

## Calendar No. 742

99<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S. 1562**

[Report No. 99-345]

To amend the False Claims Act, and title 18 of the United States Code regarding penalties for false claims, and for other purposes.

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 IN THE SENATE OF THE UNITED STATES

AUGUST 1 (legislative day, JULY 16), 1985

Mr. GRASSLEY (for himself, Mr. DECONCINI, Mr. LEVIN, Mr. HATCH, Mr. LEAHY, Mr. COHEN, Mr. SPECTER, Mr. DODD, Mr. ANDEEWS, Mr. ROTH, Mr. PEYOE, Mr. ROCKEFELLEE, Mr. BOEN, and Mr. METZENEUM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 28, 1986

Reported by Mr. THUMOND, from the Committee on the Judiciary, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To amend the False Claims Act, and title 18 of the United States Code regarding penalties for false claims, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 That section 3729 of title 31, United States Code, is  
2 amended by—

3 (1) inserting “(a)” before “A person”;

4 (2) striking out “\$2,000” and inserting in lieu  
5 thereof “\$10,000”;

6 (3) striking out “2 times the amount of damages”  
7 and inserting in lieu thereof “3 times the amount of  
8 damages in addition to the amount of the consequential  
9 damages”; and

10 (4) adding at the end thereof the following:

11 “(c) For purposes of this section, the terms ‘knowing’  
12 and ‘knowingly’ mean the defendant—

13 “(1) had actual knowledge; or

14 “(2) had constructive knowledge in that the de-  
15 fendant acted in reckless disregard of the truth;

16 and no proof of intent to defraud or proof of any other ele-  
17 ment of a claim for fraud at common law is required.”

18 SEC. 2. Section 3730(b) of title 31, United States Code,  
19 is amended—

20 (1) in paragraph (1), by striking out the fourth  
21 sentence and inserting in lieu thereof “The action may  
22 be brought in the judicial district where the defendant,  
23 or in the case of multiple defendants, where any one  
24 defendant is found, resides, or transacts business, or  
25 where the violation allegedly occurred.”;

1           (2) in paragraph (2), by striking out “if the Gov-  
2           ernment—” through the end of the paragraph and in-  
3           serting in lieu thereof “if the Government by the end  
4           of the 60-day period does not enter, or gives written  
5           notice to the court of intent not to enter the action.”;

6           (3) in paragraph (3), by striking out “action is  
7           conducted only by the Government” and inserting in  
8           lieu thereof “person bringing the action shall have a  
9           right to continue in the action as a full party on the  
10          person’s own behalf”; and

11          (4) by striking out paragraph (4) and inserting in  
12          lieu thereof the following:

13          “(4) If the Government does not proceed with the action  
14          within the 60-day period after being notified, the court, with-  
15          out limiting the status and rights of the person initiating the  
16          action, may nevertheless permit the Government to intervene  
17          at a later date if the Government demonstrates to the court  
18          that it came into possession of new material evidence or in-  
19          formation not known by the Government within the 60-day  
20          period after being notified of such action.

21          “(5) Unless the Government proceeds with the action  
22          within 60 days after being notified, the court shall dismiss the  
23          action brought by the person if the court finds that—

24                  “(A) the action is based on specific evidence or  
25                  specific information the Government disclosed as a

1 basis for allegations made in a prior administrative,  
2 civil, or criminal proceeding; or

3 “(B) the action is based on specific information  
4 disclosed during the course of a congressional investi-  
5 gation or based on specific public information dissemi-  
6 nated by any news media.

7 If the Government has not initiated a civil action within six  
8 months after becoming aware of such evidence or informa-  
9 tion, or within such additional time as the court allows upon  
10 a showing of good cause, the court shall not dismiss the  
11 action brought by the person. The defendant must prove the  
12 facts warranting dismissal of such case.”

13 SEC. 2. Section 3730(e) of title 31, United States Code,  
14 is amended to read as follows:

15 “(e)(1) If the Government proceeds with the action  
16 within 60 days after being notified, and the person bringing  
17 the action has disclosed relevant evidence or information the  
18 Government did not have at the time the action was brought,  
19 such person shall receive at least 15 percent but no more  
20 than 20 percent of the proceeds of the action or settlement of  
21 the claim. Any such payment shall be paid out of such pro-  
22 ceeds. If the person bringing the action substantially contrib-  
23 utes to the prosecution of the action, such person shall re-  
24 ceive at least 20 percent of the proceeds of the action or  
25 settlement and shall be paid out of such proceeds. Such

1 person shall also receive an amount for reasonable expenses  
2 the court finds to have been necessarily incurred, in addition  
3 to reasonable attorneys' fees and costs. All such expenses,  
4 fees, and costs shall be awarded against the defendant.

5       “(2) If the Government does not proceed with the action  
6 within 60 days after being notified, the person bringing the  
7 action or settling the claim shall receive an amount the court  
8 decides is reasonable for collecting the civil penalty and dam-  
9 ages. The amount shall not be less than 25 percent and no  
10 more than 30 percent of the proceeds of the action or settle-  
11 ment and shall be paid out of such proceeds. Such person  
12 shall also receive an amount for reasonable expenses the  
13 court finds to have been necessarily incurred, in addition to  
14 reasonable attorneys' fees and costs. All such expenses, fees,  
15 and costs shall be awarded against the defendant.”

16       SEC. 4. Section 3730 of title 31, United States Code, is  
17 amended by adding at the end thereof the following new  
18 subsections:

19       “(e) Any employee who is discharged, demoted, sus-  
20 pended, threatened, harassed, or in any other manner dis-  
21 criminated against in the terms or conditions of such employ-  
22 ment by his employer in whole or in part because of the  
23 exercise by such employee on behalf of himself or others of  
24 any option afforded by this Act, including investigation for,  
25 initiation of, testimony for, or assistance in an action filed or

1 to be filed under this Act, shall be entitled to all relief neces-  
2 sary to make him whole. Such relief shall include reinstatement  
3 with full seniority rights, backpay with interest, and  
4 compensation for any special damages sustained as a result of  
5 the discrimination, including litigation costs and reasonable  
6 attorneys' fees. In addition, the employer shall be liable to  
7 such employee for twice the amount of back pay and special  
8 damages and, if appropriate under the circumstances, the  
9 court shall award punitive damages.

10       “(f) In any action brought under this section, or under  
11 section 3720, or 3731, the United States shall be required to  
12 prove all essential elements of the cause of action, including  
13 damages, by a preponderance of the evidence.

