

The Compliance Collective:

Responding to Shifting Federal Enforcement in Government Contracting

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The Compliance Collective



This webinar is a part of our monthly webinar series,
“The Compliance Collective.”

The webinar series is hosted by a team of cross-disciplinary Perkins Coie lawyers who provide a monthly overview and discussion forum on a critical hot topic in ethics and compliance. Each topic provides a look at emerging issues and offers creative solutions to potential compliance problems.

The webinar is hosted every third Thursday at the same time each month: 10:00 a.m. PT/12:00 p.m. CT/1:00 p.m. ET.

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Agenda

1. The New Enforcement Landscape

- Policy-driven Executive Orders

2. Evolving DOJ Enforcement Priorities & Trends

- Re-prioritized enforcement policies, new task forces, creation of DOJ National Fraud Enforcement Division

3. Disclosure & Whistleblower Incentives

- Varies by DOJ division

4. Recent Cases & Areas Under Scrutiny

- DEI, Antitrust, Cybersecurity, Trade

5. Key Takeaways



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1. The New Enforcement Landscape

The New Enforcement Landscape: **Setting the Stage**

“Lighter Enforcement” – Or Not?

Answer is similar to Instagram v. Reality . . .

Instagram:

Many expected a relaxed enforcement environment with fast-tracked deregulation under Trump 2.0



Unfiltered reality:

Enforcement has shifted and, in key areas, ***intensified*** . . .

Aggressive deregulation, but not without procedural hurdles



The New Enforcement Landscape: **Setting the Stage**

- New compliance challenges for government contractors are being influenced and driven by:
 - Continued release of new **Executive Orders** with significant changes and wide-reaching impact
 - Necessary role of agencies in **deregulation and acquisition overhaul** process
 - Release of updated, re-prioritized DOJ **corporate enforcement policies** by division
 - Establishment of new DOJ **task forces** and **specialized units**
 - Creation of [DOJ National Fraud Enforcement Division](#) and reorganization of others
 - Roll-out of new **whistleblower incentive** and **disclosure policies** by division

- The Administration’s policy—an **“America First”** agenda with unprecedented vigor and enforcement capability—directly influences each of the above

The New Enforcement Landscape: **Trump 2.0 Priorities**

During his campaign, Trump repeatedly highlighted “waste, fraud, and abuse” as reasons to overhaul federal programs and reduce government size.



Trump’s first wave of Executive Orders were largely targeted at this goal.

The New Enforcement Landscape: **Trump 2.0 Priorities**

DOJ = The Administration's Policy Enforcement Arm

Fraud, Waste & Abuse

Prosecute and prevent procurement fraud, health care fraud, fraud targeting the federal fisc

Immigration Enforcement

Stop illegal immigration, prosecute sanctuary jurisdictions

Elimination of Cartels & TCOs

Designate cartels as Foreign Terrorist Organizations, racketeering and death penalty charges

Ending DEI

Eliminate "illegal" DEI programs in fed. contracts & grants

National Security

Trade & Customs Enforcement

America First trade policy; tariff enforcement

Deregulation & Procurement Reform

FAR overhaul; procurement consolidation under GSA; fighting "overcriminalization" of federal regs.

Antitrust & Competition

Reducing anticompetitive regulatory barriers

Cybersecurity

CMMC rollout; increased enforcement under FCA; criminal prosecution of FedRAMP fraud

