



FEDERAL AND STATE FALSE CLAIMS ACT

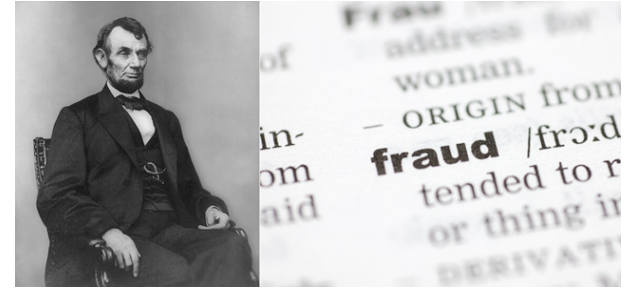
HHSA Employee Roles & Responsibilities





BACKGROUND

- Enacted to combat fraud, waste and abuse committed by contractors against the United States and the State of California



- **Federal False Claims Act** ~ “The Lincoln Law” (31 USC § 3279-3733)
 - Enacted in 1863 during the Civil War to combat contractor fraud against the Union Army
 - Used extensively to combat fraud in government health care programs
 - Amended in 1986 to include non-retaliation (whistleblower) protections
- **California False Claims Act** ~ (California Government Code 12650-12655)
 - Enacted in 1987; modeled after Federal False Claims Act



FEDERAL AND STATE REQUIREMENTS

- All County of San Diego employees have a **duty** to prevent fraud, waste and abuse of taxpayers dollars
- All County of San Diego employees are **obligated** to report suspected instances of fraud, waste and abuse



LEGALITIES

LIABILITY

- The False Claims Acts establishes liability for any person who:
 - **KNOWINGLY** presents false or fraudulent claims to the US Government or the State of California for payment (or conspires to do so)
 - **KNOWINGLY** makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved (or conspires to do so)
 - **KNOWINGLY** falsifies a receipt for state property or delivers less property than indicated on the receipt
 - **KNOWINGLY** buys or takes a pledge of public property from another not authorized to sell or pledge the property



LEGALITIES

LIABILITY

- (CONT) The False Claims Acts establishes liability for any person who:
 - **KNOWINGLY** benefits from a false claim to the Government or State
 - **KNOWINGLY** makes, uses, or causes to be used a false record which supports a financial or property obligation to the Government, or **KNOWINGLY** decreases an obligation to the Government (i.e. tax fraud)
 - Benefits from an inadvertent submission of a false claim and fails to disclose the false claim after discovery



LEGALITIES

KNOWLEDGE

- In establishing liability in a Cause of Action, knowingly is defined as a person, with respect to information:
 - Has actual knowledge that the information is false
 - Acts in deliberate ignorance of whether the information is true or false
 - Acts in reckless disregard of whether the information is true or false

PROOF OF SPECIFIC INTENT TO DEFRAUD IS NOT REQUIRED



LEGALITIES

KNOWLEDGE

- Actual Knowledge
 - Submitting a claim where you know services have not been provided
- Deliberate Ignorance
 - Ignoring changes in billing requirements or providing approval on a billing without actually reviewing for accuracy
- Reckless Disregard
 - Assigning billing functions to an employee without determining that the employee has adequate knowledge and training to perform the billing duties correctly



LIVE WELL
SAN DIEGO

LEGALITIES

CIVIL PENALTIES

- Federal False Claims Act
 - Treble (3x) damages, plus
 - \$5,000 to \$10,000 per claim
 - Potential exclusion from Government programs
 - Potential suspension of Federal payments
- California False Claims Act
 - Treble (3x) damages, plus
 - \$5,000 to \$10,000 per claim
 - District Attorney, City Attorney and County Counsel have option to prosecute the claim



LEGALITIES

CIVIL PENALTIES

- Liability Reduction
 - If a false claim occurs, the court may assess “not less than” double (as opposed to 3x) damages and costs, IF within 30 days of discovery:
 - We self report;
 - We fully cooperate with any investigation;
 - No legal proceeding has been commenced regarding the violation;
and
 - We have no knowledge of a governmental investigation of the violation



LIVE WELL
SAN DIEGO



WHISTLEBLOWER



- Qui Tam
 - The Federal and California False Claims Acts allow individuals (relators) to file “qui tam” or “whistleblower” lawsuits against organizations that have defrauded the Government
 - Encourages insiders to come forward with False Claims evidence
- Financial Incentives
 - If the Government does not intervene, the relator may receive between 25% to 30% of any recovery
 - If the Government does intervene, the relator may receive between 15% and 25% of any recovery



WHISTLEBLOWER

- Protections
 - Relators who file whistleblower lawsuits are protected from retaliation by Federal law
 - Relators are additionally given an additional cause of action under the FCA if the employer retaliates in any way entitling the relator to ***all relief necessary to make the employee whole***



The County takes all allegations of fraud, waste and abuse very seriously and will review all allegations thoroughly.

Employees reporting these issues can remain anonymous if they wish, to the extent the law allows.



**LIVE WELL
SAN DIEGO**

Steps you should take if you suspect or have knowledge of fraud, waste or abuse of program funds, or just want to discuss a concern:

1. Talk to your Supervisor or Manager
2. Call the HHSA Compliance Office
Christy Carlson ~ 619.338.2807
3. Call the Office of Ethics and Compliance
Bob Borntrager ~ 619.531.6263
4. Utilize the County Anonymous Hotline
866.549.0004



LIVE WELL
SAN DIEGO

REMEMBER

- ~ YOU know the programs better than anyone else
- ~ YOU are in the best position to know when there is a problem or concern
- ~ The best prevention against false claims is YOUR awareness and diligence



LIVE WELL
SAN DIEGO



QUESTIONS

