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MAJOR FRAUD ACT OF 1988 U.S. Dept. of Justice

MAY 9, 1988.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HUGHES, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 3911]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3911) to amend title 18, United States Code, to provide increased penalties for certain major frauds against the United States, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Major Fraud Act of 1988".

SEC. 2. CHAPTER 47 AMENDMENT.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“§ 1031. Major fraud against the United States

“(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice—

“(1) to defraud the United States; or

“(2) to obtain money or property from the United States by means of false or fraudulent pretenses, representations, or promises;

in any procurement of property or services for the Government, if the value of the contract for such property or services is \$1,000,000 or more, shall be fined under this title or imprisoned not more than 10 years, or both.

“(b) If the offense involves a foreseeable and substantial risk of personal injury, the term of imprisonment imposed under subsection (a) of this section shall not be less than 2 years. The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed \$10,000,000 and—

“(1) the amount of the fraud is substantial in relation to the value of such contract and the gross loss to the Government or the gross gain to a defendant is \$250,000 or greater; or

“(2) the offense involves a foreseeable and substantial risk of personal injury.

“(c) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed.

“(d)(1) Upon application by the Attorney General, the court may order a payment from a criminal fine under this section to an individual who furnished information leading to the conviction under this section. The amount of such payment shall not exceed \$250,000.

“(2) An individual is not eligible for such a payment if—

“(A) that individual is an officer or employee of a government who furnishes information or renders service in the performance of official duties;

“(B) that individual failed to furnish the information in a timely manner to the individual’s employer, unless the court determines the individual had justifiable reasons for that failure; or

“(C) that individual participated in the violation of this section with respect to which such payment would be made.

“(e) Any individual who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys’ fees.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

“1031. Major fraud against the United States.”

BACKGROUND

The record of fraudulent activity by the private sector and inefficiency and acquiescence by the Federal Government in the area of procurement fraud is documented in numerous Congressional, Department of Justice and Department of Defense investigations. After a thorough review of these investigations, Mr. Hughes, the Chairman of the Subcommittee on Crime, introduced on October 15, 1987, H.R. 3500, the Major Fraud Act of 1987, a criminal procurement fraud bill similar to H.R. 3911, in order to complement the action taken in the 99th Congress on the civil side through the False Claims Amendments Act of 1986 and the Program Fraud Civil Remedies Act. (See Cong. Rec., October 15, 1987 at H8715). This bill was cosponsored by several Members of the Subcommittee, including the Ranking Minority member, Mr. McCollum.

The Committee believes that the enactment and enforcement of “white collar” crime statutes are not only demanded in the interest of justice, but can often result in substantial cost savings in the form of reduced losses through fraud against the Government.

A striking example of this phenomenon occurred in the late seventies and early eighties when the Department of Justice participated in wide-ranging prosecutions of contractors throughout the United States. As a result of this concentrated effort there were prosecutions in over 15 States which produced indictments of over 180 companies and 200 executives. Numerous jail sentences and fines totaling \$41 million resulted from this effort, with a conviction rate of over 90 percent. In early 1983 the Wall Street Journal, in a followup story, reported that the cost of constructing highways in the Nation had fallen significantly, in some cases by as much as 25 to 30 percent below original engineer cost estimates. This cost

reduction was attributed, in part, to this massive law enforcement effort which has disrupted an illegal way of life in the highway construction business. This continuing series of prosecutions adds credence to the theory that the deterrent power of the law when enforced can be very strong, especially in the area of white collar crime.

On December 3, 1987, the Subcommittee on Crime held a hearing on H.R. 3500 at which time testimony was received from the Honorable Charles E. Grassley, U.S. Senator from Iowa; Honorable Dennis M. Hertel, U.S. House of Representatives; Mr. John C. Keeney, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice; Mr. Donald J. Davis; Manager, Fraud and Prohibited Mailings Branch, U.S. Postal Inspection Service; Mr. Derek Vander Schaff, Deputy Inspector General, U.S. Department of the Defense; Mr. Fred C. Newton, Deputy Director, Defense Contract Audit Agency, U.S. Department of Defense; and Ms. Dina Rasar, Project on Military Procurement. All of the witnesses testified in favor of the concept of the bill.

