

THE FALSE CLAIMS ACT AND RELATED "WHITE COLLAR" ISSUES

Wherever Government dollars are spent – whether for national defense needs, to implement civilian agency programs, to acquire the goods and services consumed on a daily basis by the Government in the conduct of its affairs, to underwrite or subsidize transportation and infrastructure improvements, or to provide health care for the citizenry – scrutiny follows. As the federal budget has grown, so has a vast audit and enforcement infrastructure designed to uncover and punish companies and individuals for the submission of "false claims" for federal funds. Amassed against contractors in this regard is a veritable army of federal auditors, investigators, attorneys, and inspectors general who are armed with (a) an array of audit and subpoena prerogatives; (b) the in terrorem effect of extraordinarily punitive statutory remedies that can be used unfairly to extort unreasonably exorbitant settlements; (c) a statutory scheme that encourages employees, who are often ill informed, to serve as "whistleblowers" against their employers in exchange for a financial "cut"; and (d) a specialized qui tam plaintiffs' bar that actively seeks out and cultivates in-house informers under a statute that virtually guarantees that their fees will be paid by the defendant.

Sheppard Mullin understands this process and can bring to bear extraordinary experience in dealing with these issues.

First, because Sheppard Mullin attorneys specialize in many of the substantive disciplines in which false claims cases arise – such as Government contracts and health care – they are able proactively to work with clients in advance to develop compliance programs that can help to deter problems. Where such programs are already in place, our attorneys will often audit such programs to identify actual or potential problems at a point in time when reasonable prophylactic, corrective, or curative steps can be taken.

Second, and again because of our attorneys' underlying substantive knowledge and experience, we are often able to work through the audit and investigative processes with our clients and Government officials to ensure that evaluations are based upon the correct regulatory and other standards, to narrow areas of legitimate dispute, and to resolve disputes short of litigation.

Third, when settlement proves unavailing, our attorneys have a breadth and depth of experience in litigating fraud-related claims that rivals that of any firm in the country. Our experience includes:

- Management of responses to civil, criminal, and administrative investigative subpoenas
- Civil Investigative Demands (or "CIDs")
- False Claims Act litigation – including federally initiated and qui tam actions – throughout the country. Our attorneys have litigated such cases in federal district courts located in California, Texas, Illinois, Ohio, Washington, New Mexico, Virginia, and the District of Columbia
- Jury and bench trials of False Claims Act cases
- Grand jury investigations
- Search warrants
- Suspension and debarment proceedings

Illustrative examples of the subject matter of "white collar" cases handled by our attorneys include the following:

- Government contract cost accounting
- Defective pricing
- Defective parts
- Labor mischarging
- Material mischarging
- Defective tests and product inspections
- Product substitution
- Small business subcontracting programs
- The unauthorized use of foreign parts
- Kickbacks

- Gratuities
- CHAMPUS or TRICARE billing irregularities
- Foreign Corrupt Practices Act violations
- Certifications relating to commission agent fees in connection with U.S., Foreign Military Sales and Foreign Military Funding contracts
- Environmental law violations