14       “(g) Notwithstanding any other provision of law, the  
15 Federal Rules of Criminal Procedure, or the Federal Rules of  
16 Evidence, a final judgment rendered in favor of the United  
17 States in any criminal proceeding charging fraud or false  
18 statements, whether upon a verdict after trial or upon a plea  
19 of guilty or nolo contendere, shall estop the defendant from  
20 denying the essential elements of the offense in any action  
21 brought by the United States pursuant to this section, or sec-  
22 tion 3720, or 3731.”

23       SEC. 5. (a) Paragraphs (A), (B), and (C) of Rule 6(e)(3)  
24 of the Federal Rules of Criminal Procedure are amended to  
25 read as follows:

1           “(A) Disclosure, otherwise prohibited by this rule,  
2 of matters occurring before the grand jury, other than  
3 its deliberations and the vote of any grand juror, may  
4 be made to—

5           “(i) any attorney for the government for use  
6 in the performance of such attorney’s duty to en-  
7 force Federal criminal or civil law; and

8           “(ii) such government personnel (including  
9 personnel of a State or subdivision of a State) as  
10 are deemed necessary by an attorney for the gov-  
11 ernment to assist such attorney in the perform-  
12 ance of his duty to enforce Federal criminal law.

13           “(B) Any person to whom matters are disclosed  
14 under subparagraph (A)(ii) of this paragraph shall not  
15 utilize such grand jury material for any purpose other  
16 than assisting an attorney for the government in the  
17 performance of such attorney’s duty to enforce Federal  
18 criminal or civil law. Such an attorney for the govern-  
19 ment shall promptly provide the district court, before  
20 which the grand jury whose material has been so dis-  
21 closed was impaneled, with the names of the persons  
22 to whom such disclosure has been made, and shall cer-  
23 tify that the attorney has advised such persons of their  
24 obligation of secrecy under this rule.

1           “(C) Disclosure of matters occurring before the  
2 grand jury, otherwise prohibited by this rule, may also  
3 be made—

4           “(i) when directed to do so by a court, upon  
5 a showing of particularized need, preliminarily to  
6 or in connection with a judicial proceeding;

7           “(ii) when permitted by a court at the re-  
8 quest of the defendant, upon a showing that  
9 grounds may exist for a motion to dismiss the in-  
10 dictment because of matters occurring before the  
11 grand jury;

12           “(iii) when the disclosure is made by an at-  
13 torney for the government to another Federal  
14 grand jury;

15           “(iv) when permitted by a court at the re-  
16 quest of an attorney for the government, upon a  
17 showing that such matters may disclose a viola-  
18 tion of State criminal law, to an appropriate offi-  
19 cial of a State or subdivision of a State for the  
20 purpose of enforcing such law; or

21           “(v) when so directed by a court upon a  
22 showing of substantial need, to personnel of any  
23 department or agency of the United States and  
24 any committee of Congress (a) when such person-  
25 nel are deemed necessary to provide assistance to



1           an attorney for the government in the perform-  
 2           ance of such attorney's duty to enforce Federal  
 3           civil law, or (b) for use in relation to any matter  
 4           within the jurisdiction of such department,  
 5           agency, or congressional committee."

6           (b) The first sentence of paragraph (D) of Rule 6(e)(3) of  
 7           the Federal Rules of Criminal Procedure is amended to read  
 8           as follows:

9           “(D) A petition for disclosure pursuant to clause  
 10          (i) or (v) of subsection (e)(3)(C) shall be filed in the dis-  
 11          trict where the grand jury convened.”

12          SEC. 6. (a) Section 286 of title 18, United States Code,  
 13          is amended by striking out “\$10,000” and inserting in lieu  
 14          thereof “\$1,000,000”.

15          (b) Section 287 of title 18, United States Code, is  
 16          amended by striking out “\$10,000, or imprisoned not more  
 17          than five years” and inserting in lieu thereof “\$1,000,000, or  
 18          imprisoned for not more than ten years”.

19          SEC. 7. This Act and the amendments made by this Act  
 20          shall become effective upon the date of enactment.

21          That section 3729 of title 31, United States Code, is  
 22          amended by—

23                 (1) inserting “(a)” before “A person”;

24                 (2) striking out “\$2,000” and inserting in lieu  
 25                 thereof “\$10,000”;

1           (3) striking out “2 times the amount of damages”  
2           and inserting in lieu thereof “3 times the amount of  
3           damages in addition to the amount of the consequential  
4           damages”;

5           (4) striking out “not a member of the armed  
6           forces of the United States” the first place it appears;

7           (5) striking out “or” at the end of clause (5);

8           (6) striking out the period in clause (6) and in-  
9           serting in lieu thereof “; or”; and

10          (7) adding at the end thereof the following:

11           “(7) knowingly makes, uses, or causes to be made  
12           or used, a false record or statement to conceal, avoid,  
13           or decrease an obligation to pay or transmit money or  
14           property to the Government.

15          “(b) Consequential damages as used in subsection (a)  
16          shall include damages which the United States would not  
17          have sustained but for—

18           “(1) the doing or commission of any of the acts  
19           prohibited by subsection (a); or

20           “(2) having entered into or made any contract or  
21           grant as a result of any material part of any false  
22           statement.

23          “(c) For purposes of this section, the terms ‘knowing’  
24          and ‘knowingly’ mean the defendant—

25           “(1) had actual knowledge; or

1           “(2) acted in gross negligence of the duty to make  
2           such inquiry as would be reasonable and prudent to  
3           conduct under the circumstances in order to ascertain  
4           the true and accurate basis of the claim;  
5           and no proof of intent to defraud or proof of any other ele-  
6           ment of a claim for fraud at common law is required.

7           “(d) For purposes of this section, ‘claim’ includes any  
8           request or demand whether under a contract or otherwise for  
9           money or property which is made to a contractor, grantee, or  
10          other recipient if the Government provides any portion of the  
11          money or property which is requested or demanded or if the  
12          Government will reimburse such contractor, grantee, or other  
13          recipient for any portion of the money or property which is  
14          requested or demanded.

15          “(e)(1) The Attorney General or his designee may  
16          apply for provisional relief to any district court having juris-  
17          diction pursuant to section 3732 whenever he has reasonable  
18          cause to believe this section or section 3730, or 3731 may  
19          have been violated. If the court finds there is a reasonable  
20          likelihood that the United States will prevail after trial on  
21          the merits of its claims, the court shall enjoin the defendant  
22          from taking any action which the court, in the exercise of its  
23          discretion, finds reasonably likely to hinder or delay the  
24          United States in the collection of any judgment which may  
25          be obtained in such action.