Subsequent to this hearing, representatives of private industry requested an additional hearing in order to formally present their views on H.R. 3911. The Subcommittee accommodated them by holding another hearing on March 16, 1988. Testifying that day were Mr. Clarence T. Kipps, Jr., representing the U.S. Chamber of Commerce; Mr. Christopher Cross, testifying on behalf of the Professional Services Council; and Mr. Alan R. Yuspeh, testifying for the Electronic Industries Association and the American Electronics Association. These industry representatives argued that the civil changes made in 1986 plus the increased fines in existing criminal laws in 1984 had essentially solved the procurement fraud problem. The Committee disagrees.

The Subcommittee on Crime also took into account in its deliberations other Congressional investigations such as those in the Subcommittee on Oversight and Investigations of the Energy and Commerce Committee. (See Federal Securities Law and Defense Contracting, Part I (99-48), 709 pages, Federal Securities Law and Defense Contracting, Part II (99-50), 716 pages) and a Subcommittee on Oversight and Investigations hearing on July 30, 1987 which covered a number of significant procurement fraud cases.) Similar investigations also have been completed by the Committees on Government Operations and Armed Services. In the Senate there also have been extensive investigations. [See hearing before the Subcommittee on Administration Practice and Procedure of the Senate Judiciary Committee (Senate Hearing 99-588, October 1, 1985, Defense Procurement Fraud Law Enforcement) and a recently published report (March 19, 1987), Justice Department Investigations of Defense Procurement Fraud: A Case Study published by the Subcommittee on National Security Economics of the Joint Economic Committee and the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary).

The Department of Justice and the Department of Defense also have had reports on a number of problems in their investigations [See, for example, Department of Justice Economic Crime Counsel Report of 1985 and the Office of the Inspector General of DOD

“Review of Significant Product Substitution Cases within the DOD”, I.G., DOD 7050.1-R].

The cumulative evidence presented during these investigations paints a depressing picture about procurement fraud. In fact, it documents a story of greed, malfeasance and fraud. This we believe is not an aberration or a history lesson, but is a collection of facts that describes a relatively small, but extremely malignant blight on our society which is continuing. For instance, the General Accounting Office reported in January, 1988 [DOD Fraud Investigations GAO/AFMD 88-5B] an estimated loss due to procurement fraud of \$387,396,999 in just 148 open procurement cases reported to the Secretary of Defense from April 1, 1985 through March 31, 1986. The report also noted that in fiscal year 1986 there were some 1,919 new investigations as compared with fiscal year 1983 when there were 870 such investigations.

This GAO study included only 32 product substitution cases which are now a priority for DOD. In the product substitution area alone, cases where contractors deliberately provide inferior products on DOD contracts which can directly cost Americans their lives, investigations have increased to the point where there have been 85 indictments since January 1986. As of October 1987, the Defense Criminal Investigative Service (DCIS) was actively involved in another 231.

The GAO report went on to state:

During our review, 55 of the DOD's top 100 contractors, those that received the largest dollar volume of defense contract awards, were being investigated in 274 cases of alleged procurement fraud. The majority of these cases involved alleged fraud for cost mischarging (133 cases), defective pricing (57 cases), and product substitution (25 cases).

It appears that fraud is not limited to the small businesses.

Indeed, one does not have to peruse these lengthy reports and investigations to be reminded of this malaise in our procurement process for it appears in our daily newspapers or press releases from the Department of Justice. To cite just a few recent examples, on March 1, 1988, the Washington Post reported that the Department of Justice charged Goodyear Aerospace Corporation with fraudulently overbilling the Pentagon by more than \$7 million during the three years when it was the military's sole supplier of inflatable bomb parachutes; on March 10, there was another report that Bell Helicopter Textron, Inc., has agreed to return \$90 million to the U.S. Government to resolve a Justice Department investigation into overcharging on helicopter spare parts; on March 24, a Department of Justice press release announced that Motorola, Inc., one of the nation's top 50 defense contractors, had agreed to \$16,776,057 in criminal fines, restitution and civil penalties in regard to labor and materials overcharging and defective pricing.

Overall, the Committee finds that there has been a lack of focus and emphasis on major procurement fraud, statute of limitations problems in existing law and a lack of firsthand information available to prosecutors on what generally tends to be extremely complex and difficult cases based primarily on circumstantial and documentary evidence.

WHAT H.R. 3911 DOES

H.R. 3911, as amended, is fashioned to meet many of the problems noted in this investigation. It creates a new Federal procurement fraud offense involving contracts of \$1 million or more and is patterned after the Bank Fraud Act (18 U.S.C. Sec. 1344). This, at present time, would cover some 9,900 prime contracts.

