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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

First Regular Session
TWENTIETH CONGRESS

House Bill No. 3857



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Introduced by REP. JESUS MANUEL "BONG" C. SUNTAY

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EXPLANATORY NOTE

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Fraud against the government is not a mere financial irregularity; it is a fundamental betrayal of public trust. When individuals or entities knowingly present false claims, submit fabricated records, or conspire to conceal obligations owed to the State, they do more than siphon resources—they weaken the integrity of public institutions and diminish the capacity of the government to deliver essential services.

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Experiences worldwide, particularly in jurisdictions such as the United States, demonstrate the effectiveness of legislation that combines civil penalties with *qui tam* mechanisms—allowing private individuals to initiate actions on behalf of the State. Such frameworks not only multiply the government's capacity to detect fraud but also foster a culture of civic vigilance. Importantly, the inclusion of whistleblower rewards and protections creates tangible incentives for exposing wrongdoing while safeguarding those who courageously come forward.

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This proposed measure establishes the False Claims and Whistleblower Protection Act in the Philippines. It introduces a comprehensive liability framework for false claims, ensures proportionate penalties, empowers citizens to file actions in the government's stead, and creates safeguards for whistleblowers against retaliation. Notably, it harmonizes anti-fraud efforts with constitutional principles of due process, separation of powers, and fair administration of justice.

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The bill also recognizes the broader developmental implications of fraud deterrence. Every peso lost to fraudulent claims is a peso denied to classrooms, hospitals, disaster response, infrastructure, and social welfare programs. By institutionalizing this framework, Congress affirms that fiscal responsibility and transparency are inseparable from inclusive national development.

In view of the foregoing, the immediate passage of this bill is earnestly sought.


REP. JESUS MANUEL "BONG" C. SUNTAY

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3 **Quezon City**

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8 **House Bill No. 3857**
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12
13 **AN ACT TO COMBAT FINANCIAL FRAUD PERPETRATED AGAINST THE**
14 **GOVERNMENT**
15

16 Be it enacted by the Senate and the House of Representatives of the Philippines in
17 Congress assembled:

18
19 **SECTION 1. Short Title.**
20

21 This Act shall be known as the “False Claims and Whistleblower Protection Act of 2025.”
22

23 **SECTION 2. Declaration of Policy.**
24

25 It is hereby declared to be the policy of the State to give priority to the enactment and
26 enforcement of stronger measures to combat financial fraud perpetrated against the
27 government by individuals and companies. The State shall safeguard public resources by
28 detering and penalizing false or fraudulent claims against the government. The State
29 shall likewise promote civic engagement in public accountability by providing
30 mechanisms for citizen participation, while ensuring that whistleblowers are protected
31 from retaliation.
32

33
34 **SECTION 3. False Claims.**
35

36 (1) Liability for Certain Acts – Any person who –
37

38 (A) knowingly presents, or causes to be presented, to an officer or employee of
39 the government or a member of the Armed Forces of the Philippines a false or
40 fraudulent claim for payment or approval;

41
42 (B) knowingly makes, uses, or causes to be made or used, a false record or
43 statement to get a false or fraudulent claim paid or approved by the government;

44
45 (C) conspires to defraud the government by getting a false or fraudulent claim
46 allowed or paid;

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2 (D) has possession, custody, or control of property or money used, or to be used,
3 by the government and, intending to defraud the government, willfully conceals
4 the property, delivers, or causes to be delivered, less property than the amount
5 for which the person receives a certificate or receipt;
6

7 (E) authorizes to make or deliver a document certifying receipt of property used,
8 or to be used, by the government and, intending to defraud the government,
9 makes or delivers the receipt without completely knowing that the information
10 on the receipt is true;
11

12 (F) knowingly buys, or receives as a pledge of an obligation or debt, public
13 property from an officer or employee of the government, or a member of the
14 Armed Forces, who may not lawfully sell or pledge the property; or
15

16 (G) knowingly makes, uses, or causes to be made or used, a false record or
17 statement to conceal, avoid, or decrease an obligation to pay or transmit money
18 or property to the government,
19

20 is liable to the government for a civil penalty of not less than Five Hundred Thousand
21 Pesos (₱500,000.00) but not more than Four Million Pesos (₱4,000,000.00), plus three
22 times the amount of damages which the government sustains because of the act of that
23 person, except that if the court finds that –
24

