

FCA Basics Series: Introduction to the False Claims Act

November 3, 2025 – FCA Now

by Alex Hontos, Chris DeLong, Matthew Gillespie, Annie Boeckers, and Joe Coffey



Dorsey's FCANow Blog is kicking off a new series—FCA Basics. Over the coming months, the FCANow Blog will feature posts covering the fundamentals of the False Claims Act ("FCA"), outlining FCA procedure, and highlighting key facets of FCA practice. This inaugural post introduces the FCA, its history, and its purpose.

A Brief History of the FCA

Often referred to as the Lincoln Law, the FCA is one of the United States' oldest and most significant civil anti-fraud statutes. Its origins date back to the Civil War era, a time when the federal government faced rampant fraud by contractors supplying the Union Army. Unscrupulous actors sold the government the same horses twice, shipped crates of sawdust labeled as muskets, and fulfilled gunpowder shipments with sand. In 1863, in response to these abuses, Congress passed "An Act to prevent and punish Frauds upon the Government of the United States," the historical antecedent of today's FCA.

The 1863 Act included a "*qui tam*" (pronounced kwee-tom or key-tam) provision, allowing private citizens, known as "relators" or whistleblowers, to file lawsuits on behalf of the government against those suspected of defrauding federal programs. If successful, relators could receive a portion of the recovered damages as a bounty, which was intended to incentivize exposing and prosecuting fraud.

Related People

- Alex Hontos
- Chris DeLong
- Matthew Gillespie
- Annie Boeckers

Related Capabilities

- Healthcare Enforcement & Compliance
- Government Enforcement & Corporate Investigations

Over the last century and a half, the FCA has undergone significant amendments. In 1943, Congress limited the scope of *qui tam* actions, largely in response to concerns about opportunistic whistleblowers filing *qui tam* actions based on information already known to the government. Many believed the 1943 amendments weakened the FCA's effectiveness against the backdrop of persistent and increased fraud stemming from government spending during and after World War II.

Alarmed by perceived ongoing and rampant fraud, Congress revitalized the FCA in 1986, creating the so-called modern FCA. The amendments expanded the scope of liability, increased penalties, and enhanced protections and incentives for whistleblowers. These changes led to a dramatic increase in FCA lawsuits and recoveries, making the FCA the government's primary tool for combating fraud in federal programs, particularly in healthcare, defense, and procurement. In 2009, Congress again amended the FCA, broadening the definition of claim to expressly include claims submitted to government contractors, grantees, or agents, and expanding liability for retaining overpayments.

Today, the FCA remains a cornerstone of federal anti-fraud enforcement. It has been credited with recovering billions of dollars for taxpayers and deterring fraudulent conduct. The law continues to evolve through legislative amendments and judicial interpretation, but its core mission—protecting public funds and empowering whistleblowers—remains unchanged.

What Conduct Does the FCA Target?

The FCA recognizes several theories of liability under which individuals or entities can be held responsible for defrauding the federal government.

- The most direct theory of liability under the FCA is knowingly presenting a false claim for payment. For example, submitting an invoice for goods or services that were never provided or inflating the cost of services rendered.
- Another common theory of liability is making or using a false record or statement in support of a fraudulent claim, such as falsified time sheets or altered contracts. The false record or statement must be material, meaning it has a natural tendency to influence the payment or approval of the claim.
- The FCA also covers “reverse false claims,” where individuals or organization knowingly rely on a false record or statement material to avoid an obligation to pay or transmit money or property to the government or otherwise knowingly conceal or decrease such an obligation. This theory typically applies when someone improperly retains government funds, such as failing to return an overpayment.
- In addition, the FCA imposes liability for conspiring to commit any of the substantive violations described above. This means that if two or more parties agree to submit false claims or use false statements to obtain government funds, and at least one of them takes an overt act in furtherance of the conspiracy, parties to the conspiracy may be held liable.
- Although not a theory of liability for fraud itself, the FCA also includes an anti-retaliation provision. This provision protects employees, contractors, or agents from being discharged, demoted, harassed, or otherwise discriminated against for lawfully acting in furtherance of an FCA action, including investigating or reporting potential violations. Employers who retaliate against whistleblowers can be held liable for direct

damages, reinstatement, double back pay, and compensation for special damages.

Why Does the FCA Matter to You?

The FCA covers a wide range of industries that interact with the federal government. Traditional government contractors working in healthcare, defense, and procurement are plainly implicated. But the FCA covers all manner of industries that interact with federal funds: Medicare providers, real estate developers, insurance companies, importers, financial institutions, telecom companies, bank loan guarantors, and even universities ([Department of Justice Launches “Civil Rights Fraud Initiative” to Target DEI Through False Claims Act | FCA NOW](#)).

If you or your organization receive Federal funds, the FCA must be on your radar. Violations of the FCA can lead to substantial and possibly existential penalties. The FCA allows for the recovery of treble (triple) damages, meaning violators can be held liable for three times the amount of damages the government sustains because of a false claim. In addition, each false claim can result in substantial civil penalties, which are assessed on a per-claim basis. This means that even a series of relatively small false claims can quickly add up, making the financial risks of FCA violations extremely high.

Beyond financial penalties, FCA violations can also lead to serious consequences, including exclusion from participation in federal programs such as Medicare and Medicaid, reputational harm, diminished market value, criminal liability, consumer and shareholder litigation, administrative sanctions, and increased scrutiny from regulators. For these reasons, organizations or individuals who receive Federal funds need to understand the FCA.