Protect Law Enforcement

Aggressive prosecution of violence against law enforcement

The New Enforcement Landscape: Key Executive Orders Impacting Gov. Contractors

<u>EO 14147</u>	Ending the Weaponization of the Federal Government
<u>EO 14151</u>	Ending Radical and Wasteful Government DEI Programs and Preferencing
<u>EO 14173</u>	Ending Illegal Discrimination and Restoring Merit-Based Opportunity
<u>EO 14192</u>	Unleashing Prosperity Through Deregulation
<u>EO 14210</u>	Implementing DOGE Workforce Optimization Initiative
<u>EO 14219</u>	DOGE Deregulatory Initiative
<u>EO 14222</u>	Implementing DOGE Cost Efficiency Initiative
<u>EO 14240</u>	Eliminating Waste by Consolidating Procurement
<u>EO 14265</u>	Modernizing Defense Acquisitions and Spurring Innovation in the DIB
<u>EO 14267</u>	Reducing Anti-Competitive Regulatory Barriers
<u>EO 14271</u>	Ensuring Commercial, Cost-Effective Solutions in Federal Contracts
<u>EO 14275</u>	Restoring Common Sense to Federal Procurement
<u>EO 14294</u>	Fighting Overcriminalization in Federal Regulations
<u>EO 14372</u>	Prioritizing the Warfighter in Defense Contracting

The New Enforcement Landscape: What the Executive Orders Require

Key Mandates for Government Contractors

- **DEI Certification:** Every federal contract and grant must include a certification that the recipient does not operate DEI programs violating federal anti-discrimination laws; prior “compliance” is now source of potential FCA liability (EO 14151 & 14173)
- **Deregulation and FAR Overhaul:** Comprehensive revision of the FAR to remove all clauses not required by statute (EO 14275). **10-for-1 rule** means for every new regulation, 10 must be deleted (EO 14192)
- **Procurement Centralization:** Required to use government-wide contracts managed under GSA, with commercial solutions as default absent exception (EO 14271)
- **Cost-Efficiency Reviews:** Existing contracts and grants subject to review for cost-effectiveness (EO 14219)
- **Defense Contractor Standards:** Prohibits stock buybacks and dividends for underperforming defense contractors and mandates future contract clauses tying executive compensation to performance metrics (EO 14372)

The New Enforcement Landscape:
EO 14275: The “Revolutionary FAR Overhaul” (RFO)

The Goal:

- Remove non-statutory regulations for simplified, "Common Sense" approach per EO 14275

The Reality:

- A "Wild West" of Class Deviations from each agency during transition, plus non-binding guidance

Key Structural Changes to Date:

- **FAR Part 4:** Removal of the annual "List" of certifications
- **FAR Part 12:** Removal of non-statutory commercial items protections
- **FAR Part 40:** Consolidates all Information Supply Chain Security (Section 889, CUI)

EO 14294: Fighting Overcriminalization in Federal Regulations

- **Strict Liability is “Generally Disfavored”:** EO 14294 declares that strict liability criminal regulatory offenses—where citizens need not have a guilty mental state to be convicted—are “generally disfavored” (citing *United States v. United States Gypsum Co.*, 438 U.S. 422 (1978))
- **New *Mens Rea* Default:** Agencies must examine statutory authorities and determine whether they can adopt a background *mens rea* standard for all criminal regulatory offenses—deviations require individual justification
- **Only Knowing Violators Should be Referred to DOJ:** Agencies should only refer to DOJ persons who knew or can be presumed to know what is prohibited and willingly chose not to comply, causing or risking substantial public harm
- **Transparency Requirements for New Rules:** All future final rules with criminal consequences must:
 - Identify the rule as a criminal regulatory offense and cite the authorizing statute
 - Explicitly state *mens rea* requirement for each element of the criminal offense

Unclear what this means for the “reckless disregard” standard under the FCA.

2. DOJ Enforcement Priorities & Trends

DOJ Enforcement Priorities & Trends:
False Claims Act – Brief Overview



- The FCA (31 U.S.C § 3729 *et seq.*) is the government’s primary civil remedy to redress fraud against the government
- Liability triggered by, e.g., knowingly presenting or causing to present a false or fraudulent claim for payment to the government, or making or using a false record or statement material to a false claim

Knowing = Actual Knowledge
Reckless Disregard = Deliberate Ignorance

- Liability can be based on express or impliedly false certifications of compliance with requirements
- Imposes treble damages (3x government losses) and per-claim penalties
- Civil statute; preponderance of evidence standard
- *Qui tam** statute enables whistleblowers (i.e., relators) to bring suits on behalf of the government and recover between 15% and 30% of any recovery