25 (i) the person committing the violation of this Act furnished officials of the
26 government responsible for investigating false claims violations with all
27 information known to such person about the violation within thirty (30) days
28 after the date on which the defendant first obtained the information;
29

30 (ii) such person fully cooperated with any government investigation of such
31 violation; and
32

33 (iii) at the time such person furnished the government with the information
34 about the violation, no criminal prosecution, civil action, or administrative action
35 had commenced under this Act with respect to such violation, and the person did
36 not have actual knowledge of the existence of an investigation into such violation;
37

38 the court may assess not less than two (2) times the amount of damages which the
39 government sustains because of the act of the person.
40

41 A person violating this section shall also be liable to the government for the costs of a
42 civil action brought to recover any such penalty or damages.
43

44 (2) Knowing and Knowingly Defined – For purposes of this Act, the terms “knowing”
45 and “knowingly” mean that a person, with respect to information –
46

47 (A) has actual knowledge of the information;

1 (B) acts in deliberate ignorance of the truth or falsity of the information; or
2 (C) acts in reckless disregard of the truth or falsity of the information, and no
3 proof of specific intent to defraud is required.
4

5 (3) Claim Defined – For purposes of this section, “claim” includes any request or
6 demand, whether under a contract or otherwise, for money or property which is made to
7 a contractor, grantee, or other recipient for any portion of the money or property which
8 is requested or demanded, or if the government will reimburse such contractor, grantee,
9 or other recipient.
10

11 (4) Exclusion – This section does not apply to claims, records, or statements made
12 under the National Internal Revenue Code.
13

14 **SECTION 4. Civil Actions for False Claims.** 15

16 The Solicitor General may bring a civil action for a violation of this Act. A private person
17 may also bring such action for the person and for the Government. The case shall be
18 filed in the name of the Government. Qui tam complaints shall be filed under seal for
19 sixty (60) days, extendible upon motion, during which the Solicitor General may
20 investigate and decide whether to intervene.
21

22 (1) Responsibilities of the Solicitor General – The Solicitor General shall diligently
23 investigate a violation under Section 3. If the Solicitor General finds that a person has
24 violated or is violating Section 3, he may bring a civil action under this section against
25 that person.
26

27 (2) Actions by Private Persons –
28

29 (A) A person may bring a civil action for a violation of section 3 for the person
30 and for the government. The action shall be brought in the name of the
31 government. The action may be dismissed only if the court and the Solicitor
32 General give written consent to the dismissal and their reasons for consenting.
33

34 (B) A copy of the complaint and written disclosure of substantially all material
35 evidence and information the person possesses shall be served on the
36 government pursuant to the pertinent provisions of the Rules of Court on Civil
37 Procedure. The complaint shall remain under seal for at least sixty (60) days and
38 shall not be served on the defendant until the court so orders. The government
39 may elect to intervene and proceed with the action within sixty (60) days after it
40 receives both the complaint and the material evidence and information.
41

42 (C) The government may, for good cause shown, move the court for extensions of
43 the time during which the complaint remains under seal. Any such motions may
44 be supported by affidavits. The defendant shall not be required to respond to any
45 complaint filed under this section until twenty (20) days after the complaint is
46 unsealed and served upon the defendant.
47

1 (D) Before the expiration of the sixty (60) day period, the government shall –
2 (i) proceed with the action, in which case the action shall be conducted by
3 the government; or
4 (ii) notify the court that it declines to take over the action, in which case
5 the person bringing the action shall have the right to conduct the action.
6

7 (E) When a person brings an action under this section, no person other than the
8 government may intervene or bring a related action on the facts underlying the
9 pending action.
10

11 (3) Rights of the Parties to *Qui Tam* Actions –
12

13 (A) If the government proceeds with the action, it shall have the primary
14 responsibility for prosecuting the action, and shall not be bound by an act of the
15 person bringing the action. Such person shall have the right to continue as a party
16 to the action, subject to the limitations set forth in paragraph (B).
17

18 (B)

19 (i) The government may dismiss the action, notwithstanding the objections of the
20 person initiating the action, if the person has been notified by the government of
21 the filing of the motion and the court has provided the person with an
22 opportunity for a hearing on the motion.
23

24 (ii) The government may settle the action with the defendant, notwithstanding
25 the objections of the person initiating the action, if the court determines, after
26 hearing, that the proposed settlement is fair, adequate, and reasonable under all
27 the circumstances.
28