1       “(2) In addition, the court may from time to time make  
2 such other orders as it deems appropriate, including requir-  
3 ing the defendant to post security for judgment, to seek the  
4 prior approval of the court before making any transfer with-  
5 out adequate and full consideration, paying an antecedent  
6 debt which has matured more than thirty days prior to the  
7 date of payment, or otherwise engaging in any transaction  
8 not in the usual and regular course of the defendant’s busi-  
9 ness. Except as provided in this section, such application and  
10 proceedings by the Attorney General shall be governed by  
11 Rule 65 of the Federal Rules of Civil Procedure.”

12       SEC. 2. Section 3730 of title 31, United States Code,  
13 is amended to read as follows:

14       “§ 3730. **Civil actions for false claims**

15       “(a) The Attorney General diligently shall investigate a  
16 violation under section 3729 of this title. If the Attorney  
17 General finds that a person has violated or is violating sec-  
18 tion 3729, the Attorney General may bring a civil action  
19 under this section against the person. The person may be  
20 arrested and bail set for an amount of not more than \$2,000  
21 and 2 times the amount of damages sworn to in an affidavit  
22 of the Attorney General or his designee.

23       “(b)(1) Except as provided in subsection (e), a person  
24 may bring a civil action for a violation of section 3729 of this  
25 title for the person and for the United States Government.

1 *The action shall be brought in the name of the Government.*  
2 *An action may be dismissed only if the court and the Attor-*  
3 *ney General give written consent and their reasons for*  
4 *consenting.*

5       “(2) *A copy of the complaint and written disclosure of*  
6 *substantially all material evidence and information the*  
7 *person possesses shall be served on the Government under*  
8 *Rule 4(d)(4) of the Federal Rules of Civil Procedure. The*  
9 *complaint shall be filed in camera, shall remain under seal*  
10 *for at least 60 days, and shall not be served on the defendant*  
11 *until the court so orders. The Government may elect to inter-*  
12 *vene and proceed with the action within 60 days after it re-*  
13 *ceives both the complaint and the material evidence.*

14       “(3) *The Government may, for good cause shown, move*  
15 *the court for additional extensions of the stay and for exten-*  
16 *sions of the time during which the complaint shall remain*  
17 *under seal. Any such motions may be supported by affidavits*  
18 *or other submissions in camera. The defendant shall not be*  
19 *required to respond to any complaint filed under this section*  
20 *until 20 days after the complaint is unsealed and served*  
21 *upon him pursuant to Rule 4 of the Federal Rules of Civil*  
22 *Procedure.*

23       “(4) *Before the expiration of the initial 60-day period*  
24 *or any stays obtained, the Government shall—*

1           “(A) proceed with the action, in which case the  
2           action shall be conducted only by the Government; or

3           “(B) notify the court that it declines to take over  
4           the action, in which case the action shall be conducted  
5           by the person bringing the action.

6           “(5) Where a person brings an action under this subsec-  
7           tion, no person other than the Government may intervene or  
8           bring a related action based on the facts underlying the  
9           pending action.

10          “(c)(1) If the Government proceeds with the action, the  
11          action is conducted solely by the Government and it shall not  
12          be bound by an act of the person who initiated the action. If  
13          he so requests, the person bringing the action shall be served  
14          with copies of all pleadings filed in the action, shall be sup-  
15          plied with copies of all deposition transcripts (at his expense),  
16          and shall be permitted to file objections with the court and  
17          petition for an evidentiary hearing to object to any proposed  
18          settlement or to any motion to dismiss filed by the Govern-  
19          ment. The court may grant such an evidentiary hearing only  
20          upon a showing of substantial and particularized need. The  
21          person bringing the action may move the court for leave to  
22          conduct the action in the name of the United States if, after  
23          making its election to take over the suit, the Government does  
24          not proceed with the action with reasonable diligence within

1 *six months or such reasonable additional time as the court*  
2 *may allow after notice.*

3       “(2) *If the Government elects not to proceed with the*  
4 *action, the action shall be conducted by the person who initi-*  
5 *ated the action. If the Government so requests, it shall be*  
6 *served with copies of all pleadings filed in the action and*  
7 *shall be supplied with copies of all deposition transcripts (at*  
8 *its expense). Where a person proceeds with the action in the*  
9 *name of the United States pursuant to subsection (b)(2)(C),*  
10 *the court may nevertheless permit the Government to inter-*  
11 *vene and proceed with the action by its own attorneys at a*  
12 *later date upon a showing of good cause.*

13       “(3) *Notwithstanding subsection (b), the Government*  
14 *may elect to pursue its claim through any alternate remedy*  
15 *available to it, including, but not limited to, any administra-*  
16 *tive civil money penalty proceeding.*

17       “(d)(1) *If the Government proceeds with the action, in-*  
18 *cluding any proceeding pursuant to subsection (c)(3), the*  
19 *person bringing the action may receive an amount the court*  
20 *decides is reasonable. The amount may not be less than 10*  
21 *percent, nor more than 20 percent, of the proceeds of the*  
22 *action or settlement of a claim and shall be paid out of those*  
23 *proceeds.*

24       “(2) *If the Government does not proceed with an action,*  
25 *the person bringing the action or settling the claim may re-*

1 *ceive an amount the court decides is reasonable for collecting*  
2 *the civil penalty and damages. The amount may not be less*  
3 *than 20 percent, nor more than 30 percent, of the proceeds of*  
4 *the action or settlement and shall be paid out of those*  
5 *proceeds.*

6       “(3) *The amount awarded under this section shall be in*  
7 *the discretion of the court, taking into account—*

8               “(A) *the significance of the information provided*  
9 *to the Government;*

10              “(B) *the contribution of the person bringing the*  
11 *action to the result obtained; and*

12              “(C) *whether the information which formed the*  
13 *basis for the suit was known to the Government.*

14       “(4) *Where the persons brought an action based solely*  
15 *on disclosures of specific information relating to allegations*  
16 *or transactions in a criminal, civil, or administrative hear-*  
17 *ing, a congressional or Government Accounting Office report*  
18 *or hearing, or from the news media, the court may award*  
19 *such sums as it deems appropriate, not to exceed 10 percent*  
20 *of the recovery and taking into account the significance of the*  
21 *information and the role of the person in advancing the case*  
22 *to litigation.*

23       “(5) *In addition to any other amounts awarded by the*  
24 *court, the court may also award the person bringing the*  
25 *action reasonable attorney fees and other expenses. The Gov-*



1 ernment shall not be liable for the expenses or legal fees a  
2 person incurs in bringing or defending an action under this  
3 section.

