

SDNY WHISTLEBLOWER NON-PROSECUTION PILOT PROGRAM¹
(Individual Voluntary Self-Disclosure Program)

Effective January 14, 2025

To encourage early voluntary self-disclosure of criminal conduct and to promote effective enforcement of criminal laws, the United States Attorney's Office for the Southern District of New York ("SDNY") will implement a pilot program applicable to circumstances where an individual discloses to this Office information regarding criminal conduct undertaken by two or more individuals, or by or through public or private entities, including corporations, exchanges, financial institutions, money services businesses, investment advisers, investment funds, partnerships, or non-profits involving (1) fraud or corporate control failures or conduct affecting market integrity; (2) intellectual property theft and related violations; (3) state or local bribery or fraud relating to federal, state, or local funds; (4) obstruction of justice, perjury, or false statements; (5) healthcare fraud, including violations of the Anti-Kickback statute; and (6) money laundering and operating as an unlicensed money transmitting business. Specifically, in such circumstances, this Office will enter into a non-prosecution agreement in exchange for the individual's cooperation where the following conditions are met:

1. The misconduct has not previously been made public and is not already known to SDNY or to any component of the DOJ;
2. The individual discloses the criminal conduct voluntarily to SDNY and not in response to a government inquiry or obligation to report misconduct to SDNY or any component of DOJ, and prior to imminent threat of disclosure or government investigation;

¹ The contents of this memorandum provide internal guidance to SDNY prosecutors on legal issues. Nothing in this policy is intended to create any substantive or procedural rights, privileges, or benefits enforceable in any administrative, civil, or criminal matter by prospective or actual witnesses or parties. Moreover, it remains at all times in the sole discretion of SDNY to determine whether an individual has satisfied each of the conditions necessary for SDNY to enter into a non-prosecution agreement in exchange for the individual's cooperation, and, where SDNY has determined that any of those conditions are not met, it remains at all times in the sole discretion of SDNY to determine whether to extend a non-prosecution agreement in exchange for the individual's cooperation. This policy does not apply to any other United States Attorney's Office or any other litigating component of the Department of Justice ("DOJ"). This policy may not apply to individuals who provide information regarding violations subject to approval requirements by other DOJ components under rules, regulations, or procedures. For example, this policy does not apply to individuals who provide information regarding violations of the Foreign Corrupt Practices Act, or violations of federal or state campaign finance laws, federal patronage crimes, corruption of the electoral process, bribery of federal officials, federal tax offenses, or federal environmental crimes. In such cases, SDNY will consider the information and consult with any relevant DOJ components to determine the application of this policy. This policy is distinct from the DOJ Criminal Division Corporate Whistleblower Awards Pilot Program, which applies only to potential whistleblowers who did not meaningfully participate in criminal activity for conduct that falls within specified subject areas. Finally, this policy does not supersede any provision of the Justice Manual.

3. The individual is able to provide substantial assistance in the investigation and prosecution of one or more equally or more culpable persons, and is prepared to cooperate fully with this Office in its investigation and prosecution of the disclosed conduct, including the recovery of any related criminal proceeds;
4. The individual truthfully and completely discloses all criminal conduct in which the individual has participated and of which the individual is aware;
5. The individual is not (a) an elected, or appointed and confirmed, federal, state, local or foreign official; (b) an official or agent of a federal investigative or federal law enforcement agency; (c) the highest-ranking person within the organization or company where the misconduct occurred (e.g., the chief executive officer or equivalent), chief financial officer or equivalent of such organization or company, or the person who, regardless of title, exercises primary control over the operations of such organization or company;
6. The individual's role in the alleged misconduct did not involve: leading or originating the illegal activity; criminal conduct that involves the use of force, violence, or the threat of violence; any sex offense involving fraud, force, or coercion, or a minor; or any offense involving terrorism; and
7. The individual does not have a previous felony conviction or a conviction of any kind for conduct involving fraud or dishonesty.

Considerations for a Discretionary Non-Prosecution Agreement

Where an individual discloses information to SDNY regarding information regarding criminal conduct undertaken by two or more individuals, or by or through public or private entities, including corporations, exchanges, financial institutions, money services businesses, investment advisers, investment funds, partnerships, or non-profits involving (1) fraud or corporate control failures or conduct affecting market integrity; (2) intellectual property theft and related violations; (3) state or local bribery or fraud relating to federal, state, or local funds; (4) obstruction of justice, perjury, or false statements; (5) healthcare fraud, including violations of the Anti-Kickback statute; and (6) money laundering and operating as an unlicensed money transmitting business, but does not meet the requirements set forth above, prosecutors may nonetheless consider, with supervisory approval and consistent with the principles set forth in the Justice Manual, exercising discretion to extend a non-prosecution agreement in exchange for the individual's cooperation. In evaluating whether such an agreement would be in the public interest and necessary in the particular case, prosecutors and supervisors should consider, among other things, the following factors:

1. Whether and to what extent the criminal conduct had previously been made public or was previously known to SDNY or to any component of the DOJ;
2. Whether the individual disclosed the criminal conduct voluntarily to SDNY and not in response to government inquiry or reporting obligation to SDNY or any component of DOJ, and prior to imminent threat of disclosure or government investigation;

3. The extent to which the individual is able to provide substantial assistance in the investigation and prosecution of one or more equally or more culpable persons and the individual's culpability relative to others;
4. Whether the individual has truthfully and completely disclosed all criminal conduct in which the individual has participated and of which the individual is aware;
5. The extent to which the individual occupies any official or leadership position or other position of public or private trust;
6. The adequacy of non-criminal sanctions, including but not limited to remedies imposed by civil regulators; and
7. The individual's criminal history.

Notice of Requirement to Pay Forfeiture and Repay Victims

A reporting individual understands that to receive any non-prosecution agreement under the SDNY Whistleblower Pilot Program, an individual will be required to forfeit proceeds involved in the individual's criminal conduct and repay victims as determined by SDNY to be consistent with the individual's role in the offense.

Contact Information

To self-disclose pursuant to this policy, please email: USANYS.WBP@usdoj.gov

You may complete our WBP Intake Form to begin the process.

Please email the completed form to the above inbox.

Evaluation Process

A Committee Co-Chaired by the Deputy United States Attorney and the Chief of the Criminal Division will evaluate disclosures received pursuant to this policy, in consultation with appropriate unit chiefs. Even if the Committee Chairs do not believe that the reporting individual satisfies the terms of the policy, they may conclude that the prospective individual should be considered for a non-prosecution agreement under the discretionary portion of the policy. In the event the Committee Chairs make an initial determination that a reporting individual appears to be eligible or should be considered under the discretionary portion of the policy, you will be contacted.