

INSIGHTS

## The Changing Landscape for Government Contracts and Government Investigations

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On this episode of The Bracewell Sidebar, we talk with [Bob Wagman](#) about criminal investigations involving alleged misconduct connected with government programs. Bob is a partner in Bracewell's Washington DC, where he leads our government contracts practice.

### **Can you lay out who are government contractors and how do you get to be a government contractor?**

Just about anybody can be a government contractor. The government buys everything and anything ranging from fighter jets to aircraft carriers, to pens and pencils, coffee, food, cars, fuel. Last year, they spent \$580 billion on goods and services. The government is probably the biggest consumer of just about everything there is out there. Another thing to think about is government money is pretty much in everything these days. A lot of people can find themselves subject to government investigation without even thinking about being a government contractor or getting involved in doing government business.

### **What is the False Claims Act, and how does it interact with when there is government fraud?**

The False Claims Act was signed into law after the Civil War in 1863 by Abraham Lincoln. It was rarely used until the 1980s where they amended the False Claims Act. Some of the big provisions were to expand the *qui tam* provisions. A whistleblower can file a lawsuit in the name of the government. It gets filed "under seal". The Department of Justice decides whether or not they're going to take over the case. Either way, the whistleblower is allowed to take that case, continue on with that case, even if DOJ gets involved or chooses not to. And then the whistleblower shares in some bounty between 15 and 25 percent of whatever the government brings in.

### **You deal with suspension and debarment matters. How is that different from a False Claims Act matter? How do they intersect?**

There's a Criminal False Claims Act. There's some major fraud act cases, but you also have garden-variety wire fraud, bribery and other things like that. Civil tends to be Civil False Claims Act, so civil fraud will get just the nature of the damages available. The damages can be really

substantial under the Civil False Claims Act.

**What guidance exists beyond don't lie, don't steal, don't cheat, that government contractors or downstream subcontractors can look to?**

Once you become a government contractor, you have entered a highly regulated industry, and there are different rules for just about everything. It's a lot of the same legal disciplines, but there's a whole different statutory regulatory regime governs how things get done. And I think it's just an awareness and being careful because how many times I think, we've all done it, right? You're closing on your house, they give you these 20 pages of form. You look at it quickly, you sign because somebody told you to sign and you move on.

Have questions about government contracts and the obligations of government contractors? Email your questions to [Bob Wagman](#), [Matthew Nielsen](#) or [Phil Bezanson](#).

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