4       “(6) If the Government does not proceed with the action  
5 and it is litigated by the person bringing the action, the court  
6 shall award to the defendant its reasonable attorney fees and  
7 expenses if the defendant prevails in such action and the  
8 court finds that the claim of the person bringing the action  
9 was clearly frivolous, vexatious, or brought for purposes of  
10 harassment. In cases where it appears that the person bring-  
11 ing the action is motivated by bad faith or is bringing a  
12 clearly frivolous action, the court shall require such assur-  
13 ances that payment of legal fees and expenses will be made, if  
14 such are awarded, as it deems appropriate before allowing the  
15 action to proceed.

16       “(7) After any final judgment is issued in any action  
17 brought under this section, or any alternate remedy available  
18 to the Government, any person who brought an action under  
19 subsection (b) shall have 60 days to petition the court for any  
20 award to which he is entitled under this section.

21       “(e)(1) No court shall have jurisdiction over an action  
22 brought by a former or present member of the armed services  
23 under subsection (b) of this section against a member of the  
24 armed forces arising out of such person’s service in the armed  
25 forces.

1       “(2) No court shall have jurisdiction over an action  
2 brought against a member of Congress, a member of the judi-  
3 ciary, or a senior executive branch official if the action is  
4 based on evidence or information known to the Government  
5 when the action was brought.

6       “(3) For purposes of this subsection, ‘senior executive  
7 branch official’ means those officials listed in section 201(f)  
8 of Appendix IV of title 5.

9       “(4) In no event may a person bring an action under  
10 this section based upon allegations or transactions which are  
11 the subject of a civil suit in which the Government is already  
12 a party, or within six months of the disclosure of specific  
13 information relating to such allegations or transactions in a  
14 criminal, civil, or administrative hearing, a congressional or  
15 Government Accounting Office report or hearing, or from the  
16 news media.

17       “(f) The district courts shall have jurisdiction over any  
18 action brought under State law for the recovery of funds paid  
19 by State or local governments where such action grows out of  
20 the same transaction or occurrence as an action brought  
21 under this section.

22       “(g) The Attorney General or his designee is authorized  
23 to make payments from Department of Justice appropriations  
24 for information or assistance leading to a civil or criminal  
25 recovery under this section, section 3729, or sections 3731

1 *through 3734, known as the False Claims Act. Any such*  
2 *payment shall be at the discretion of the Attorney General or*  
3 *his designee.”.*

4       *SEC. 3. Section 3731 of title 31, United States Code,*  
5 *is amended by—*

6           *(1) inserting before the period at the end of sub-*  
7 *section (b) the following: “or within three years after*  
8 *the date when facts material to the right of action are*  
9 *known or reasonably should have been known by the*  
10 *official within the Department of Justice charged with*  
11 *responsibility to act in the circumstances, whichever*  
12 *occurs last”; and*

13           *(2) inserting after subsection (b), the following*  
14 *new subsections:*

15           *“(c) In any action brought under this section or section*  
16 *3729, 3730, 3732, or 3733, the United States shall be re-*  
17 *quired to prove all essential elements of the cause of action,*  
18 *including damages, by a preponderance of the evidence.*

19           *“(d) Notwithstanding any contrary provision of law, the*  
20 *Federal Rules of Criminal Procedure, or the Federal Rules*  
21 *of Evidence, a final judgment rendered in favor of the United*  
22 *States in any criminal proceeding charging fraud or false*  
23 *statements, whether upon a verdict after trial or upon a plea*  
24 *of guilty or nolo contendere, shall estop the defendant from*  
25 *denying the essential elements of the offense in any action*

1 *brought by the United States pursuant to this section or sec-*  
2 *tion 3729, 3730, 3732, or 3733.”*

3       *SEC. 4. Subchapter III of chapter 37 of title 31,*  
4 *United States Code, is amended by adding at the end thereof*  
5 *the following:*

6 ***“§ 3732. False claims jurisdiction***

7       *“(a) The district courts of the United States, including*  
8 *such courts for Puerto Rico, the Virgin Islands, Guam, and*  
9 *any territory or possession of the United States, shall have*  
10 *jurisdiction over any action commenced by the United States*  
11 *under this section, or under section 3729, 3730, 3731, 3733,*  
12 *or 3734. Venue of any such action shall be proper in any*  
13 *district in which any defendant, or in the case of multiple*  
14 *defendants, any one defendant can be found, resides, trans-*  
15 *acts business, or in which any act prescribed by such sections*  
16 *is alleged by the United States to have occurred. A summons*  
17 *as required by the Federal Rules of Civil Procedure shall be*  
18 *issued by the district court and served at any place within the*  
19 *United States, Puerto Rico, the Virgin Islands, Guam, any*  
20 *territory or possession of the United States, or in any foreign*  
21 *country.*

22       *“(b) The United States Court of Claims shall also have*  
23 *jurisdiction of any such action if the action is asserted by*  
24 *way of counterclaim by the United States. The United States*  
25 *may join as additional parties in such counterclaim all per-*

1 *sons who may be jointly and severally liable with such party*  
2 *against whom a counterclaim is asserted by reason of having*  
3 *violated this section, or section 3729, 3730, 3731, or 3733,*  
4 *except that no cross-claims or third-party claims shall be as-*  
5 *serted among such additional parties unless such claims are*  
6 *otherwise within the jurisdiction of the United States Court*  
7 *of Claims.”*

8       *SEC. 5. Subchapter III of chapter 37 of the title 31,*  
9 *United States Code is further amended by adding at the end*  
10 *thereof the following:*

11 ***“§ 3733. Civil investigative demands***

12       *“(a) For purposes of this section, the term—*

13               *“(1) ‘False Claims Act law’ means—*

14                       *“(A) this section and sections 3729 through*  
15                       *3731 of this title, commonly known as the False*  
16                       *Claims Act; and*

17                       *“(B) any Act of Congress enacted after this*  
18                       *section which prohibits, or makes available to the*  
19                       *United States in any court of the United States*  
20                       *any civil remedy with respect to any false claim,*  
21                       *bribery, or corruption of any officer or employee*  
22                       *of the United States;*

23               *“(2) ‘False Claims Act investigation’ means any*  
24               *inquiry conducted by any False Claims Act investiga-*  
25               *tor for the purpose of ascertaining whether any person*

1        *is or has been engaged in any violation of any provi-*  
2        *sion of the False Claims Act law;*

3            *“(3) ‘False Claims Act investigator’ means any*  
4        *attorney or investigator employed by the Department of*  
5        *Justice who is charged with the duty of enforcing or*  
6        *carrying into effect any False Claims Act law or any*  
7        *officer or employee of the United States acting under*  
8        *direction and supervision of such attorney or investiga-*  
9        *tor in connection with a False Claims Act investiga-*  
10       *tion;*

