

Insights

FALSE CLAIMS ACT: RECENT UPDATES

Oct 07, 2025

The False Claims Act developments you need to know about in **5 minutes or less**.

HIRING PRACTICES AND DEI PROGRAMS REMAIN UNDER SCRUTINY

On September 18, 2025, the Department of Justice [announced](#) that a New Jersey drydock and repair company paid more than \$4 million to resolve an FCA investigation alleging that its subcontractors knowingly employed unauthorized alien workers to work on Navy ships. According to the [settlement agreement](#), the alleged conduct violated the Employment Eligibility Verification clause of the Federal Acquisition Regulation (codified at [FAR 52.222-54](#)). This is the second FCA settlement announced this year involving E-Verify. In January, a Louisiana ship manufacturer [agreed](#) to pay over \$1 million to resolve similar allegations relating to a Coast Guard contract. These resolutions—which appear to be the first FCA settlements involving the alleged use of unauthorized workers [since at least 2014](#)—highlight the Administration’s continued willingness to use the statute to police the employment practices of government contractors.

As [we wrote about](#) earlier this year, the Administration has issued an executive order seeking to impose FCA liability on government contractors and federal grant recipients that maintained “illegal” diversity, equity, and inclusion programs. Since then, DOJ has taken several steps to enforce the executive order. For example, on May 19, 2025, DOJ [announced](#) the Civil Rights Fraud Initiative—a development BCLP covered in detail in this [article](#)—which intends to use the FCA to pursue alleged unlawful discrimination by recipients of federal funding. On July 29, 2025, DOJ issued [guidance](#) explaining what it considers potentially unlawful discriminatory policies and practices. More recently, there have been reports that DOJ has begun issuing Civil Investigative Demands (i.e., administrative subpoenas) to employers seeking information about their DEI programs. Federal contractors and grantees should continue to review their hiring and DEI programs (and those of their subcontractors and other third parties) to mitigate the risk of FCA exposure.

MAJOR CHANGES TO CYBERSECURITY REQUIREMENTS FOR DEFENSE CONTRACTORS

On September 10, 2025, the Department of Defense (now known as the Department of War) published a [final rule](#) that establishes a three-year phase-in of the [Cybersecurity Maturity Model Certification](#) program into DOD contracts beginning on November 10, 2025. Subject to some exceptions, the CMMC requirements will apply to DOD contractors and subcontractors that handle Federal Contract Information and Controlled Unclassified Information.

As a condition of award, DOD will require contractors to certify their CMMC compliance status and conduct third-party or self-assessments. Contractors must also flow down their CMMC requirements to their subcontractors. The rollout of this rule comes at a time when DOJ's [Civil Cyber-Fraud Initiative](#) continues to be active, as evidenced by [several recent settlements](#) of cybersecurity-related FCA investigations in the defense sector.

DOJ ANNOUNCES NEW TRADE TASK FORCE

On August 29, 2025, DOJ [unveiled](#) its new interagency Trade Fraud Task Force, which will focus on investigating the evasion of tariffs and duties—including antidumping and countervailing duties and Section 301 tariffs — as well as the importation of counterfeit good. The task force will include teams from both the DOJ Civil and Criminal divisions, as well as the Department of Homeland Security, specifically Customs and Border Protection and Homeland Security Investigations. The task force will seek to address alleged violations through the FCA, collection actions under the Tariff Act of 1930, and potentially criminal prosecutions. The announcement highlighted several FCA trade cases brought by DOJ this year, ranging from [plastic resin](#) to [aluminum](#) to [wood flooring](#).

In announcing the task force, DOJ encouraged domestic manufacturers to submit tips to the Criminal Division's Corporate Whistleblower Program and pursue *qui tam* suits under the FCA. Although not mentioned in the press release, importers also should keep in mind the Trade Agreements Act and the Buy American Act. As [BCLP wrote about](#) earlier this year, non-compliance with these statutes continues to be an active area of FCA enforcement, as demonstrated by one [recent settlement](#). The Administration's continued emphasis on pursuing trade-related actions highlights the need for importers to review and properly implement their policies, procedures, and training programs, and conduct self-audits, to ensure compliance in this rapidly shifting landscape.

GENDER-AFFIRMING CARE BILLING IN THE CROSSHAIRS

On July 9, 2025, DOJ [announced](#) that it has issued more than 20 subpoenas to doctors and clinics involved in performing transgender medical procedures on children. According to the announcement, DOJ is investigating potential "healthcare fraud, false statements, and more."

These actions come in the wake of a DOJ [memorandum](#) directing the Civil Division to prioritize using the FCA to investigate healthcare providers that, for example, "attempt to evade state bans on gender dysphoria treatments by knowingly submitting claims to Medicaid with false diagnosis codes." Other examples of billing practices being targeted by DOJ [include](#) "physicians prescribing

puberty blockers to a child for an illegitimate reason (e.g., gender dysphoria) but reporting a legitimate purpose (i.e., early onset puberty) to the Centers for Medicare & Medicaid Services, and hospitals performing surgical procedures to remove or modify a child's sex organs while billing Medicaid for an entirely different procedure."

As always, the BCLP team will be closely monitoring developments in this space and is available to provide guidance.

RELATED CAPABILITIES

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