Meanwhile, FCA Recoveries Continue to Grow

- DOJ has recovered more than **\$85 Billion** in FCA settlements and judgments since 1986 and collects billions in recoveries every year
 - *Qui tam* suits continue to be the source of a majority of FCA cases
 - *Qui tam* suits are filed under seal on an *ex parte* basis and DOJ decides whether to intervene

- In FY 2025, FCA recoveries totaled **\$6.8 Billion**
 - Record **1,297 *qui tam*** suits filed by whistleblowers
 - Relator-initiated suits led to **\$5.3 Billion** in judgments (more than 75% of total recoveries)
 - Highest in the statute's history

DOJ Enforcement Priorities & Trends:
Enforcement Tools Under Trump 2.0

Agency Administrative Action – Termination, S&D, etc.

- Contracting Officer, Agency Head, OIG, SDO
- [DOGE](#) (2025)

DOJ Civil Division – Civil FCA

DOJ Criminal Division – Criminal FCA, fraud, etc.

DOJ Antitrust Division – Title 15, Title 18

- [Civil Rights Fraud Initiative](#) (2025)
- [Antitrust Anticompetitive Task Force](#) (2025)
- [Trade Fraud Task Force](#) (2025)
- [DOJ-HHS FCA Working Group](#) (2025)
- [Civil-Cyber Fraud Initiative](#) (2021)
- [Procurement Collusion Strike Force](#) (2019)



[National Fraud Enforcement Division](#)

DOJ Enforcement Priorities & Trends:
DOJ Civil Enforcement Priorities

Shumate Memo - Civil Division Priorities (June 11, 2025)

Aligns enforcement to administration policy objectives:

- **DEI / Discriminatory practices** – using the FCA to combat unlawful DEI programs
- **Antisemitism** – enforcing nondiscrimination obligations
- **Protecting children** – enforcement against grantees
- **Trade fraud** – tariff evasion and customs violations
- **Cybersecurity** – enforcing compliance in government contracts

Blanche Memo - Civil Rights Fraud Initiative (May 2025)

- Uses the FCA to pursue recipients of federal funds who violate civil rights laws
- DOJ conducting **active reviews** of contractor and grantee hiring, promotion, and compensation practices—and filing complains / entering into agreements

DOJ Enforcement Priorities & Trends:
DOJ Criminal Enforcement Priorities

Galeotti Memorandum – “Focus, Fairness, and Efficiency” (May 2025)

- Memo lays out three guiding principles for white-collar enforcement:

Focus	Fairness	Efficiency
<p>Prioritize most urgent criminal threats:</p> <ul style="list-style-type: none">• Procurement fraud, waste & abuse• Trade and customs fraud• Money laundering & sanctions• Schemes targeting U.S. investors and markets	<ul style="list-style-type: none">• Consistent application of corporate enforcement policies	<ul style="list-style-type: none">▪ Streamline investigations; resolve cases faster

- Enforcement actions in 2025 did not show signs of slowing
- For example, the Criminal Fraud Section had a record-setting year—charging **265 defendants** (over 10% more than in 2024)
 - Aggregate intended fraud loss was **over \$16 billion**—record high and **more than double from 2024**
 - Led 15 corporate enforcement actions, including indictments against 3 companies
 - First corporate indictments in over 15 years and most corporate indictments in a single year

Other DOJ Policies & Guidance

Office of the Attorney General

- [Implementation of Executive Orders 14151 and 14173 Eliminating Unlawful DEI Programs in Federal Operations](#), March 21, 2025
- [Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination](#), July 29, 2025
- [Eliminating Internal Discriminatory Practices](#), February 5, 2025
- [Ending Illegal DEI and DEIA Discrimination and Preferences](#), February 5, 2025
- [General Policy Regarding Charging, Plea Negotiations, and Sentencing](#), February 5, 2025
- [General Policy Regarding Zealous Advocacy on Behalf of the United States](#), February 5, 2025
- [Reinstating the Prohibition on Improper Guidance Documents](#), February 5, 2025
- [Restoring the Integrity and Credibility of the Department of Justice](#), February 5, 2025
- [Sanctuary Jurisdiction Directives](#), February 5, 2025
- [Total Elimination of Cartels and Transnational Criminal Organizations](#), February 5, 2025