11           *“(4) ‘person’ means any natural person, partner-*  
12        *ship, corporation, association, or other legal entity, in-*  
13        *cluding any State or political subdivision;*

14           *“(5) ‘documentary material’ includes the original*  
15        *or any copy of any book, record, report, memorandum,*  
16        *paper, communication, tabulation, chart, or other docu-*  
17        *ment, or data compilations stored in or accessible*  
18        *through computer or other information retrieval sys-*  
19        *tems, together with instructions and all other materials*  
20        *necessary to use or interpret such data compilations,*  
21        *and any product or discovery;*

22           *“(6) ‘custodian’ means the custodian, or any*  
23        *deputy custodian, designated by the Attorney General;*  
24        *and*

1           “(7) ‘product of discovery’ includes without limi-  
2           tation the original or duplicate of any deposition, inter-  
3           rogatory, document, thing, result of an inspection of  
4           land or other property, examination, or admission ob-  
5           tained by any method of discovery in any judicial or  
6           administrative litigation or action of an adversarial  
7           nature, any digest, analysis, selection, compilation, or  
8           any derivation thereof, and any index or manner of  
9           access thereto.

10          “(b)(1) Whenever the Attorney General, the Deputy At-  
11          torney General, or an Assistant Attorney General has reason  
12          to believe that any person may be in possession, custody, or  
13          control of any documentary material, or may have any infor-  
14          mation relevant to a False Claims Act investigation, he may,  
15          prior to the institution of a civil proceeding, issue in writing  
16          and cause to be served upon such person, a civil investigative  
17          demand requiring such person to produce such documentary  
18          material for inspection and copying, to answer in writing  
19          written interrogatories, to give oral testimony concerning doc-  
20          umentary material or information, or to furnish any combi-  
21          nation of such material, answers, or testimony. Whenever a  
22          civil investigative demand is an express demand for any  
23          product of discovery, the Attorney General, the Deputy Attor-  
24          ney General, or an Assistant Attorney General shall cause to  
25          be served, in any manner authorized by this section, a copy

1 of such demand upon the person from whom the discovery  
2 was obtained and notify the person to whom such demand is  
3 issued of the date on which such copy was served.

4       “(2)(A) Each such demand shall state the nature of the  
5 conduct constituting the alleged violation of a False Claims  
6 Act law which is under investigation, and the applicable  
7 provision of law.

8       “(B) If such demand is for production of documentary  
9 material, the demand shall—

10           “(i) describe each class of documentary material  
11 to be produced with such definiteness and certainty as  
12 to permit such material to be fairly identified;

13           “(ii) prescribe a return date for each such class  
14 which will provide a reasonable period of time within  
15 which the material so demanded may be assembled and  
16 made available for inspection, and copying; and

17           “(iii) identify the False Claims Act investigator  
18 to whom such material shall be made available.

19       “(C) If such demand is for answers to written interro-  
20 gatories, the demand shall—

21           “(i) set forth with definiteness and certainty the  
22 written interrogatories to be answered;

23           “(ii) prescribe dates at which time answers to  
24 written interrogatories shall be submitted; and



1           “(iii) identify the False Claims Act investigator  
2           to whom such answers shall be submitted.

3           “(D) If such demand is for the giving of oral testimony,  
4           the demand shall—

5           “(i) prescribe a date, time, and place at which  
6           oral testimony shall be commenced; and

7           “(ii) identify a False Claims Act investigator who  
8           shall conduct the examination and the custodian to  
9           whom the transcript of such examination shall be  
10          submitted.

11          Any such demand which is an express demand for any prod-  
12          uct of discovery shall not be returned or returnable until  
13          twenty days after a copy of such demand has been served  
14          upon the person from whom the discovery was obtained.

15          “(c)(1) No such demand shall require the production of  
16          any documentary material, the submission of any answers to  
17          written interrogatories, or the giving of any oral testimony if  
18          such material, answers, or testimony would be protected from  
19          disclosure under—

20          “(A) the standards applicable to subpoenas or  
21          subpoenas duces tecum issued by a court of the United  
22          States to aid in a grand jury investigation; or

23          “(B) the standards applicable to discovery re-  
24          quests under the Federal Rules of Civil Procedure, to  
25          the extent that the application of such standards to any

1        *such demand is appropriate and consistent with the*  
2        *provisions and purposes of this section and sections*  
3        *3729 through 3731.*

4        *“(2) Any such demand which is an express demand for*  
5        *any product of discovery supersedes any inconsistent order,*  
6        *rule, or provision of law (other than this section) preventing*  
7        *or restraining disclosure of such product of discovery to any*  
8        *person. Disclosure of any product of discovery pursuant to*  
9        *any such express demand does not constitute a waiver of any*  
10       *right or privilege which may be invoked to resist discovery of*  
11       *trial preparation materials to which the person making such*  
12       *disclosure may be entitled.*

13       *“(d)(1) Any such demand may be served by any False*  
14       *Claims Act investigator, or by any United States Marshal or*  
15       *Deputy Marshal, at any place within the United States.*

16       *“(2) Any such demand or any petition filed under sub-*  
17       *section (k) may be served upon any person who is not found*  
18       *within the United States, in such manner as the Federal*  
19       *Rules of Civil Procedures prescribe for service in a foreign*  
20       *country. To the extent that the courts of the United States*  
21       *can assert jurisdiction over such person consistent with due*  
22       *process, the United States District Court for the District of*  
23       *Columbia shall have the same jurisdiction to take any action*  
24       *respecting compliance with this section by such person that*

1 *such court would have if such person were personally within*  
2 *the jurisdiction of such court.*

3       “(e)(1) *Service of any such demand or of any petition*  
4 *filed under subsection (k) may be made upon a partnership,*  
5 *corporation, association, or other legal entity by—*

6               “(A) *delivering an executed copy thereof to any*  
7 *partner, executive officer, managing agent, or general*  
8 *agent thereof, or to any agent thereof authorized by ap-*  
9 *pointment or by law to receive service of process on*  
10 *behalf of such partnership, corporation, association, or*  
11 *entity;*

12               “(B) *delivering an executed copy thereof to the*  
13 *principal office or place of business of the partnership,*  
14 *corporation, or entity to be served; or*

15               “(C) *depositing such copy in the United States*  
16 *mails, by registered or certified mail, return receipt re-*  
17 *quested, addressed to such partnership, corporation, as-*  
18 *sociation, or entity at its principal office or place of*  
19 *business.*

20       “(2) *Service of any such demand or of any petition filed*  
21 *under subsection (k) may be made upon any natural person*  
22 *by—*

23               “(A) *delivering an executed copy thereof to the*  
24 *person to be served; or*

1           “(B) depositing such copy in the United States  
2           mails by registered or certified mail, return receipt re-  
3           quested, addressed to such person at his residence or  
4           principal office or place of business.

