases since the law was amended in 1986 to increase incentives to whistleblowers to file *qui tam* lawsuits on behalf of the government. *Qui tam* actions allow the private individual or "relator" to receive up to 30 percent of any amount recovered by the government in the action. Recoveries in *qui tam* actions resulted in \$2.9 billion of the total \$3.8 billion recovered by the DOJ in FY2013. A record 752 *qui tam* lawsuits were filed in 2013, beating the previous year's record by more than 100, and far exceeding the 300 to 400 lawsuits filed each year from 2000 to 2009.

Qui tam recoveries exceeded \$2 billion for the first time in 2010 and have continued to increase every year since. From January 2009 to 2013, DOJ recovered \$13.4 billion through *qui tam* actions. During that same period, it paid \$1.98 billion in whistleblower awards to relators, including \$345 million in FY2013.

The growth in whistleblower lawsuits and recoveries likely will continue into FY2014 and beyond. The DOJ credited its success with *qui tam* recoveries to: (1) continued Congressional support in strengthening the incentives under the FCA (most recently through the Fraud Enforcement and Recovery Act of 2009 and the Affordable Care Act in 2010); and (2) the Obama Administration's priority in fighting healthcare fraud.

The amended FCA presents significant new challenges for those doing business with federal agencies. While many such employers have adopted policies and procedures designed to identify and correct potential fraudulent activities, the growing incentives for FCA whistleblowers encourage employees to go directly to the government with evidence of fraud, rather than to their employers. As a result, employers may first learn of these problems from a lawsuit or DOJ investigation, before they ever have the opportunity to correct them on their own.

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National Law Review, Volume IV, Number 11

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