

Internal Investigations and False Claims Act

From representations made during the proposal stage to the final invoice submitted under a contract, nearly every action a contractor takes can be subject to a government investigation. Wiley attorneys are experienced in all aspects of structuring and conducting internal investigations, enabling clients to evaluate potential exposure and to marshal defenses to potential allegations of misconduct. We routinely conduct investigations under severe time constraints, performing document collection, review; data forensic analysis simultaneous interviews, and legal analyses. Wiley's Government Contracts attorneys have extensive experience navigating issues under the government's expanding arsenal of criminal, civil and administrative actions, including allegations of fraud or false statements, allegations under the False Claims Act (FCA), Anti-Kickback Act, the Procurement Integrity Act, or antitrust laws, fraud, and suspension/debarment proceedings. We routinely collaborate with our colleagues in the White Collar Defense & Government Investigations Practice to offer clients our combined expertise. If the results of an investigation warrant it, we assist clients with preparing disclosures under the Federal Acquisition Regulation's (FAR) mandatory disclosure rule and other statutes and regulations that require disclosure, ensuring that the disclosure is accurate and fulsome so that our clients are positioned to resolve the matter as expeditiously as possible.

Internal Investigations:

Wiley has conducted scores of internal investigations. A sample of our representative experience includes:

- Conducted investigations of Procurement Integrity Act violations for major defense contractor on expedited time frame that included collection of emails, phone logs, and text messages. Our team assisted with developing remedial measures, conducted focused training, and provided assessments of relevant actors for purposes of determining disciplinary action.
- Conducted numerous internal investigations as surrogate in-house counsel for major government contractor and assisted with establishing process and protocols for the conduct of internal investigations.
- Conducted internal investigation into potential antitrust violations arising from teaming agreement negotiations.
- Conducted numerous internal investigations in classified environments on behalf of major defense and intelligence contractors regarding issues including alleged noncompliance with intelligence community cybersecurity standards; data spills; Procurement Integrity Act violations; and improper use of government information systems.

False Claims Act and Procurement Fraud:

Working with our colleagues in the White Collar Defense & Government Investigations Practice, our team has helped contractors in all industries resolve allegations of FCA violations during the investigative stage and successfully defended contractors when those investigations lead to litigation. Representative experience and successes include:

- Successfully settled FCA action alleging \$400 million of FCA violations against Coast Guard contractor for less than \$9 million.
- Persuaded the government not to intervene against three contractors in industry-wide *qui tam* suits alleging improper allocation and disclosure of alliance benefits by technology vendors and affiliated resellers and systems integrators.
- Successfully settled FCA action involving classified program and fashioned remedial measures to persuade the customer agency not to pursue further administrative suspension/debarment proceedings.
- Successfully settled FCA action for fraction of initial demand and anticipated total demand involving costs charged for construction and maintenance of a unique U.S. Department of Energy (DOE) nuclear facility.
- Achieved dismissal of FCA claims against contractors in multiple recent cases in varying federal jurisdictions.