**Government Contractors and the False Claims Act**

Does your company work with the government? Companies involved in government contracting should have compliance programs in place to avoid liability under federal and state laws like, among others, the False Claims Act (“FCA”). The FCA was adopted in 1863 and signed by President Lincoln to combat rampant fraud in Civil War defense contracts. In its current form, the FCA empowers the federal government to recover treble damages (three times the actual harm) and civil penalties from persons or companies who make “false claims” for money or property from the United States, or submit false information in support of claims. There are many types of potential “false claims.” For example, sending a bill that overcharges the government for services performed could constitute a false claim.

The FCA is now the federal government’s primary tool for combatting fraud involving government contracts, programs, and funds. For example, according to several reports, since 1987, the federal government has recovered more than $53 billion in settlements and judgments in FCA cases. The federal government recovered more than $4.7 billion in 2016 alone.[[1]](#footnote-1)

The FCA includes a provision that allows “whistleblowers” to file civil actions on behalf of the government and recover large awards from a company for violation of the FCA. Whistleblowers are often employed by the company accused of wrongdoing and provide the government with significant information about the company’s operations, management, and alleged false claims. FCA allegations can also lead to federal criminal investigations.

Although the FCA is a complex statutory scheme, simple steps can be taken to put compliance programs in place that will minimize and avoid liability. For example, regular internal audits or investigations can be completed to ensure that procedures are not only in place, but also are followed to comply with the requirements of specific government contracts, the FCA, and other federal and state laws.

If you have any questions, please contact Jeffrey R. Makin of Arent Fox LLP (jeffrey.makin@arentfox.com).

1. U.S. Dep’t of Justice, Press Release, Justice Department Recovers Over $4.7 Billion From False Claims Act Cases in Fiscal Year 2016 (Dec. 14, 2016), <https://www.justice.gov/opa/pr/justice-department-recovers-over-47-billion-false-claims-act-cases-fiscal-year-2016>. [↑](#footnote-ref-1)