Office of the Deputy Attorney General

- [Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act \(FCPA\)](#), June 9, 2025
- [Civil Rights Fraud Initiative](#), May 19, 2025
- [Ending Regulation by Prosecution](#), April 7, 2025
- [Operation Take Back America](#), March 6, 2025
- [U.S. Attorneys' Offices Staffing Priorities](#), March 6, 2025

3. Disclosure & Whistleblower Incentives

DOJ Criminal Voluntary Self-Disclosure Policy

- New guidelines allow DOJ to decline prosecution of a company for criminal conduct if the following factors are present:

1. The company voluntarily self-disclosed the misconduct to the Criminal Division;
2. The company fully cooperated with the Criminal Division's investigation;
3. The company timely and appropriately remediated the misconduct; and
4. There are no aggravating circumstances related to the nature and seriousness of the offense, egregiousness or pervasiveness of the misconduct within the company, severity of harm caused by the misconduct, or criminal adjudication or resolution within the last five years based on similar misconduct by the entity engaged in the current misconduct.

- Narrow window for *both* whistleblower and company to report the same misconduct and remain eligible for potential benefits
- If company receives whistleblower's internal report and then self-discloses the allegations to DOJ's Criminal Division within 120 days (before DOJ reaches out to the company), the company remains eligible for the Division's VSD program, even if the whistleblower has already submitted the information to DOJ (see [Appendix B](#))

DOJ Enforcement Priorities & Trends:
DOJ Antitrust Whistleblower Rewards Program

Program Structure

- Established between ATR Division and U.S. Postal Service (May 2025)
- Whistleblowers who voluntarily provide **original information** about eligible criminal violations that leads to a resolution with a criminal fine of **at least \$1 million**
- Award range: **15% to 30%** of the recovered criminal fine
- Multiple whistleblowers may share a single award (total capped at 30%)
- Must be an individual (not a company or entity) who voluntarily provides original information
- “Race to the door” for [leniency](#)

Eligible Criminal Violations

- Sherman Act violations (bid rigging, price fixing, market allocation, monopolization)
- Crimes targeting public procurement or affecting competition investigations

Rewards Payout

- First-ever \$1 million payment [announced](#) January 2026
- Tip led to resolution of criminal antitrust and fraud charges
- Powerful new financial incentive for insiders to report anticompetitive conduct

Disclosure & Whistleblower Incentives:
Incentives to Disclose

	Self-Report	Don't Self-Report
Criminal (CEP)	Declination (absent aggravating factors)	Full prosecution; no cooperation credit
Criminal (USAO VSD)	Up to 75% fine reduction; no monitor	Standard sentencing; potential monitor
Civil (FCA)	Potential reduced damages; cooperation credit	Treble damages; per-claim penalties
Antitrust	Leniency program protections	Criminal fines; individual imprisonment

4. Recent Cases & Areas Under Scrutiny

CLE Code Word: **Enforcement**

Areas Under Scrutiny

- **Cybersecurity Compliance – FAR [52.204-21](#), DFARS [252.204-7012](#), FedRAMP**
 - Compliance with contractual and regulatory cybersecurity requirements, especially with new, complex regulations (e.g., Cybersecurity Maturity Model Certification (CMMC) Program)
 - Focus on misrepresentations regarding controls, plans to implement requirements, and incident reporting
 - Antitrust violations within IT supply chains providing products and services to the government
- **DEI Policies**
 - [EO 14173](#) certification
- **Tariffs and Customs**
 - Country-of-origin status
 - Tariff classifications
- **Small Business 8(a) Program**
 - Eligibility, ownership, and control issues
 - Front companies and pass-through arrangements