29 (iii) Upon showing by the government that unrestricted participation during the
30 course of the litigation by the person initiating the action would interfere with or
31 unduly delay the government's prosecution of the case, or would be repetitious,
32 irrelevant, or for purposes of harassment, the court may, in its discretion, impose
33 limitations on the person's participation, such as –

- 34 (a) limiting the number of witnesses the person may call;
35 (b) limiting the length of the testimony of such witnesses;
36 (c) limiting the person's cross-examination of the witnesses; or
37 (d) otherwise limiting the participation by the person in litigation.
38

39 (iv) Upon a showing by the defendant that unrestricted participation during the
40 course of the litigation by the person initiating the action would be for purposes
41 of harassment or would cause the defendant undue burden or unnecessary
42 expense, the court may limit the participation by the person in the litigation.
43

44 (C) If the government elects not to proceed with the action, the person who
45 initiated the action shall have the right to conduct the action. If the government
46 so requests, it shall be served with copies of all pleadings filed in the action and
47 shall be supplied with copies of all deposition transcripts at the government's

1 expense. When a person proceeds with the action, the court, without limiting the
2 status and rights of the person initiating the action, may nevertheless permit the
3 government to intervene at a later date upon a showing of good cause.
4

5 (D) Whether or not the government proceeds with the action, upon a showing by
6 the government that certain actions of discovery by the person initiating the
7 action would interfere with the government's investigation or prosecution of a
8 criminal or civil matter arising out of the same facts, the court may stay such
9 discovery for a period of not more than sixty (60) days. The court may extend the
10 60-day period upon a further showing that the government has pursued the
11 criminal or civil investigation or proceedings with reasonable diligence and any
12 proposed discovery in the civil action will interfere with the ongoing criminal or
13 civil investigation or proceedings.
14

15 (4) Award to *Qui Tam* Plaintiff –
16

17 (A) If the government proceeds with an action brought by a person under
18 subsection (2), such person shall, subject to the second sentence of this
19 paragraph, receive at least fifteen percent (15%) but not more than twenty-five
20 percent (25%) of the proceeds of the action or settlement of the claim, depending
21 upon the extent to which the person substantially contributed to the prosecution
22 of the action. Where the action is one which the court finds to be based primarily
23 on disclosures of specific information (other than information provided by the
24 person bringing the action) relating to allegations or transactions in a criminal,
25 civil, or administrative hearing, in a congressional, administrative, report,
26 hearing, audit, or investigation, or from the news media, the court may award
27 such sums as it considers appropriate, but in no case more than ten percent
28 (10%) of the proceeds, taking into account the significance of the information and
29 the role of the person bringing the action in advancing the case to litigation. Any
30 payment to a person under the first or second sentence of this paragraph shall be
31 made from the proceeds. Any such person shall also receive an amount for
32 reasonable expenses which the court finds to have been necessarily incurred, plus
33 reasonable attorney's fees and costs. All such expenses, fees, and costs shall be
34 awarded against the defendant.
35

36 (B) If the government does not proceed with an action under this section, the
37 person bringing the action or settling the claim shall receive an amount which the
38 court decides is reasonable for collecting the civil penalty and damages. The
39 amount shall be not less than twenty-five percent (25%) and not more than thirty
40 percent (30%) of the proceeds of the action or settlement and shall be paid out of
41 such proceeds. Such person shall also receive an amount for reasonable expenses
42 which the court finds to have been necessarily incurred, plus reasonable
43 attorney's fees and costs. All such expenses, fees, and costs shall be awarded
44 against the defendant.
45

46 (C) Whether or not the government proceeds with the action, if the court finds
47 that the action was brought by a person who planned and initiated the violation

1 of section 3 upon which the action was brought, then the court may, to the extent
2 the court considers appropriate, reduce the share of the proceeds of the action
3 which the person would otherwise receive under paragraph (A) or (B) of this
4 section, taking into account the role of that person in advancing the case to
5 litigation and any relevant circumstances pertaining to the violation. If the
6 person bringing the action is convicted of criminal conduct arising from his or
7 her role in the violation of section 3, that person shall be dismissed from the civil
8 action and shall not receive any share of the proceeds of the action. Such
9 dismissal shall not prejudice the right of the government to continue the action,
10 represented by the Department of Justice.

11
12 (D) If the government does not proceed with the action and the person bringing
13 the action conducts the action, the court may award to the defendant its
14 reasonable attorney's fees and expenses if the defendant prevails in the action
15 and the court finds that the claim of the person bringing the action was clearly
16 frivolous, clearly vexatious, or brought primarily for purposes of harassment.

