

Frequently Asked Questions: Potential Whistleblowers

1. Could I be eligible for an award if I provide new information about an existing investigation?

- Yes. You may be eligible for an award if you provided original information about an existing investigation after the effective date of the program and your submission materially and significantly contributed to the successful forfeiture. For example, if you provided new information about an aspect of the scheme previously unknown to the Department that leads to forfeiture or you provided information about a new asset in a scheme, you may be eligible for an award.

2. Can more than one person provide information about the same scheme, and both receive an award?

- Yes, if each of the individuals provide information that materially adds to the Department's investigation and significantly contributes to the successful forfeiture. The total amount of award available in each case is up to 30% of the first \$100 million in net proceeds forfeited and up to 5% of the next \$100 million to \$500 million in net proceeds forfeited. Where more than one whistleblower qualifies for an award, the total amount paid to all whistleblowers cannot exceed these total percentages.

3. What kinds of schemes should I report to the Department

- The Department is seeking to fill gaps in existing whistleblower programs and identify corporate crime that might go undetected in the following areas:
 - Violations by financial institutions and abuse of the financial system not covered by the Financial Crimes Enforcement Network whistleblower program, including obstruction or defrauding of financial regulators, failure to register money transmitting businesses, and fraud against U.S. financial institutions.
 - Foreign corruption schemes not covered by the Securities and Exchange Commission whistleblower program. This means schemes related to foreign corruption and bribery involving violations of the money laundering statutes, and violations of the Foreign Corrupt Practices Act and the Foreign Extortion Prevention Act that do not involve issuers.¹
 - Domestic corruption schemes committed by or through companies related to the payment of bribes and kickbacks to public officials or employees.
 - Violations committed by or through companies related to (a) federal health care offenses and related crimes involving health care benefit programs, and (b) fraud against patients, investors, and other non-governmental entities in the health care industry.
 - Violations by or through companies related to fraud against, or the deception of, the United States in connection with federally funded contracting or federal programs, where such fraud does not involve health care or illegal health care kickbacks.

¹ An issuer is any person who issues or proposes to issue any security with certain exceptions as outlined by statute. See 15 U.S.C. § 78c(a)(8).

- Violations by or through companies related to trade, tariff, and customs fraud.
- Violations by or through companies related to federal immigration law.
- Violations by or through companies related to sanctions offenses, material support of terrorism, or cartels and transnational criminal organizations including money laundering, narcotics, Controlled Substances Act, and other violations.

4. Can I get an award if I report a scheme that partially falls into another agency's whistleblower program?

- You might be eligible for an award if you report a scheme that partially falls into another agency's whistleblower program and partially falls into the program areas covered by the Corporate Whistleblower Awards Pilot Program.
- The Pilot Program is meant to fill gaps and as such, will assess whether you will or may receive an award from another whistleblower program for reporting the same misconduct. The Department may deny or reduce an award if you will or may receive an award from another whistleblower program and will assess whether an award would be duplicative or relates to a distinct enforcement action and forfeiture.
- If you are unsure, submit your information to both programs. We will evaluate whether the report falls within the scope of our program.

5. Can I receive an award if I am involved in criminal activity?

- You will not be eligible for an award if you meaningfully participated in the criminal conduct including if you orchestrated, executed, led, or knowingly profited from criminal activity or if you were convicted of the criminal activity. If your minimal role in the criminal activity was sufficiently limited that you could be described as "plainly among the least culpable of those involved in the conduct of a group," U.S.S.G. § 3B1.2 cmt. n.4, you may be eligible for an award.
- If the Department determines that you are ineligible for the Corporate Whistleblower Awards Pilot Program on account of your culpability in the reported scheme, the Department will assess whether you instead qualify for a non-prosecution agreement through the Criminal Division Pilot Program on Individual Voluntary Self-Disclosures (Individual VSD Program). Individuals need not separately submit information to the Individual VSD Program: <https://www.justice.gov/criminal/criminal-division-pilot-program-voluntary-self-disclosures-individuals>.