Recent Cases – Civil

Cyber Fraud

- Health Net Federal Services Inc. (HNFS) [agreed](#) to pay **\$11.2M** to resolve allegations that HNFS falsely certified compliance with **cybersecurity requirements** under DOD contracts (February 2025)
- Illumina Inc. [agreed](#) to pay **\$9.8M** to resolve allegations that it sold to federal agencies systems with cybersecurity vulnerabilities and lacked an adequate security (July 2025)
- Raytheon [agreed](#) to pay **\$8.4M** to resolve FCA allegations of cybersecurity noncompliance (May 2025)
- Georgia Tech agreed to pay **\$875k** settlement following DOJ [intervention](#) in *qui tam* matter, alleging university and lab associated lab that knowingly failed to meet **cybersecurity requirements** under DoD contracts (Sept. 2025)

Trade Fraud

- Ceratizit USA LLC [agreed](#) to pay **\$54.4M** for alleged failure to pay import duties on goods from China (December 2025)

Title VII Discrimination

- DOJ Civil Rights Division recently filed [suit](#) against the State of Minnesota challenging sex- and race-based affirmative action plans based on the Trump administration's DEI policies (January 2026)

Recent Cases – Criminal

Sherman Act

- **Brett Sanborn** of North Carolina pled guilty to conspiring to rig bids under DOW contracts in violation of the Sherman Act; bid-rigging conspiracy involved predetermined high-priced “comp” bids; affected commerce \$2.6M (Dec. 2025)
- **Thomas Rollins** of North Carolina pled guilty to similar conspiracy in violation of Section 1 of Sherman Act on Feb. 10, 2026; affected commerce \$8.4M (February 2026)

Wire Fraud, Major Fraud, Obstruction of Audit

- **Danielle Hillmer** was indicted for major government fraud, wire fraud, and obstructing federal audits for allegedly carrying out scheme to mislead federal agencies about FedRAMP status (December 2025)

5. Key Takeaways

Recent Cases & Areas Under Scrutiny:

Enforcement Has Shifted, Not Softened

- **Procurement Enforcement on the Rise**
 - Continued use of FCA, but applied to violations of civil rights fraud
 - Increase in procurement-related criminal enforcement
- **Increased Focus**
 - DOJ and agency OIGs emphasizing fraud, false statements, and antitrust conduct
 - Heightened scrutiny of contractor representations tied to eligibility and compliance, especially in SBA's 8(a) Program
 - Continued focus and enforcement of cyber- and health-related cases of fraud, waste, and abuse
- **Decreased Focus**
 - Regulatory violations without intent
 - FCPA enforcement



Recent Cases & Areas Under Scrutiny:

High-Risk Compliance Areas to Address

- **Corporate Initiatives:** Programs deemed wasteful, fraudulent, or unlawful (e.g., misaligned or misrepresented DEI initiatives)
- **Representations and Certifications:** False or inaccurate certifications related to eligibility, program participation, compliance with statutory or contractual requirements
- **Compliance Program Effectiveness:** Invest in continuous compliance. Red flags include—
 - Ineffective or underutilized reporting hotlines
 - Unrealistic compliance timelines
 - “Check-the-box” compliance efforts
- **Supply Chain Compliance:** Increased scrutiny of subcontractor relationships, teaming agreements, joint ventures, pricing and coordination risks, and potential antitrust violations
 - PCSF now has 30+ federal agency partners actively investigating procurement collusion

Key Takeaways



- **Cooperate early and meaningfully**
 - Timely, good-faith cooperation can significantly affect enforcement outcomes
- **Continuous Compliance Matters**
 - Compliance is an ongoing obligation; NOT a point-in time exercise
 - Programs must evolve with regulatory and enforcement priorities
 - Attention to evolving rules and their application to federal contracts
 - Review of contractual obligations involving priorities of the current administration (DEI, cyber, white-collar crimes concerning federal contracts)
- **Transparency is Critical**
 - Accurate and complete disclosures are essential
 - Intentional omissions or half-truths may be treated as false statements and carry criminal exposure

Thank you!

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