17
18 (5) Certain Actions Barred –

19
20 (A) No court shall have jurisdiction over an action brought by a former or present
21 member of the Armed Forces under subsection (2) of this section against a
22 member of the Armed Forces arising out of such person's service in the Armed
23 Forces.

24
25 (B) No court shall have jurisdiction over an action brought under subsection (2)
26 against a member of Congress, a member of the judiciary, or a senior executive
27 branch official if the action is based on evidence or information known to the
28 government when the action was brought.

29
30 (C) In no event may a person bring an action under subsection (2) which is based
31 upon allegations or transactions which are the subject of a civil suit or an
32 administrative civil money penalty proceeding in which the government is
33 already a party.

34
35 (D)

36 (i) No court shall have jurisdiction over an action under this section based upon
37 the public disclosure of allegations or transactions in a criminal, civil, or
38 administrative hearing, in a congressional, administrative report, hearing, audit,
39 or investigation, or from the news media, unless the action is brought by the
40 Solicitor General or the person bringing the action is an original source of the
41 information.

42
43 (ii) For purposes of this paragraph, "original source" means an individual who
44 has direct and independent knowledge of the information on which the
45 allegations are based and has voluntarily provided the information to the
46 government before filing an action under this section which is based on the
47 information.

1
2 (6) Government not liable for certain expenses – The government is not liable for
3 expenses which a person incurs in bringing an action under this section.
4

5 (7) Employee Protection – Any employee who is discharged, demoted, suspended,
6 threatened, harassed, or in any manner discriminated against in the terms and
7 conditions of employment by his or her employer because of lawful acts done by the
8 employee on behalf of the employee or others in furtherance of an action under this
9 section, including investigation for, initiation of, testimony for, or assistance in an
10 action filed or to be filed under this section, shall be entitled to all relief necessary to
11 make the employee whole. Such relief shall include reinstatement with the same
12 seniority status such employee would have had but for the discrimination, two times the
13 amount of back pay, interest on the back pay, and compensation for any special
14 damages sustained as a result of the discrimination, including litigation costs and
15 reasonable attorney's fees.
16

17 **SECTION 5. False Claims Procedure.**

18

19 (1) A subpoena requiring the attendance of a witness at a trial or hearing conducted
20 under section 4 of this Act may be served at any place in the Philippines.
21

22 (2) A civil action under section 4 may not be brought –
23 (A) more than six (6) years after the date on which the violation of section 3 is
24 committed, or
25 (B) more than three (3) years after the date when facts material to the right of
26 action are known or reasonably should have been known by the official of the
27 government charged with responsibility to act in the circumstances, but in no
28 event more than ten (10) years after the date on which the violation is committed,
29 whichever occurs last.
30

31 (3) In any action brought under section 4, the government shall be required to prove all
32 essential elements of the cause of action, including damages, by a preponderance of the
33 evidence.
34

35 (4) Notwithstanding any other provision of law or the Rules of Criminal Procedure, a
36 final judgment rendered in favor of the government in any criminal proceeding charging
37 fraud or false statements, whether upon a verdict after trial or upon a plea of guilty,
38 shall stop the defendant from denying the essential elements of the offense in any action
39 which involves the same transaction as in the criminal proceeding and which is brought
40 under subsection (1) or (2) of section 4.
41

42 **SECTION 6. False Claims Jurisdiction.**

43

44
45 Any action under section 4 may be brought in any court in which the defendant or, in
46 the case of multiple defendants, any one defendant can be found, resides, transacts
47 business, or in which any act proscribed by section 4 occurred. A summons as required

1 by the Rules of Civil Procedure shall be issued by the appropriate court and served at
2 any place within or outside the country.
3

4 5 **SECTION 7. Civil Investigative Demands.**

6 7 (1) In General –

8
9 (A) Issuance and service – Whenever the Solicitor General has reason to believe
10 that any person may be in possession, custody, or control of any documentary
11 material or information relevant to a false claims law investigation, the Solicitor
12 General may, before commencing a civil proceeding under section 4 or other false
13 claims law, issue in writing and cause to be served upon such person, a civil
14 investigative demand requiring such person –
15

- 16 (i) to produce such documentary material for inspection and copying;
- 17 (ii) to answer in writing written interrogatories with respect to such
- 18 documentary material or information;
- 19 (iii) to give oral testimony concerning such documentary material or
- 20 information; or
- 21 (iv) to furnish any combination of such material, answers, or testimony.
- 22

