

Records and Information Management Company Agrees to Pay Government \$44.5 Million in Settlement of Overcharge Allegations

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On December 19, 2014, the Department of Justice (DOJ) announced that Iron Mountain, a records and information management company headquartered in Boston, agreed to a settlement of \$44.5 million in a case alleging that Iron Mountain overcharged the *Government Services Administration* (GSA) for storing government records, and failed to comply with National Archives and Records Administration requirements. The lawsuit alleged that between 2001 and 2014, Iron Mountain intentionally withheld reduced storage pricing from the government during contract negotiations. It also violated the price reduction clause of the GSA contracts by not extending lower prices to government customers.

In addition to the government's allegations that Iron Mountain withheld reduced pricing, the settlement also resolved claims that Iron Mountain billed the government for being compliant with National Archives and Records Administration requirements while storing government records, when in fact, Iron Mountain allegedly did not adhere to those requirements. This practice is a violation of the Multiple Award Schedule (MAS) program which provides the government with a streamlined process for procurement of commonly used commercial goods and services.

According to the Multiple Award Schedule (MAS) Government Contracts, GSA awards MAS contracts to companies for commercial items when it determines that the prices offered are "fair and reasonable." Contracting officers make this determination by comparing the price or discounts that a company offers the government with the price or discounts that the company offers to its own commercial customers. To make this comparison, MAS solicitations request potential contractors to disclose information about their commercial pricing policies and practices. Contract prices are tied to commercial practice so that GSA pricing remains competitive over time.

When Iron Mountain was awarded the contract to store and manage government records, it was expected to adhere to all aspects of the contract. By not doing so, it allegedly violated the [False Claims Act \(FCA\)](#). The lawsuit was originally brought by two whistleblowers under the "qui tam" provision of the FCA, which allows private citizens to bring cases against contractors that defraud the federal government. Those two whistleblowers reportedly will share in an \$8 million reward, which is 18 percent of the government's recovery.

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