

# Software Products and Services Companies Agree to Pay U.S. Government \$75.5 Million To Settle Qui Tam Case Alleging That They Misrepresented Pricing Information During Negotiations With GSA

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On June 30, 2015, the **Department of Justice (DOJ)** announced that **VMware Inc.**, a company that specializes in computer virtualization software and has its principal place of business in Palo Alto, California, and **Carahsoft**, a privately held Maryland corporation that distributes information technology (IT) products, and has its principal place of business in Reston, Virginia, agreed to pay the U.S. government \$75.5 million for violating the **False Claims Act (FCA)** by allegedly overcharging federal, state and local governments for computer products and services that should have otherwise been billed at a discounted rate. In addition, the government alleged that VMware and Carahsoft knowingly misrepresented the pricing of its products and services in connection with a contract received through the *General Services Administration (GSA)* under the Multiple Award Schedule (MAS).

Companies that sell commercial products can qualify for MAS contracts that are awarded by the GSA, but only when the GSA determines that the prices are “fair and reasonable.” This determination is made by contract officers comparing prices that a company offers its commercial customers to the prices it offers the government. According to the qui tam lawsuit filed by Dane Smith, former vice president of the Americas at VMware Inc., and the whistleblower in this case, VMware and Carahsoft made false statements to the government during contract negotiations and was awarded the MAS contract. In addition, from 2007 through 2013, VMware and Carahsoft misled the government in connection with the sale of VMware products and services under Carahsoft’s MAS contract by not disclosing its commercial pricing and thereby knowingly overbilling the government for VMware’s products and services.

When VMware and Carahsoft negotiated to provide software and IT services to the government it was expected to provide accurate pricing information, and adhere to all aspects of the contract. By not doing so, they violated the FCA. Provisions of the FCA make it unlawful for a person or company to defraud governmental agencies, such as GSA. If you have information concerning a potential case in which the government is being overcharged, do not hesitate to take action. It is possible that you might be able to bring your own qui tam lawsuit under the False Claims Act, acting as a whistleblower on behalf of the US government. A whistleblower who files a case against a

company that has committed fraud against the government, may receive compensation of up to 30 percent of the amount ultimately recovered by the government.

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