6. What does it mean to play a "minimal" role in the conduct I am reporting?

- You may be eligible for an award if your minimal role in the criminal activity was sufficiently limited such that you could be described as "plainly among the least culpable of those involved in the criminal conduct." U.S.S.G. § 3B1.2 cmt. n.4. One factor that is indicative of a minimal role is the person's lack of knowledge or understanding of the scope and structure of the scheme. This is a fact-based determination based on the totality of the circumstances. You will not be eligible for an award, however, if you orchestrated, executed, led, or knowingly profited

from the criminal activity you reported, or if you were convicted of the criminal activity. You must be truthful and fully disclose your role in the misconduct.

7. If I played a role in the conduct leading to the forfeiture of an asset, will that forfeiture count toward the \$1 million threshold?

- Any forfeiture ordered against you, or against any entity or asset solely as a result of criminal conduct in which you had a role will not count toward the \$1 million threshold. This applies even if your role in the conduct leading to forfeiture was minimal. So, if forfeiture is ordered against an asset solely because of your actions, that forfeiture will not count toward the \$1 million threshold. Likewise, any forfeiture ordered against you will not count toward the \$1 million threshold.

8. What does it mean to profit from the activity? Will I be excluded from participating in the program if my company profited from wrongdoing, and I received a salary or bonus that included those profits?

- If you knowingly or intentionally profited from the wrongdoing, you will not be eligible for the program. Profit means receiving a financial benefit from misconduct outside your normal salary or bonus. If your company received a benefit from the scheme and that benefit was passed on to you through your salary or bonus, the Department will assess whether you knowingly took steps to benefit from the wrongdoing through this indirect profit. To the extent you knowingly but indirectly profited from the scheme, the Department may deny an award.

9. What if I later discovered I profited from the scheme through my salary, bonus, other benefits from my company? Will I still qualify for the program?

- If you profited from the wrongdoing because your company increased your salary, bonus, or other compensation commensurate with other employees of your experience level or seniority and you did not intentionally seek to profit from the wrongdoing, you will still be eligible for an award provided you meet the other criteria.

10. Can I receive an award if I report to my company?

- Yes, you may be eligible for an award if you report internally to your company and also report to the Department within 120 days after your report to your company.
- Reporting misconduct internally is a factor that may increase your award.

11. Should I report to my company first?

- You may report to your company first, but you must report to the Department within 120 days of reporting to your company to be eligible for an award
- Reporting misconduct internally is a factor that may increase your award.

12. If I make an internal report to my company and my company makes a report to the Department based on my information, am I still eligible for an award?

- Yes, you may be eligible for an award if your company reports your original information or the results of an investigation initiated in response to your internal report, so long as you also reported to the Department within 120 days of

reporting to your company.

13. Is my submission confidential?

- The Department will not publicly disclose any information, including information you submit to the Department, that could reasonably be expected to reveal the identity of a whistleblower, except as required by law or Department policy as determined by the Department, in its sole discretion, unless and until required to be disclosed to a defendant in connection with a judicial or administrative proceeding. If, in its sole discretion, the Department determines that it is necessary to accomplish a valid law enforcement purpose or to protect the public, the Department may provide your information to another federal, state, local, tribal, or international enforcement agency, provided that such agency complies with the same confidentiality commitments.
- You may submit information anonymously through an attorney, but the Department may require you to disclose your identity and the Department may, at some point, be required to disclose your identity to others.
- If you believe you qualify as a whistleblower and have concerns about confidentiality, we urge you or your attorney to contact and consult with the Department.

14. Can I submit information anonymously?

- You may submit information anonymously in the following circumstances:
 - You must have an attorney represent you in connection with both your submission of information and your claim for an award, and your attorney's name and contact information must be provided to the Department at the time you submit your information;
 - You and your attorney must follow the procedures set forth here for submitting original information anonymously (including the requirement that you sign under penalty of perjury an Intake Form, which your attorney must retain while your whistleblower submission is pending with the Department);
 - You and your attorney must agree to provide your identity when the Department determines it is required in any investigation or prosecution; and
 - Before the Department will pay any award to you, you must disclose your identity to the Department, and your identity must be verified by the Department.
- The Department reserves the right to demand information regarding your identity at any time and may be required to disclose that information.

