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Why have a Whistle Blower Statute?

- Informs the Government of fraud, which would otherwise go undetected.
- Whistle Blowers and their attorneys supplement Government resources.
- The threat of Whistle Blowers within an organization deters fraud.

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The False Claims Act 31 U.S.C. Sections 3729-33

Any person who “knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval.”

-[31 U.S.C. §§3729(a)(1)(A)]

Post *Escobar*
Materiality and ScienTer

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“Knowing” and “knowingly” means ...

- (A) that a person, with respect to information
 - (i) has actual knowledge of the information;
 - (ii) acts in deliberate ignorance of the truth or falsity of the information; or
 - (iii) acts in reckless disregard of the truth or falsity of the information; and
- (B) requires no proof of specific intent to defraud.
 - Gross Negligence Standard

[31 U.S.C. §§3729(b)(1)]

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False claim must be “material”

- “Material” means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.”
- Reaffirmed by the Supreme Court’s opinion in *Escobar*.
- “Holistic” approach, including on whether the Government would pay had it known the claim was false.

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