The maximum prison sentence that could be imposed is 10 years. This is consistent with the maximum in comparable legislation (see 18 U.S.C. Sec. 286—Conspiracy to defraud the Government with respect to a claim). The bill provides for a mandatory minimum sentence of 2 years if the offense involves a “foreseeable and substantial risk of personal injury.” This is to cover those egregious situations, frequently encountered in product substitution cases, where a contractor provides such items as defective parachutes cords, faulty jet ejection seat valves or defective nozzles for fire fighting equipment on ships. These provisions should act as an additional deterrent to individuals.

The bill proposes an alternate fine of up to \$10,000,000, which should be a new deterrent to fraud. This alternative fine may be imposed when the amount of the fraud is \$250,000 or greater and such amount is substantial in relation to the total value of the contract. It also may be imposed if the fraud involves a foreseeable and substantial risk of personal injury. The bill also would provide an extension of the statute of limitations in which prosecutions may be initiated to 7 years, rather than the current 5 years, to accommodate the extensive investigation often required in this type of fraud.

In addition the bill establishes a new system of rewards under which up to \$250,000 can be paid from the criminal fine to individuals who provide information leading to a conviction, and provide protection for these “whistleblowers” based upon provisions included in the False Claims Act amendments of 1986 (31 U.S.C. Sec. 3730h).

The bill does set limitations on who can receive these rewards, above and beyond the fact that the DOJ must recommend and the Court must approve such a reward. Those ineligible are: (1) government employees performing their official duties; (2) workers who could have come forward with information to an employer at the formative stage of an offense and could have prevented it or stopped it; and (3) individuals who participated in the offense.

COMMITTEE ACTION AND REPORT

On February 3, 1988, the Subcommittee on Crime marked up H.R. 3500 and adopted an amendment in the nature of a substitute offered by Mr. Hughes. The substitute altered H.R. 3500 to follow the language of the Bank Fraud Act (18 U.S.C. Sec. 1344) (at the request of the Departments of Justice and Defense) and allowed the alternate fine to be based upon double the “value of the contract” rather than the “object of the fraud.” The substitute also added a new “whistleblower” protection clause patterned after the existing law under the False Claims Act amendments (Public Law 99-562, Section 4; 31 U.S.C. Sec. 3730h). As amended, this bill was reported

to the full Committee as a clean bill (H.R. 3911) with all the Members of the Subcommittee on Crime as cosponsors.

On April 14, 1988, the Subcommittee held an additional markup on this legislation to further refine the bill based on testimony and comment received after February. An amendment in the nature of a substitute offered by Mr. Hughes and Mr. McCollum was approved. This amendment increases the maximum incarceration allowed under the bill to 10 years rather than 7, added a clause providing for a mandatory minimum sentence of two years if the offense involves a foreseeable and substantial risk of personal injury, set a cap of \$10 million on the alternate fine rather than double the value of the contract and added two further limitations in the reward provision (excluded individuals who participated in the offense or those who were in a position to prevent the fraud by informing their employers and failed to do so). With these refinements, the Subcommittee's amendment in the nature of a substitute to H.R. 3911 was ordered favorably reported to the full Committee.

On April 28, 1988, the Committee on the Judiciary considered the Subcommittee's amendment in the nature of a substitute to H.R. 3911 and adopted two clarifying amendments, one by Mr. McCollum and one by Mr. Hughes. On May 3, 1986, the Committee on the Judiciary, a quorum being present, favorably reported H.R. 3911, as amended, to the full House of Representatives by a voice vote.

SECTION-BY-SECTION ANALYSIS

The following is a section-by-section analysis of H.R. 3911, as reported by the Committee on the Judiciary:

Section 1 of the bill contains its short title, the Major Fraud Act of 1988.

Section 2(a) establishes a new section 1031 in Title 18 of the U.S. Code which prohibits "knowing" fraud (or attempts to defraud) against the United States in procurement of property or services of \$1 million or more.

Under the new subsection 1031(a) the Committee intends that this "knowing" standard includes the concept of willful blindness or deliberate ignorance as outlined in such decisions as *U.S. v. Jewell*, 532 F.2d 679 (9th Cir. 1976); *U.S. v. Bryant*, 517 F.2d 284 (2nd Cir. 1975); *U.S. v. Jacobs*, 470 F.2d 270 (2nd Cir.), *cert. denied sub nom; Lavelle v. U.S.*, 414 U.S. 821 (1973); and H. Rpt. 96-1396, 96th Cong. 1st Sess., 35 (1980). As such it is the normal "knowing" standard used in many Federal and state criminal statutes (See e.g., 18 U.S.C. 1344, 18 U.S.C. 1341, 18 U.S.C. 1028).