23 The Solicitor General may not delegate the authority to issue civil investigative
24 demands under this subsection. Whenever a civil investigative demand is an
25 express demand for any product of discovery, the Solicitor General shall cause to
26 be served, in any manner authorized by this section, a copy of such demand upon
27 the person from whom the discovery was obtained and shall notify the person to
28 whom such demand is issued of the date on which such copy was served.
29

30 (B) Contents and deadlines –

31
32 (i) Each civil investigative demand issued under paragraph (A) shall state the
33 nature of the conduct constituting the alleged violation of a false claims law
34 which is under investigation, and the applicable provision of law alleged to be
35 violated.
36

37 (ii) If such demand is for the production of documentary material, the demand
38 shall –

- 39 (a) describe each class of documentary material to be produced with such
- 40 definiteness and certainty as to permit such material to be fairly identified;
- 41 (b) prescribe a return date for each such class which will provide a
- 42 reasonable period of time within which the material so demanded may be
- 43 assembled and made available for inspection and copying; and
- 44 (c) identify the false claims law investigator to whom such material shall
- 45 be made available.
- 46

47 (iii) If such demand is for answers to written interrogatories, the demand shall –

- (a) set forth with specificity the written interrogatories to be answered;
- (b) prescribe dates at which time answers to written interrogatories shall be submitted; and
- (c) identify the false claims law investigator to whom such answers shall be submitted.

(iv) If such demand is for the giving of oral testimony, the demand shall –

- (a) prescribe a date, time, and place at which oral testimony shall be commenced;
- (b) identify a false claims law investigator who shall conduct the examination and the custodian to whom the transcript of such examination shall be submitted;
- (c) specify that such attendance and testimony are necessary to the conduct of the investigation;
- (d) notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and
- (e) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(v) Any civil investigative demand issued under this section which is an express demand for any product of discovery shall not be returned or returnable until twenty (20) days after a copy of such demand has been served upon the persons from whom the discovery was obtained.

(vi) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section shall be a date which is not less than seven (7) days after the date on which demand is received, unless the Solicitor General determines that exceptional circumstances are present which warrant the commencement of such testimony within a lesser period of time.

(vii) The Solicitor General shall not authorize the issuance under this section of more than one (1) civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the Solicitor General, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

(C) Protected Material or Information –

(i) In general – A civil investigative demand issued under subsection (1) may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under –

- (a) the standards applicable to subpoenas or subpoenas duces tecum issued by a court; or
- (b) the standards applicable to the discovery requests of the Rules of Civil Procedure, to the extent that the application of such standards to any such

1 demand is appropriate and consistent with the provisions and purposes of
2 this section.
3

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

12 (D) Service; Jurisdiction –
13

14 (i) By whom served – Any civil investigative demand issued under subsection (1)
15 may be served by a false claims law investigator, at any place within the territorial
16 jurisdiction of any court.

17 (ii) Service in foreign countries – Any such demand or any petition filed under
18 paragraph (J) may be served upon any person who is not found within the
19 territorial jurisdiction of any court in such manner as the Rules of Civil Procedure
20 prescribe for service in a foreign country.

21 (iii) Service upon legal entities and natural persons –

22 (a) Legal entities – Service of any civil investigative demand issued under
23 subsection (1) or of any petition filed under paragraph (J) may be made upon a
24 partnership, corporation, association, or other legal entity by –

25 (1) delivering an executed copy of such demand or petition to any partner,
26 executive officer, managing agent, or general agent of the partnership,
27 corporation, association or entity, or to any agent authorized by appointment or
28 by law to receive service of process on behalf of such partnership, corporation,
29 association, or entity.

30 (2) delivering an executed copy of such demand or petition to the principal office
31 or place of business of the partnership, corporation, association, or entity; or

32 (3) depositing an executed copy of such demand or petition in the mails by
33 registered or certified mail, with a return receipt requested, addressed to such
34 partnership, corporation, association, or entity at its principal office or place of
35 business.

36 (b) Natural persons – Service of any such demand or petition may be made upon
37 any natural person by –

38 (1) delivering an executed copy of such demand or petition to the person; or

39 (2) depositing an executed copy of such demand or petition in the mails by
40 registered or certified mail, with a return receipt requested, addressed to the
41 person at the person's residence or principal office or place of business.
42

43 (E) Proof of Service – A verified return by the individual serving any civil
44 investigative demand issued under subsection (1) or any petition filed under
45 paragraph (J) setting forth the manner of such service shall be proof of such
46 service. In the case of service by registered or certified mail, such return shall be
47 accompanied by the return post office receipt of delivery of such demand.