5           “(f) A verified return by the individual serving any  
6           such demand or petition setting forth the manner of such  
7           service shall be proof of such service. In the case of service by  
8           registered or certified mail, such return shall be accompanied  
9           by the return post office receipt of delivery of such demand.

10          “(g) The production of documentary material in re-  
11          sponse to a demand served pursuant to this section shall be  
12          made under a sworn certificate, in such form as the demand  
13          designates, by the person, if a natural person, to whom the  
14          demand is directed or, if not a natural person, by a person  
15          having knowledge of the facts and circumstances relating to  
16          such production and authorized to act on behalf of such  
17          person. The certificate shall state that all of the documentary  
18          material required by the demand and in the possession, custo-  
19          dy, or control of the person to whom the demand is directed  
20          has been produced and made available to the custodian.

21          “(h) Each interrogatory in a demand served pursuant to  
22          this section shall be answered separately and fully in writing  
23          under oath unless it is objected to, in which event the reasons  
24          for the objection shall be stated in lieu of any answer, and it  
25          shall be submitted under a sworn certificate, in such form as

1 *the demand designates, by the person, if a natural person, to*  
2 *whom the demand is directed or, if not a natural person, by a*  
3 *person or persons responsible for answering each interrogato-*  
4 *ry. The certificate shall state that all information required by*  
5 *the demand and in the possession, custody, control, or knowl-*  
6 *edge of the person to whom the demand is directed has been*  
7 *submitted. To the extent that any materials are not fur-*  
8 *nished, they shall be identified and reasons set forth with*  
9 *particularity for each.*

10       “(i)(1) *The examination of any person pursuant to a*  
11 *demand for oral testimony served under this section shall be*  
12 *taken before an officer authorized to administer oaths and*  
13 *affirmations by the laws of the United States or of the place*  
14 *where the examination is held. The officer before whom the*  
15 *testimony is to be taken shall put the witness on oath or*  
16 *affirmation and shall personally, or by someone acting under*  
17 *his direction and in his presence, record the testimony of the*  
18 *witness. The testimony shall be taken stenographically and*  
19 *transcribed. When the testimony is fully transcribed, the offi-*  
20 *cer before whom the testimony is taken shall promptly trans-*  
21 *mit a copy of the transcript of the testimony to the custodian.*  
22 *This subsection shall not preclude the taking of testimony by*  
23 *any means authorized by, and in a manner consistent with,*  
24 *the Federal Rules of Civil Procedure.*

1       “(2) *The False Claims Act* investigator conducting the  
2 *examination shall exclude from the place where the examina-*  
3 *tion is held all other persons except the person being exam-*  
4 *ined, his counsel, the officer before whom the testimony is to*  
5 *be taken, and any other stenographer taking such testimony.*

6       “(3) *The oral testimony of any person taken pursuant to*  
7 *a demand served under this section shall be taken in the judi-*  
8 *cial district of the United States within which such person*  
9 *resides, is found, or transacts business, or in such other place*  
10 *as may be agreed upon by the False Claims Act investigator*  
11 *conducting the examination and such person.*

12       “(4) *When the testimony is fully transcribed, the False*  
13 *Claims Act investigator or the officer shall afford the witness,*  
14 *who may be accompanied by counsel, a reasonable opportuni-*  
15 *ty to examine the transcript and the transcript shall be read*  
16 *to or by the witness, unless such examination and reading*  
17 *are waived by the witness. Any changes in form or substance*  
18 *which the witness desires to make shall be entered and identi-*  
19 *fied upon the transcript by the officer or the False Claims*  
20 *Act investigator with a statement of the reasons given by the*  
21 *witness for making such changes. The transcript shall then*  
22 *be signed by the witness, unless the witness in writing waives*  
23 *the signing, is ill, cannot be found, or refuses to sign. If the*  
24 *transcript is not signed by the witness within thirty days*  
25 *after his being afforded a reasonable opportunity to examine*

1 *it, the officer or the False Claims Act investigator shall sign*  
2 *it and state on the record the fact of the waiver, illness, ab-*  
3 *sence of the witness, or the refusal to sign, together with the*  
4 *reason, if any, given therefor. A refusal to sign or an unrea-*  
5 *sonable absence shall be deemed to be an acknowledgment of*  
6 *its accuracy and an affirmation of its contents.*

7       “(5) *The officer shall certify on the transcript that the*  
8 *witness was sworn by him and that the transcript is a true*  
9 *record of the testimony given by the witness, and the officer*  
10 *or False Claims Act investigator shall promptly deliver it or*  
11 *send it by registered or certified mail to the custodian.*

12       “(6) *Upon payment of reasonable charges therefor, the*  
13 *False Claims Act investigator shall furnish a copy of the*  
14 *transcript to the witness only, except that the Attorney Gen-*  
15 *eral, the Deputy Attorney General, or an Assistant Attorney*  
16 *General may, for good cause, limit such witness to inspection*  
17 *of the official transcript of his testimony.*

18       “(7)(A) *Any person compelled to appear under a*  
19 *demand for oral testimony pursuant to this section may be*  
20 *accompanied, represented, and advised by counsel. Counsel*  
21 *may advise such person, in confidence, with respect to any*  
22 *question asked of such person. Such person or counsel may*  
23 *object on the record to any question, in whole or in part, and*  
24 *shall briefly state for the record the reason for the objection.*  
25 *An objection may be properly made, received, and entered*

1 upon the record when it is claimed that such person is enti-  
2 tled to refuse to answer the question on grounds of any consti-  
3 tutional or other legal right or privilege, including the privi-  
4 lege against self-incrimination. Such person shall not other-  
5 wise object to or refuse to answer any question, and shall not  
6 by himself or through counsel otherwise interrupt the oral  
7 examination. If such person refuses to answer any question,  
8 the False Claims Act investigator conducting the examina-  
9 tion may petition the district court of the United States pur-  
10 suant to subsection (k)(1) for an order compelling such  
11 person to answer such question.

12       “(B) If such person refuses to answer any question on  
13 the grounds of the privilege against self-incrimination, the  
14 testimony of such person may be compelled in accordance  
15 with the provisions of part V of title 18.

