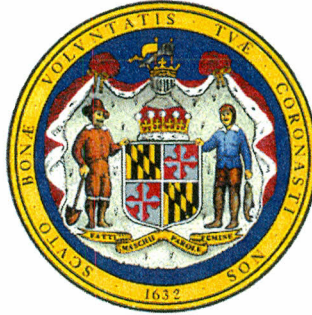


STATE OF MARYLAND



**OFFICE OF
THE ATTORNEY GENERAL**

MARYLAND FALSE CLAIMS ACT

Annual report

Fiscal Year 2016

Submitted to the General Assembly

The False Claims Act of 2015 prohibits any person from submitting or causing to be submitted false or fraudulent claims to the State or to a county. The Act authorizes the State or a county to file suit on its own behalf to recover civil penalties for violations of the Act. Private citizens may also file suit on the government's behalf, after which the government must decide whether to intervene and pursue the action or to decline to intervene, which results in the dismissal of the action.

The Act also requires the Office of the Attorney General and each county attorney to report annually, on or before October 1, regarding False Claims Act investigations for the prior fiscal year.

False Claims Litigation Generally and the Maryland False Claims Act

False claims litigation dates back to the Civil War, when companies that contracted to supply goods to the Union Army sometimes cheated the government and did not supply the products for which they were paid. This resulted in the enactment of the federal False Claims Act, 31 U.S.C. §§ 3729-3733. The False Claims Act allows the government to recover treble damages and additional penalties from anyone found to have submitted a false or fraudulent claim to the federal government.

The False Claims Act also contains provisions that allow a private citizen who knows that false or fraudulent claims have been submitted to the government to file suit on the government's behalf. These lawsuits, generally known as *qui tam* lawsuits, allow the government to recover monies in cases that might not otherwise have come to the government's attention. The person who files the lawsuit, known as the relator, receives a portion of the proceeds in exchange for his or her services in bringing the fraud to light. More than half of the States have also enacted false

claims statutes that allow a relator to file suit on the State's behalf. The government plaintiffs then choose either to intervene in the lawsuit or to decline the lawsuit. If any government entity intervenes, it usually files its own complaint, in which it may adopt some, all, or none of the relator's original allegations; the government may also include additional allegations based on information learned during the investigation. Under the federal False Claims Act and most state laws, if the government declines to intervene, the relator may continue to pursue the case on the government's behalf. Both the Maryland False Claims Act and the Maryland False Claims Act, however, require that the case be dismissed if the State declines to intervene in the action.

The Maryland False Claims Act

The False Claims Act states that a person may not

- (1) knowingly present or cause to be presented a false or fraudulent claim for payment or approval;
- (2) knowingly make, use, or cause to be made or used a false record or statement material to a false or fraudulent claim;
- (3) conspire to commit a violation under this subtitle;
- (4) have possession, custody, or control of money or other property used by or on behalf of a governmental entity and knowingly deliver or cause to be delivered to the State less than all of that money or other property;
- (5) (i) be authorized to make or deliver a receipt or other document certifying receipt of money or other property used or to be used by a governmental entity; and (ii) intending to defraud the governmental entity make or deliver a receipt or document knowing that the information contained in the receipt or document is not true;
- (6) knowingly buy or receive as a pledge of an obligation or debt publicly owned property from an officer, employee, or agent of a governmental entity who lawfully may not sell or pledge the property;
- (7) knowingly make, use, or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or other property to a governmental entity;

(8) knowingly conceal, or knowingly and improperly avoid or decrease, an obligation to pay or transmit money or other property to a governmental entity, including misrepresenting the time at which a trade was made to make the transaction appear less favorable; or

(9) knowingly make any other false or fraudulent claim against a governmental entity.

When a person submits a false claim in violation of the Act, the State may recover up to three times the amount of the damages sustained by the State and up to \$10,000 per violation of the Act. The claim does not have to be submitted directly to a government entity, but includes indirect payments, such as a subcontractor submitting a false claim to a prime contractor or contractors submitting claims to non-governmental agencies that receive government funds.

Education and Outreach Efforts

Because the False Claims Act is new, the Office of the Attorney General has undertaken substantial efforts to educate agency counsel, procurement officers, and others about the Act and what kind of issues should be investigated under the Act. Approximately five hundred people from the Office of the Attorney General, other State agencies, and outside groups have attended training sessions about the Act. These outreach efforts are expected to continue throughout Fiscal Year 2017.

Investigations under the False Claims Act

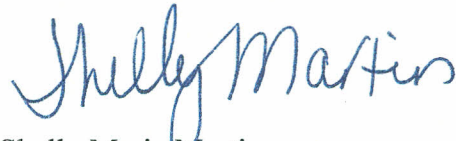
The Office of the Attorney General opened fourteen claims investigations in Fiscal Year 2016. Four of those investigations were the result of qui tam actions filed on the State's behalf by private persons. Of those four cases, the State declined to intervene in one, and three remain under investigation. The Attorney General's Office opened ten investigations based on information received from sources other than a qui tam relator. Five of those investigations have been closed, and five are in progress.

The Attorney General's Office entered into a settlement in one case. The settlement resolved allegations that MV Transportation submitted false claims for payment to the Washington Metropolitan Area Transit Authority. Specifically, the settlement resolved claims that MV Transportation submitted inaccurate invoices for reimbursement for MetroAccess transportation services by charging for trips taken by customers who were known or should have been known by MV Transportation to be deceased and for transportation services that charged for the use of a wheelchair and/or vehicle that could accommodate a wheelchair for trips taken by customers who did not need a wheelchair and/or vehicle that could accommodate a wheelchair. Although the conduct at issue pre-dates the effective date of the False Claims Act, the settlement resolved common law claims that were also implicated in the case. MV Transportation paid \$92,040 to the State, part of a collective \$150,000 paid to Maryland, the District of Columbia, and the Commonwealth of Virginia.

The False Claims Act became effective June 1, 2015, and it is not retroactive. It cannot be used to address prior misconduct. The Office of the Attorney General expects that the number of cases filed under the False Claims Act will increase as current and future violations of the Act are reported.

Conclusion

The Office of the Attorney General believes that the False Claims Act is a valuable tool to fight fraud against the government. It will allow the State to recoup funds that would otherwise be lost to unscrupulous conduct and serve as an effective deterrent to future misconduct.



Shelly Marie Martin
Assistant Attorney General
Director, False Claims Unit