1
2 (F) Documentary Material – The production of documentary material in
3 response to a civil investigative demand served under this section shall be made
4 under a sworn certificate, in such form as the demand designates, by –
5

6 (i) in the case of a natural person, the person to whom the demand is directed; or
7 (ii) in the case of a person other than a natural person, a person having
8 knowledge of the facts and circumstances relating to such production and
9 authorized to act on behalf of such person.
10

11 The certificate shall state that all of the documentary material required by the
12 demand and in the possession, custody, or control, or knowledge of the person to
13 whom the demand is directed has been submitted. To the extent that any
14 information is not furnished, the information shall be identified and reasons set
15 forth with particularity regarding the reasons why the information was not
16 furnished.
17

18 (I) Oral Examinations –
19

20 (i) Procedures – The examination of any person pursuant to a civil investigative
21 demand for oral testimony served under this section shall be taken before an
22 officer authorized to administer oaths and affirmations by law of the Philippines
23 or of the place where the examination is held. The officer before whom the
24 testimony is to be taken shall put the witness on oath or affirmation and shall,
25 personally or by someone acting under the direction of the officer and in the
26 officer's presence, record the testimony of the witness. The testimony shall be
27 taken stenographically and shall be transcribed. When the testimony is fully
28 transcribed, the officer before whom the testimony is taken shall promptly
29 transmit a copy of the transcript of the testimony by any means authorized by,
30 and in a manner consistent with, the Rules of Civil Procedure.
31

32 (ii) Persons present – The false claims law investigator conducting the
33 examination shall exclude from the place where the examination is held all
34 persons except the person giving the testimony, the attorney for, and any other
35 representative of the person giving the testimony, the attorney for the
36 government, any person who may be agreed upon by the attorney for the
37 government and the person giving the testimony, the officer before whom the
38 testimony is to be taken, and any stenographer taking such testimony.
39

40 (iii) Where testimony taken – The oral testimony of any person taken pursuant to
41 a civil investigative demand served under this Section shall be taken in the court
42 within which such person resides, is found, or transacts business, or in such other
43 place as may be agreed upon by the false claims law investigator conducting the
44 examination and such person.
45

46 (iv) Transcript of testimony – When the testimony is fully transcribed, the false
47 claims law investigator or the officer before whom the testimony is taken shall

1 afford the witness, who may be accompanied by counsel, a reasonable
2 opportunity to examine and read the transcript, unless such examination and
3 reading are waived by the witness. Any changes in form or substance which the
4 witness desires to make shall be entered and identified upon the transcript by the
5 officer or the false claims law investigator, with a statement of the reasons given
6 by the witness for making such changes. The transcript shall then be signed by
7 the witness, unless the witness in writing waives the signing, is ill, cannot be
8 found, or refuses to sign. If the transcript is not signed by the witness within
9 thirty (30) days after being afforded a reasonable opportunity to examine it, the
10 officer or the false claims law investigator shall sign it and state on the record the
11 fact of the waiver, illness, absence of the witness, or the refusal to sign, together
12 with the reasons, if any, given therefor.
13

14 (v) Certification and delivery to custodian – The officer before whom the
15 testimony is taken shall certify on the transcript that the witness was sworn by
16 the officer and that the transcript is a true record of the testimony given by the
17 witness, and the officer or false claims law investigator shall promptly deliver the
18 transcript, or send the transcript by registered or certified mail, to the custodian.
19

20 (vi) Furnishing or inspection of transcript by witness – Upon payment of
21 reasonable charges therefor, the false claims investigator shall furnish a copy of
22 the transcript to the witness only except that the Solicitor General may, for good
23 cause, limit such witness to inspection of the official transcript of the witness '
24 testimony.
25

26 (vii) Conduct of oral testimony –

27 (a) Any person compelled to appear for oral testimony under a civil investigative
28 demand issued under subsection (1) may be accompanied, represented, and
29 advised by counsel. Counsel may advise such person, in confidence, with respect
30 to any question asked of such person. Such person or counsel may object on the
31 record to any question, in whole or in part, and shall briefly state for the record
32 the reason for the objection. An objection may be made, received, and entered
33 upon the record when it is claimed that such person is entitled to refuse to
34 answer the question on the grounds of any constitutional or other legal rights or
35 privilege, including the privilege against self-incrimination. Such person may not
36 otherwise object to or refuse to answer any question, and may not directly or
37 through counsel otherwise interrupt the oral examination. If such person refuses
38 to answer any question, a petition may be filed in the court under subsection
39 (J)(i) for an order compelling such person to answer such question.