16       “(8) Any person appearing for oral examination pursu-  
17 ant to a demand served under this section shall be entitled to  
18 the same fees and mileage which are paid to witnesses in the  
19 district courts of the United States.

20       “(j)(1) The Attorney General, or his authorized desig-  
21 nee shall designate a False Claims Act investigator to serve  
22 as custodian of documentary material, answers to interroga-  
23 tories, and transcripts of oral testimony received under this  
24 section, and shall designate such additional False Claims



1 *Act investigators as he determines from time to time to be*  
2 *necessary to serve as deputies to such officer.*

3       “(2) *Any person upon whom any demand under subsec-*  
4 *tion (b)(1) for the production of documentary material has*  
5 *been served shall make such material available for inspection*  
6 *and copying to the False Claims Act investigator designated*  
7 *therein at the principal place of business of such person, or at*  
8 *such other place as such False Claims Act investigator and*  
9 *such person thereafter may agree and prescribe in writing, or*  
10 *as the court may direct pursuant to subsection (k)(1) on the*  
11 *return date specified in such demand, or on such later date as*  
12 *such custodian may prescribe in writing. Such person may,*  
13 *upon written agreement between such person and the custodi-*  
14 *an, substitute copies for originals of all or any part of such*  
15 *material.*

16       “(3)(A) *The False Claims Act investigator to whom any*  
17 *documentary material, answers to interrogatories, or tran-*  
18 *scripts of oral testimony are delivered shall take physical pos-*  
19 *session thereof, and shall transmit them to the custodian who*  
20 *shall be responsible for the use made thereof and for the*  
21 *return of documentary material pursuant to this section.*

22       “(B) *The custodian may cause the preparation of such*  
23 *copies of such documentary material, answers to interroga-*  
24 *ries, or transcripts of oral testimony as may be required for*  
25 *official use by any authorized official or employee of the De-*

1 *partment of Justice or any authorized officer or employee of*  
2 *the United States acting under the direction and supervision*  
3 *of an attorney or investigator of the Department of Justice in*  
4 *connection with any False Claims Act investigation, under*  
5 *regulations promulgated by the Attorney General. Notwith-*  
6 *standing subparagraph (C) of this subsection, such material,*  
7 *answers, and transcripts may be used by any such person in*  
8 *connection with the taking of oral testimony pursuant to this*  
9 *section.*

10       “(C) *Except as otherwise provided in this section, while*  
11 *in the possession of the custodian, no documentary material,*  
12 *answers to interrogatories, or transcripts of oral testimony, or*  
13 *copies thereof, so produced shall be available for examination,*  
14 *without the consent of the person who produced such materi-*  
15 *al, answers, or transcripts, and, in the case of any product of*  
16 *discovery produced pursuant to an express demand for such*  
17 *material, of the person from whom the discovery was ob-*  
18 *tained, by any individual other than an authorized official or*  
19 *employee of the Department of Justice, or an authorized offi-*  
20 *cer or employee of the United States acting under the direc-*  
21 *tion and supervision of an attorney or investigator of the De-*  
22 *partment of Justice in connection with any False Claims Act*  
23 *investigation. Nothing in this section is intended to prevent*  
24 *disclosure to either body of the Congress or to any authorized*  
25 *committee or subcommittee thereof, or to any other agency of*

1 *the United States for use by such agency in furtherance of its*  
2 *statutory responsibilities. Disclosure to any other agency of*  
3 *the United States shall be allowed only upon application,*  
4 *made by the custodian to a United States district court,*  
5 *showing substantial need for use by such agency in further-*  
6 *ance of its statutory responsibilities.*

7       “(D) *While in the possession of the custodian and under*  
8 *such reasonable terms and conditions as the Attorney*  
9 *General shall prescribe—*

10           “(i) *documentary material and answers to inter-*  
11 *rogatories shall be available for examination by the*  
12 *person who produced such material or answers, or by*  
13 *an authorized representative of such person; and*

14           “(ii) *transcripts of oral testimony shall be avail-*  
15 *able for examination by the person who produced such*  
16 *testimony, or his counsel.*

17       “(4) *Whenever any attorney of the Department of Jus-*  
18 *tice has been designated to appear before any court, grand*  
19 *jury, or Federal administrative or regulatory agency in any*  
20 *case or proceeding, the custodian of any documentary materi-*  
21 *al, answers to interroyatories, or transcripts of oral testimony*  
22 *may deliver to such attorney such material, answers, or tran-*  
23 *scripts for official use in connection with any such case,*  
24 *grand jury, or proceeding as such attorney determines to be*  
25 *required. Upon the completion of any such case, grand jury,*

1 or proceeding, such attorney shall return to the custodian any  
2 such material, answers, or transcripts so delivered which  
3 have not passed into the control of such court, grand jury, or  
4 agency through the introduction thereof into the record of  
5 such case or proceeding.

6 “(5) If any documentary material has been produced in  
7 the course of any False Claims Act investigation by any  
8 person pursuant to a demand under this section, and—

9 “(A) any case or proceeding before any court or  
10 grand jury arising out of such investigation, or any  
11 proceeding before any Federal administrative or regu-  
12 latory agency involving such material, has been  
13 completed, or

14 “(B) no case or proceeding in which such materi-  
15 al may be used has been commenced within a reasona-  
16 ble time after completion of the examination and anal-  
17 ysis of all documentary material and other information  
18 assembled in the course of such investigation,  
19 the custodian shall, upon written request of the person who  
20 produced such material, return to such person any such ma-  
21 terial (other than copies thereof furnished to the custodian  
22 pursuant to paragraph (2) of this subsection or made by the  
23 Department of Justice pursuant to paragraph (3)(B) of this  
24 subsection) which has not passed into the control of any

1 court, grand jury, or agency through the introduction thereof  
2 into the record of such case or proceedings.

3       “(6) In the event of the death, disability, or separation  
4 from service in the Department of Justice of the custodian of  
5 any documentary material, answers to interrogatories, or  
6 transcripts of oral testimony produced under any demand  
7 issued pursuant to this section, or of the official relief of such  
8 custodian from responsibility for the custody and control of  
9 such material, answers or transcripts, the Attorney General  
10 or his authorized designee shall promptly (A) designate an-  
11 other False Claims Act investigator to serve as custodian of  
12 such material, answers, or transcripts, and (B) transmit in  
13 writing to the person who produced such material, answers,  
14 or testimony notice as to the identity and address of the suc-  
15 cessor so designated. Any successor designated under this  
16 subsection shall have, with regard to such material, answers  
17 or transcripts, all duties and responsibilities imposed by this  
18 Act upon his predecessor in office with regard thereto, except  
19 that he shall not be held responsible for any default or dere-  
20 liction which occurred prior to his designation.

