

# **Update on HHS/OIG College and University Auditing**

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# Presentation Outline

- I. Introduction
- II. Status of DS-2 Reviews
- III. Audits Involving Claims Made Under the Civil False Claims Act
- IV. Cash Management Audits

## Status of DS-2 Reviews – March 2001

Total to be Submitted to DCA	146
Received by DCA	141
Forwarded to OIG for Review	139
OIG Reviews in Process	3
OIG Reviews Completed	57
DCA Approved DS-2s	26

## OIG DS-2 Reviews in Process - 3

 Baylor College of Medicine

 Univ. of Alabama Birmingham

 Univ. of Pittsburgh

## **DS-2s Approved by DCA - 26**

Boston Univ.

Brown Univ.

Colorado State Univ.

Harvard Univ.

Iowa State Univ.

Johns Hopkins Univ.

Michigan State Univ.

Ohio State Univ.

Oregon State Univ.

Purdue Univ

Rutgers, St. Univ. of NJ

Univ. of Arkansas for Med. Scs.

Univ. of Colorado Sys. Ofc.

Univ. of Colorado at Boulder

Univ. of Iowa

Univ. of Mass. - Amherst

Univ. of Minnesota

Univ. of Med. & Dent. Of NJ

Univ. of New Hampshire

Univ. of Rhode Island

Univ. of Wisconsin

Univ. of Washington

USC - Main Univ.

USC - Info. Sciences Inst.

Wayne State Univ.

Kansas State Univ.

# Civil False Claims Act

- ▣ Provides remedies for false claims made against the government
- ▣ Each false invoice submitted is subject to a \$5,000 to \$10,000 penalty and damages are trebled.
- ▣ Can be enforced by the resources of the Federal government or through the use of private plaintiffs, called “qui tam” relators

# Common Sources of Liability

 Direct False Claims

 False Records or False Statements

 Conspiring to Submit False Claims

 Reverse False Claims

# Qui Tam Procedure

☞ Qui Tam Suit Brought Under the FCA for the relator and the United States

☞ Government Investigates Allegations, May

- ☐ Intervene and take over litigation
- ☐ Decline intervention
- ☐ Move to dismiss litigation
- ☐ Seek to settle case

## Relator's Bounty

- ☞ Successful Relator – Non-participant in Fraud  
May be Awarded between 15 and 30 percent
- ☞ Average Bounty in cases that settle is 17 percent
- ☞ Average Bounty is \$1.1 Million. Highest Bounty Awarded is \$52 million.

# Growth of Qui Tams in HHS

	<u>Cases Filed</u>	<u>Recoveries</u>	<u>HHS % of Cases</u>
1987	33		12
1988	60	\$355,000	15
1989	95	\$15 million	15
1990	82	\$40 million	15
1991	90	\$70 million	15
1992	119	\$134 million	15
1993	132	\$174 million	30
1994	222	\$375 million	36
1995	277	\$244 million	34
1996	363	\$124 million	56
1997	532	\$622 million	54
1998	472	\$436 million	61

Source: The Civil False Claims Act and Qui Tam Enforcement, a publication of the American Bar Association

# Example 1 – Private Medical Center

- ☞ Agreed to pay \$15.5 million to resolve civil liabilities
- ☞ Settlement for over-recovery of indirect costs FY's 1984-1997
- ☞ Voluntary cost-sharing understated
- ☞ Duplicate and unallowable cost claims

## Example 2 – State University

- ☞ In 1998, agreed to a \$32 million settlement for the sale of an unlicensed, experimental drug
- ☞ Qui Tam lawsuit sought recovery of profits and damages for violating FDA and HHS regulations
- ☞ Settlement also covered 29 Federal grants which court found were fraudulently billed
- ☞ 8<sup>th</sup> Circuit Court of Appeals clarified that FCA may be applied against State institutions

## Example 3 – NIH Grantee

- ☞ In 2000, agreed to pay almost \$4 million to settle qui tam
- ☞ Falsified PMS cash transaction reports
- ☞ A-133 auditor may have violated auditing standards
- ☞ Cost overruns improperly carried forward from one grant period to another

## Example 4 - University

- ☞ Agreed to pay \$2.6 million to resolve allegations under FCA
- ☞ \$450 k to settle allegations it used false research data to apply for funding
- ☞ \$2.15 million to settle allegations of submitting false statements and false claims related to research
- ☞ 3-year institutional integrity agreement

## Example 5 – Non-profit Institution

- ☞ Settled for \$306 k to resolve liability under FCA
- ☞ Improper relationship between institution and research university
- ☞ Duplicate payments

# Cash Management

- O Federal Criteria
- O Three 1999 Audits

# Federal Criteria

- 📄 1987 revision to OMB Circular A-110 – Requires grantees to maintain advances of Federal funds in interest-bearing accounts
- 📄 Interest to be remitted to Federal agencies
- 📄 1993 revision – interest to be remitted to PMS

# OIG Cash Management Audits

- ☞ Three Audits Completed in 1999
- ☞ Inadequate Written Procedures
- ☞ Funds Requested Before They Were Used to Pay Program Costs
- ☞ No Remittances to PMS

**THE END**