40 (b) If such person refuses to answer any question on the grounds of the privilege
41 against self-incrimination, the testimony of such person may be compelled in
42 accordance with the provisions of the Rules of Court.
43

44 (viii) Witness fees and allowances – Any person appearing for oral testimony
45 under a civil investigative demand issued under subsection (1) shall be entitled to
46 the same fees and allowances which are paid to witnesses as provided in the
47 appropriate provisions of the Rules of Court.

1
2 (ix) Custodians of Documents, Answers, and Transcripts –

3 (a) Designation – The Solicitor General shall designate a false claims law
4 investigator to serve as custodian of documentary material, answers to
5 interrogatories, and transcripts of oral testimony received under this section, and
6 shall designate such additional false claims law investigators as the Solicitor
7 General determines from time to time to be necessary to serve as deputies to the
8 custodian.
9

10 (b) Responsibility for materials; disclosure –

11 (1) A false claims investigator who receives any documentary material, answers to
12 interrogatories, or transcripts of oral testimony received under this section shall
13 transmit them to the custodian. The custodian shall take physical possession of
14 such material, answers, or transcripts and shall be responsible for the use made
15 of them and for the return of documentary material under paragraph (D).

16 (2) The custodian may cause the preparation of such copies of such documentary
17 material, answers to interrogatories, or transcripts of oral testimony as may be
18 required for official use by any false claims law investigator, or other officer or
19 employee of the Department of Justice, who is authorized for such use under
20 regulations which the Solicitor General shall issue. Such material, answers, and
21 transcripts may be used by any such authorized false claims law investigator or
22 other officer or employee in connection with the taking of oral testimony under
23 this section.

24 (3) Except as otherwise provided in this subsection, no documentary material,
25 answers to interrogatories, or transcripts of oral testimony, or copies thereof,
26 while in the possession of the custodian shall be available for examination by any
27 individual other than a duly authorized false claims law investigator or officer of
28 the Department of Justice.
29

30 (J) Judicial Proceedings –
31

32 (i) Petition for enforcement – Whenever any person fails to comply with any civil
33 investigative demand issued under subsection (1), or whenever satisfactory
34 copying or reproduction of any material requested in such demand cannot be
35 done and such person refuses to surrender such material, the Solicitor General
36 may file, in the court in which such person resides, is found, or transacts
37 business, and serve upon such person a petition for an order of such court for the
38 enforcement of the civil investigative demand.
39

40 (ii) Petition to modify or set aside demand –

41 (a) Any person who has received a civil investigative demand issued under
42 subsection (1) may file, in the court within which such person resides, is found, or
43 transacts business, and serve upon the false claims law investigator identified in
44 such demand a petition for an order of the court to modify or set aside such
45 demand. In the case of a petition addressed to an express demand for any
46 product of discovery, a petition to modify or set aside such demand may be
47 brought only in the court in which the proceeding in which such discovery was

1 obtained is or was last pending. Any petition under this subparagraph must be
2 filed –

3 (1) within twenty (20) days after the date of service of the civil
4 investigative demand, or at any time before the return date specified in the
5 demand, whichever date is earlier; or

6 (2) within such longer period as may be prescribed in writing by any false
7 claims law investigator identified in the demand.
8

9 (b) The petition shall specify each ground upon which the petitioner relies in
10 seeking relief under subparagraph (a), and may be based upon any failure of the
11 demand to comply with the provisions of this section or upon any constitutional
12 or other legal right or privilege of such person. During the pendency of the
13 petition in the court, the court may stay, as it deems proper, the running of the
14 time allowed for compliance with the demand, in whole or in part, except that the
15 person filing the petition shall comply with any portions of the demand not
16 sought to be modified or set aside.
17

18 (iii) Petition to modify or set aside demand for product of discovery –

19 (a) In the case of any civil investigative demand issued under subsection (1)
20 which is an express demand for any product of discovery, the person from whom
21 such discovery was obtained may file, in the court in which the proceeding in
22 which said discovery was obtained is or was last pending, and serve upon any
23 false claims law investigator identified in the demand and upon the recipient of
24 the demand, a petition for an order of such court to modify or set aside those
25 portions of the demand requiring production of any such product of discovery.
26 Any petition under this subparagraph must be filed –