21       “(k)(1) Whenever any person fails to comply with any  
22 civil investigative demand served upon him under subsection  
23 (b) or whenever satisfactory copying or reproduction of any  
24 such material cannot be done and such person refuses to sur-  
25 render such material, the Attorney General, through such of-

1 *ficers or attorneys as he may designate, may file in the dis-*  
2 *trict court of the United States for any judicial district in*  
3 *which such person resides, is found, or transacts business,*  
4 *and serve upon such person a petition for an order of such*  
5 *court for the enforcement of this section.*

6       “(2)(A) *Within twenty days after the service of any*  
7 *such demand upon any person, or at any time before the*  
8 *return date specified in the demand, whichever period is*  
9 *shorter, or within such period exceeding twenty days after*  
10 *service or in excess of such return date as may be prescribed*  
11 *in writing, subsequent to service, by any False Claims Act*  
12 *investigator named in the demand, such person may file, in*  
13 *the district court of the United States for the judicial district*  
14 *within which such person resides, is found, or transacts busi-*  
15 *ness, and serve upon such False Claims Act investigator a*  
16 *petition for an order of such court, modifying or setting aside*  
17 *such demand. In the case of a petition addressed to an ex-*  
18 *press demand for any product of discovery, a petition to*  
19 *modify or set aside such demand may be brought only in the*  
20 *district court of the United States for the judicial district in*  
21 *which the proceeding in which such discovery was obtained is*  
22 *or was last pending.*

23       “(B) *The time allowed for compliance with the demand,*  
24 *in whole or in part, as deemed proper and ordered by the*  
25 *court shall not run during the pendency of such petition in*

1 *the court, except that such person shall comply with any por-*  
2 *tions of the demand not sought to be modified or set aside.*  
3 *Such petition shall specify each ground upon which the peti-*  
4 *tioner relies in seeking such relief, and may be based upon*  
5 *any failure of such demand to comply with the provisions of*  
6 *this section or upon any constitutional or other legal right or*  
7 *privilege of such person.*

8       “(3) *Within twenty days after the service of any express*  
9 *demand for any product of discovery upon, or at any time*  
10 *before, the return date specified in the demand, whichever*  
11 *period is shorter, or within such period exceeding twenty*  
12 *days after service or in excess of such return date as may be*  
13 *prescribed in writing, subsequent to service, by any False*  
14 *Claims Act investigator named in the demand, the person*  
15 *from whom such discovery was obtained may file, in the dis-*  
16 *trict court of the United States for the judicial district in*  
17 *which the proceeding in which such discovery was obtained is*  
18 *or was last pending, and serve upon any False Claims Act*  
19 *investigator named in the demand and upon the recipient of*  
20 *the demand, a petition for an order of such court modifying*  
21 *or setting aside those portions of the demand requiring pro-*  
22 *duction of any such product of discovery. Such petition shall*  
23 *specify each ground upon which the petitioner relies in seek-*  
24 *ing such relief and may be based upon any failure of such*  
25 *portions of the demand to comply with the provisions of this*

1 section, or upon any constitutional or other legal right or  
2 privilege of the petitioner. During the pendency of such peti-  
3 tion, the court may stay, as it deems proper, compliance with  
4 the demand and the running of the time allowed for compli-  
5 ance with the demand.

6       “(4) At any time during which any custodian is in cus-  
7 tody or control of any documentary material, answers to in-  
8 terrogatories delivered, or transcripts of oral testimony given  
9 by any person in compliance with any such demand, such  
10 person, and in the case of an express demand for any product  
11 of discovery, the person from whom such discovery was ob-  
12 tained, may file, in the district court of the United States for  
13 the judicial district within which the office of such custodian  
14 is situated, and serve upon such custodian, a petition for an  
15 order of such court requiring the performance by such custo-  
16 dian of any duty imposed upon him by this section.

17       “(5) Whenever any petition is filed in any district court  
18 of the United States under this section, such court shall have  
19 jurisdiction to hear and determine the matter so presented,  
20 and to enter such order or orders as may be required to carry  
21 into effect the provisions of this section. Any final order so  
22 entered shall be subject to appeal pursuant to section 1291 of  
23 title 28. Any disobedience of any final order entered under  
24 this section by any court shall be punished as a contempt  
25 thereof.



1       “(6) To the extent that such rules may have application  
2 and are not inconsistent with the provisions of this section,  
3 the Federal Rules of Civil Procedure shall apply to any peti-  
4 tion under this subsection.

5       “(7) Any documentary material, answers to written in-  
6 terrogatories, or oral testimony provided pursuant to any  
7 demand issued under this section and sections 3729 through  
8 3731 shall be exempt from disclosure under section 552 of  
9 title 5.”.

10       SEC. 6. (a) Subchapter III of chapter 37 of title 31,  
11 United States Code, is further amended by adding at the end  
12 thereof the following:

13       “§ 3734. Whistleblower protection

14       “Any employee who is discharged, demoted, suspended,  
15 threatened, harassed, or in any other manner discriminated  
16 against in the terms or conditions of such employment by his  
17 employer because of the good faith exercise by such employee  
18 on behalf of himself or others of any option afforded by this  
19 Act, including investigation for, initiation of, testimony for,  
20 or assistance in an action filed or to be filed under this Act,  
21 shall be entitled to all relief necessary to make him whole.  
22 Such relief shall include reinstatement with full seniority  
23 rights, backpay with interest, and compensation for any spe-  
24 cial damages sustained as a result of the discrimination, in-  
25 cluding litigation costs and reasonable attorney fees. In addi-

1 tion, the employer shall be liable to such employee for twice  
2 the amount of backpay and special damages and, if appropri-  
3 ate under the circumstances, the court shall award punitive  
4 damages.”.

5 (b) The table of sections for chapter 37 of title 31,  
6 United States Code, is amended by adding at the end thereof  
7 the following new items:

“3732. False claims jurisdiction.  
“3733. Civil investigative demands.  
“3734. Whistleblower protection.”.

8 SEC. 7. (a) Section 286 of title 18, United States Code,  
9 is amended by striking out “\$10,000” and inserting in lieu  
10 thereof “\$1,000,000”.

11 (b) Section 287 of title 18, United States Code, is  
12 amended by striking out “\$10,000, or imprisoned not more  
13 than five years” and inserting in lieu thereof “\$1,000,000,  
14 or imprisoned for not more than ten years”.

15 SEC. 8. This Act and the amendments made by this Act  
16 shall become effective upon the date of enactment.