The Committee has, in fact, patterned this bill after the Bank Fraud statute (18 U.S.C. Sec. 1344) at the suggestion of the Department of Justice in our December 3, 1987 hearing (Mr. Keeney's prepared statement at page 6) and in so doing obviates the potential problems of the "specific intent" requirement that some courts have read into cases presented under 18 U.S.C. 1001, the False Statements Act. [See Deputy Inspector General Vander Schaaf's prepared statement of December 3, 1987 at 15, and *U.S. v. Race*, 632 F.2d 1114, at 1120 (1980)].

The maximum prison sentence that could be imposed under this section is 10 years which is consistent with comparable legislation under 18 U.S.C. Sec. 286, Conspiracy to Defraud the Government with Respect to Claims. This 10-year maximum is intended to signify the Committee's determination that this type of "white collar" crime must be dealt with severely in order to deter future violations.

Subsection 1031(b) provides a mandatory minimum incarceration of two years for defendants convicted under this section if the offense "* * * involves a foreseeable and substantial risk of personal injury." The Committee believes that the conduct to be prosecuted under this part would be similar to that as described in the *Alchemy, Incorporated* case which was brought to our attention through a report of the Office of the Inspector General of the Department of Defense (Review of Significant Product Substitution Cases within the Department of Defense—IG DOD 7050.1-R at 10). In a synopsis the report stated the following:

Alchemy, Incorporated: U.S. District Court, Eastern District, Pennsylvania, 1985. Alchemy, Incorporated (Alchemy), falsely represented that the valves it provided for the safety eject system for the F-4 jet were manufactured by an approved source. The valves Alchemy supplied were manufactured by Alchemy using outdated specifications and could have resulted in serious injury or death. Alchemy also supplied defective nozzles for fire fighting equipment that had a 70 percent failure rate.

The Committee also notes that the issue of the foreseeable and substantial nature of the risk should be determined on an objective basis. The court should inquire whether a reasonably prudent person would have foreseen such a risk and whether that risk would be considered substantial in the judgment of the person.

Subsection 1031(b) then establishes an alternate fine of up to \$10,000,000 that could be imposed in amounts exceeding the limits existing for felonies under 18 U.S.C. Sec. 3571 (P.L. 100-185). The bill sets up two general parameters for the use of this alternate fine:

- (1) the gross loss to the government or gross gain to the defendant is \$250,000 or greater and the fraud was substantial in relation to the contract; or
- (2) the offense created a foreseeable and substantial risk of personal injury as, for example, in the *Alchemy* case cited above. In this scenario the Committee believes no monetary level of fraud need be made and the predominant issue is the risk of personal injury.

The Committee recognizes that the maximum penalty of \$10,000,000 is quite severe and normally would be imposed in addition to substantial civil penalties. It is, therefore, the Committee's expectation that this alternative penalty would be used for multiple counts only in the most egregious frauds.

Subsection 1031(c) expands the statute of limitation to seven years rather than the normal five years, to accommodate the extensive investigations that often are needed in these large fraud causes.

Subsection 1031(d) establishes a new reward system under which individuals who come forward with information to Federal law enforcement which leads to a conviction may be rewarded up to \$250,000 for their efforts from the criminal fine imposed upon conviction. The genesis for this idea comes from the forfeiture concept under our anti-drug laws where drug assets are seized and then used for the benefit of law enforcement. The Committee believes that useful information is often hard to obtain in procurement fraud cases, and it would be only true justice if we provided incentives to individuals to bring forward this crucial element of successful prosecutions and then reward them from the penalty imposed upon the defendant. The reward must be proposed by the Department of Justice and the trial judge makes the final decision. The Committee anticipates that the Department of Justice will set up guidelines under which they would recommend these awards and the bill sets up three limitations on who can receive these rewards.

Those individuals not eligible are:

(1) government employees in the performance of their official duties. This is a standard exclusion for reward provisions;

(2) workers, generally within large corporations, who discover fraud within their organizations and fail to alert appropriate management personnel in a timely fashion. The Committee by this provision intends to emphasize that we encourage responsible individuals, when feasible, first to go to their employers with pertinent information whether the employee discovers the fraud before or after it is consummated. The Committee opposes any reward or incentive to an employee who failed to act promptly to avoid the commission or continuation of a fraud. This proviso is consistent with private industries' laudable attempts at self-governance. The decision on the circumstances in each case will be made, initially, by the Department of Justice, and finally by the trial judge; and

(3) those who participate in the violation.