27 (1) within twenty (20) days after the date of service of the civil investigative
28 demand, or at any time before the return date specified in the demand, whichever
29 date is earlier; or

30 (2) within such longer period as may be prescribed in writing by any false claims
31 law investigator identified in the demand.
32

33 (b) The petition shall specify each ground upon which the petitioner relies in
34 seeking relief under subparagraph (a), and may be based upon any failure of the
35 portions of the demand from which relief is sought to comply with the provisions
36 of this section, or upon any constitutional or other legal right or privilege of the
37 petitioner. During the pendency of the petition, the court may stay, as it deems
38 proper, compliance with the demand and the running of the time allowed for
39 compliance with the demand.
40

41 (iv) Petition to require performance by custodian of duties – At any time during
42 which any custodian is in custody or control of any documentary material or
43 answers to interrogatories produced, or transcripts of oral testimony given, by
44 any person in compliance with any civil investigative demand issued under
45 subsection (1), such person, and in the case of an express demand for any product
46 of discovery, the person from whom such discovery was obtained, may file, in the
47 court within which the office of such custodian is situated, and serve upon such

1 custodian, a petition for an order of such court to require the performance by the
2 custodian of any duty imposed upon the custodian by this section.
3

4 (v) Jurisdiction – Whenever any petition is filed in any court under this
5 subsection, such court shall have jurisdiction to hear and determine the matter so
6 presented, and to enter such order or orders as may be required to carry out the
7 provisions of this section. Any final order so entered shall be subject to appeal
8 under the appropriate provisions of the Rules of Procedure. Any disobedience of
9 any final order entered under this section by any court shall be punished as
10 contempt of the court.
11

12 (vi) Applicability of rules of civil procedure – The Rules of Civil Procedure shall
13 apply to any petition under this subsection, to the extent that such rules are not
14 inconsistent with the provisions of this section.
15

16 (K) Definitions – For purposes of this section –
17

18 (i) the term “false claims law” means –

19 (a) this section and sections 3 and 4; and

20 (b) any Act of Congress enacted after the date of the enactment of this section
21 which prohibits, or makes available to the court any civil remedy with respect to,
22 any false claim against, bribery of, or corruption of any officer or employee of the
23 government;
24

25 (ii) the term “false claims law investigation” means any inquiry conducted by any
26 false claims investigator for the purpose of ascertaining whether any person is or
27 has been engaged in any violation of a false claims law;
28

29 (iii) the term “false claims investigator” means any attorney or investigator
30 employed by the Department of Justice who is charged with the duty of enforcing
31 or carrying into effect any false claims law, or any officer or employee of the
32 government acting under the direction and supervision of such attorney or
33 investigator in connection with a false claims law investigation;
34

35 (iv) the term “person” means any natural person, partnership, corporation,
36 association, or other legal entity, including any political subdivision of a State;
37

38 (v) the term “documentary material” includes the original or any copy of any
39 book, record, report, memorandum, paper, communication, tabulation, chart, or
40 other document, or data compilations stored in or accessible through computer
41 or other information retrieval systems, together with instructions and all other
42 materials necessary to use or interpret such data compilations, and any product
43 of discovery;
44

45 (vi) the term “custodian” means the custodian, or any deputy custodian,
46 designated by the Solicitor General under subsection (I)(i); and
47

- (vii) the term “product of discovery” includes –
- (a) the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;
 - (b) any digest, analysis, selection, compilation, or derivation of any item listed in subparagraph (a); and
 - (c) any index or other manner of access to any item listed in subparagraph (a).

SECTION 8. Whistleblower Protection Clause.

Any employee, contractor, or agent who suffers retaliation for lawful acts in furtherance of this Act shall be entitled to:

- 1) Reinstatement with the same seniority status;
- 2) Double back pay with interest; and
- 3) Compensation for special damages, including attorney’s fees.

SECTION 9. Appropriations.

The amount necessary for the initial implementation of this Act shall be charged against the appropriations of the Office of the Solicitor General. Thereafter, such sums as may be necessary shall be included in the annual General Appropriations Act.

SECTION 10. Separability Clause.

If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 11. Repealing Clause.

Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

SECTION 12. Effectivity Clause.

This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,