

As enacted by P.L. 34-116:XII:20.

As used in this Chapter, unless the context in which they are used requires a different meaning, or unless a different definition is prescribed for a particular provision:

- (a) the term 'claim'

- (c) the term 'material' means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property;
and
 - (d) the term 'obligation' means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.
- (a) Subject to Subsection (b) of this Section, any person who:
- (1) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
 - (2) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
 - (3) conspires to commit a violation of items (1), (2), (4), (5), (6), or (7);
 - (4) has possession, custody, or control of property or money used, or to be used, by the government of Guam and knowingly delivers, or causes to be delivered, less than all of that money or property;
 - (5) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the government of Guam and,

- (C) Submission of Information. No award may be made under this Subsection based on information submitted to the Director unless such information is submitted under penalty of perjury.
- (7) If the government of Guam elects not to proceed with the action pursuant to § 37203(c) of this Chapter, the Tax Enforcement Division shall award not less than thirty percent (30%) of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

Any information furnished pursuant to §§ 37102(b) and 37103 shall be exempt from disclosure under Chapter 10 of Title 5, Guam Code Annotated.

If any provision of this Chapter or its application to any person or circumstance is found to be invalid, or contrary to law, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without such provision or application, and to this end the provisions of this Chapter are severable.

The Attorney General shall diligently investigate a violation under §§ 37102 and 37103. If the Attorney General finds that a person has violated or is violating §§ 37102 or 37103, the Attorney General may bring a civil action under this Section against the person.

- (1) The complaint shall be filed in camera, shall remain under seal for at least sixty (60) days, and shall not be served on the defendant until the court so orders.
- (2)

- (c) If the government of Guam elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action.
 - (1) If the government of Guam so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the government of Guam's expense).
 - (2)

- (a) No court shall have jurisdiction over an action brought by a former or present member of the armed forces under § 37202 against a member of the armed forces arising out of such person's service in the armed forces.

may be assembled and made available for inspection and copying;
and

- (C) identify the false claims law investigator to whom such material shall be made available.
- (3) 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.
- (4) 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

- (3) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.
- (b) Natural Persons. Service of any such demand or petition may be made upon any natural person by:
 - (1) delivering an executed copy of such demand or petition to the person;
or
 - (2) depositing an executed copy of such demand or petition in the United States mails by registered or certified mail, with a return receipt

person may, upon written agreement between the person and the false claims law investigator, substitute copies for originals of all or any part of such material.

- (a) Each interrogatory in a civil investigative demand served under this Section shall be answered separately and fully in writing under oath, and shall be submitted under a sworn certificate, in such form as the demand designates, by:
 - (1) in the case of a natural person, the person to whom the demand is directed; or
 - (2) in the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.
 - (b) If any interrogatory is objected to, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.
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- (a) Procedures. The examination of any person pursuant to a civil investigative demand for oral testimony served under this Section shall be taken before an officer authorized to administer oaths and affirmations by the laws of Guam.
 - (1) The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness.
 - (2) The testimony shall be taken stenographically and shall be transcribed.
 - (3) When the testimony is fully transcribed, the officer before who0.2 (e) -0.2

- (4) While in the possession of the custodian and under such reasonable terms and conditions as the Attorney General shall prescribe:
 - (A) documentary material and answers to interrogatories shall be available for examination by the person who produced such material or answers, or by a representative of that person authorized by that person to examine such material and answers; and
 - (B) transcripts of oral testimony shall be available for examination by the person who produced such testimony, or by a representative of that person authorized by that person to examine such transcripts.
- (c) Use of Material, Answers, or Transcripts in Other Proceedings. Whenever any attorney of the Office of the Attorney General has been designated to appear before any court, grand jury, or agency in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this Section may deliver to such attorney such material, answers, or transcripts for official use in connection with any such case or proceeding as such attorney determines to be required. Upon the completion of any such case or proceeding, such attorney shall return to the custodian any such material, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or agency through introduction into the record of such case or proceeding.
- (d) Conditions for Return of Material. If any documentary material has been produced by any person in the course of any false claims law investigation pursuant to a civil investigative demand under this Section, and
 - (1) any case or proceeding before the court or grand jury arising out of such investigation, or any proceeding before any federal agency involving such material, has been completed, or
 - (2) no case or proceeding in which such material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation, the custodian shall, upon written request of the person who produced such material, return to such person any such material (other than copies furnished to the false claims law investigator under § 37408(b) or made for the Office of the Attorney General under Subsection (b)(2) which has not passed into the control of any court, grand jury, or agency through introduction into the record of such case or proceeding.
- (e) Appointment of Successor Custodians.
 - (1) In the event of the death, disability, or separation from service in the Office of the Attorney General of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to a civil investigative demand under this Section, or in the event of the official relief of such custodian from responsibility for

the custody and control of such material, answers, or transcripts, the Attorney General shall promptly:

- (A) designate another false claims law investigator to serve as custodian of such material, answers, or transcripts; and
 - (B) transmit in writing to the person who produced such material, answers, or testimony notice of the identity and address of the successor so designated.
- (2) Any person who is designated to be a successor under this Paragraph shall have, with regard to such material, answers, or transcripts, the same duties and responsibilities as were imposed by this Section upon that person's predecessor in office, except that the successor shall not be held responsible for any default or dereliction which occurred before that designation.
- (a) **Petition for Enforcement.** Whenever any person fails to comply with any civil investigative demand issued under § 37401, or whenever satisfactory copying or reproduction of any material requested in such demand cannot be done and such person refuses to surrender such material, the Attorney General may file, in the Unified Judiciary of Guam, and serve upon such person a petition for an order of such court for the enforcement of the civil investigative demand.
- (b) **Petition to Modify or Set Aside Demand.**
- (1) Any person who has received a civil investigative demand issued under § 37401 may file, in the Unified Judiciary of Guam, is found, or transacts business, and serve upon the false claims law investigator identified in such demand a petition for an order of the court to modify or set aside such demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside such demand may be brought only in the Unified Judiciary of Guam. Any petition under this item must be filed:
 - (A) within twenty (20) days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier; or
 - (B) within such longer period as may be prescribed in writing by any false claims law investigator identified in the demand.
 - (2) The petition shall specify each ground upon which the petitioner relies in seeking relief under Item (1), and may be based upon any failure of the demand to comply with the provisions of this Section or upon any constitutional or other legal right or privilege of such person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition

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Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under § 37401 shall be exempt from disclosure under Chapter 10 of Title 5, Guam Code Annotated.

For purposes of this Article:

- (a) the term 'false claims law' means this Chapter;
- (b) the term 'false claims law investigation' means any inquiry conducted by any false claims law investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of the false claims law;
- (c) the term 'false claims law investigator' means any attorney or investigator employed by the Office of the Attorney General who is charged with the duty of enforcing or carrying into effect any false claims law, or any officer or employee of the government of Guam acting under the direction and supervision of such attorney or investigator in connection with a false claims law investigation;
- (d) the term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any state or political subdivision of a state;
- (e) the term 'documentary material' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret such data compilations, and any product of discovery;
- (f) the term 'custodian' means the custodian, or any deputy custodian, designated by the Attorney General under § 37409(a); the term 'product of discovery' includes:
 - (1) 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;
 - (2) any digest, analysis, selection, compilation, or derivation of any item listed in Item (1); and
 - (3) any index or other manner of access to any item listed in Item (1); and
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