Appendix A
POSITION PAPER

REFORM OF THE FEDERAL CIVIL FALSE CLAIMS ACT

BACKGROUND

The Civil False Claims Act (31 U.S.C. §§ 3729-33) provides for the payment of treble damages and civil penalties for the knowing submission of false claims to the United States. Under the Act, private citizens may bring a civil action on behalf of the United States, called a qui tam suit. The initiator of a qui tam action is called a "relator." If the suit should result in a recovery for the Government, the relator is entitled to a percentage of the recovery as a reward. The Department of Justice (DOJ) has the authority to intervene in a qui tam suit, but the relator may continue the suit even if DOJ declines to intervene. The amount of reward the relator receives is dependent upon whether DOJ intervenes, the relator's culpability (if any), and the relator's assistance in pursuing the case.

Congress enacted the False Claims Act in 1863 because of concerns regarding fraud committed by Civil War defense contractors. The Act allowed the Government to recover double the damages resulting from a false claim. The Act also contained a qui tam provision which entitled a successful relator to half of the Government's recovery. Under the original Act, however, if a private party initiated a qui tam suit, the Government could not intervene or otherwise interfere with the lawsuit.

During World War II, several qui tam actions were filed based solely on information in publicly available criminal indictments. In these instances, the relators possessed no knowledge of their cases other than that contained in the indictments.