Subsection 1031(e) establishes a "whistleblower" protection for individuals who come forward with information for prosecutions under Sec. 1031 and are subsequently discriminated against for that act by an employer. This protection is in the form of a potential civil action and is virtually identical to those provisions hammered out in Congressional negotiations leading to the False Claims Act Amendments of 1986 (31 U.S.C. 3730h as added by P.L. 99-562, October 27, 1986) after which it was patterned.

Subsection 2(b) is a clerical amendment changing the table of sections of chapter 47 of the U.S. Code.

OVERSIGHT FINDINGS

The Committee makes no oversight findings with respect to this legislation other than those included in the text of this report.

In regard to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

NEW BUDGET AUTHORITY

In regard to clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, H.R. 3911 creates no new budget authority or increased tax expenditures for the Federal Government.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee finds that the bill will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

FEDERAL ADVISORY COMMITTEE ACT OF 1972

The Committee finds that this legislation does not create any new advisory committees within the meaning of the Federal Advisory Act of 1972.

COST ESTIMATE

In regard to clause 7 of rule XIII of the Rules of the House of Representatives, the Committee agrees with the cost estimate of the Congressional Budget Office.

STATEMENT OF THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives, and section 403 of the Congressional Budget Act of 1974, the following is the cost estimate of H.R. 3911.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 5, 1988.

HON. PETER W. RODINO,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3911, the Major Fraud Act of 1988, as ordered reported by the House Committee on the Judiciary, May 3, 1988. The CBO estimates that enactment of this bill would result in no significant cost to the federal government and no cost to state or local governments. The federal government's procurement costs could be reduced if the bill serves as a deterrent to procurement fraud. These savings are highly uncertain, however, and cannot be quantified by CBO.

H.R. 3911 would amend Chapter 47 of Title 18, U.S. Code, to create a new federal procurement fraud offense applicable to contracts of \$1 million or more. Violation of this offense would result in fines and/or imprisonment for no more than 10 years. Further, the bill would set a minimum prison sentence of two years for offenses involving a foreseeable and substantial risk of personal injury and would allow fines up to \$10 million in certain circumstances. The CBO cannot estimate the impact of this provision on fines collected by the government, but we do not expect it to be significant.

The bill would also provide for rewards, which would be paid out of criminal fines, for people who provide information leading to conviction under this new law. These payments would be ordered by the court upon application by the Attorney General.

The General Accounting Office (GAO) has found evidence of significant government losses due to procurement fraud. In a recent report, DoD Fraud Investigations, GAO/AFMD 88-5BR, GAO reviewed 173 open fraud cases reported to the Secretary of Defense from April 1, 1985 through March 31, 1986. The GAO found that 148 of these cases involved procurement fraud with estimated dollar losses of almost \$400 million. Based on information provided by the Department of Justice, CBO expects that enactment of this bill would facilitate prosecution of similar cases.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

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PART I—CRIMES

* * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

Sec.

1001. Statements or entries generally.

* * * * *

1031. *Major fraud against the United States.*

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§ 1031. Major fraud against the United States

(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice—

(1) to defraud the United States; or

(2) to obtain money or property from the United States by means of false or fraudulent pretenses, representations, or promises;

in any procurement of property or services for the Government, if the value of the contract for such property or services is \$1,000,000 or

more, shall be fined under this title or imprisoned not more than 10 years, or both.

(b) If the offense involves a foreseeable and substantial risk of personal injury, the term of imprisonment imposed under subsection (a) of this section shall not be less than 2 years. The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed \$10,000,000 and—

(1) the amount of the fraud is substantial in relation to the value of such contract and the gross loss to the Government or the gross gain to a defendant is \$250,000 or greater; or

(2) the offense involves a foreseeable and substantial risk of personal injury.

(c) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed.

(d)(1) Upon application by the Attorney General, the court may order a payment from a criminal fine under this section to an individual who furnished information leading to the conviction under this section. The amount of such payment shall not exceed \$250,000.

(2) An individual is not eligible for such a payment if—

(A) that individual is an officer or employee of a government who furnishes information or renders service in the performance of official duties;

(B) that individual failed to furnish the information in a timely manner to the individual's employer, unless the court determines the individual had justifiable reasons for that failure; or

(C) that individual participated in the violation of this section with respect to which such payment would be made.

(e) Any individual who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.