15. Do I need a lawyer to submit information?

- No, you do not need a lawyer to submit information. However, if you do not have a lawyer, you may not submit information anonymously.

16. If I submitted my information to another agency, am I eligible for an award from this program?

- You may submit your information to this program and another agency's whistleblower program. As part of your submission, we will ask you to identify other programs to which you have provided information and to update us if you later report to another agency's program.

17. When can I expect payment?

- A decision as to whether you qualify for payment will take time. Prosecutors must investigate your information, gather evidence, determine whether they can prosecute criminal activity that includes forfeiture, seize and forfeit assets, complete the forfeiture process (which may not be complete until all appeals have been resolved), and determine whether you qualify for an award in the Department's discretion. This process can ordinarily take a number of years.

18. Will victims be compensated before whistleblowers receive an award?

- Whistleblowers will receive an award before victims who are government or corporate entities. Eligible individual victims with compensable pecuniary losses will be compensated before whistleblowers receive an award.

19. Can employees make internal reports to their employer before they make a report to the Department?

- Yes, an employee may be eligible for an award if the employee reports internally to his or her employer and also reports to the Department within 120 days.

20. What should I do if my company or others retaliate against me for reporting to the Department?

- If you experience retaliation in response to your report, you should provide that information to the Department. We will consider any retaliation in assessing whether or not your employer (or any individual) cooperated with the Department or obstructed an investigation and may, in the Department's sole discretion, institute appropriate enforcement actions in response to retaliation.

21. What should I do if someone is trying to stop me from communicating with the Department?

- If someone is trying to stop you from communicating your information to the Department, including by enforcing or threatening to enforce a confidentiality agreement, you should provide that information to the Department. We may take that into account in assessing your employer's (or any individual's) cooperation with the Department and remediation of the reported misconduct.

Frequently Asked Questions: Companies

1. Can employees make internal reports to their employer before a company makes a report to the Department?

- Yes, an employee may be eligible for an award if the employee reports internally to his or her employer and also reports to the Department within 120 days. Indeed, if the employee's submission to the Department ultimately results in a whistleblower award payment, one of the considerations that could increase the employee's payment would be whether they participated in their employer's internal reporting system.

2. How would the Department treat a company that receives an internal report and then makes a self-report to the Department, if the whistleblower also makes a report to the Department?

- If a whistleblower makes an internal report to a company and to the Department, the company can still qualify for a declination under the Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy if the company (1) self-reports the conduct to the Department within 120 days of receiving the whistleblower's submission, even if the whistleblower reports to the Department before the company does, and (2) meets the other requirements for voluntary self-disclosure and a declination under the policy.
- When assessing whether the company meets the other requirements under the Corporate Enforcement and Voluntary Self-Disclosure Policy, the Department will consider, among other things, the promptness of the company's self-disclosure and the level of diligence performed by the company after receiving the whistleblower's internal report (but prior to self-disclosing the wrongdoing to the Department) to assess the report's accuracy and implement or begin to implement any appropriate remedial measures.
- More information is available [here](#).

3. If the Department receives a disclosure from a whistleblower and a company does not contact the Department within 120 days of the company's receipt of the same whistleblower report, is the company eligible for a declination?

- No. The company is only eligible for a declination if it reports to the Department no later than 120 days from receiving the whistleblower's report.

4. Is a company eligible for a declination if the Department contacts the company before the company reports a matter based on an internal whistleblower report?

- No. A company is only eligible for a declination under the Corporate Enforcement and Voluntary Self-Disclosure Policy if it reports to the Department before the Department contacts the company. As with any self-disclosure pursuant to that Policy, the company must self-disclose the wrongdoing voluntarily, without any preexisting obligation to disclose such misconduct, and prior to imminent threat of disclosure or government investigation other than as a result of a whistleblower's report to the government.

5. How should my company interact with a potential whistleblower?

- If you or your company retaliates against a whistleblower for reporting, the Department will consider that information in assessing whether your company is cooperating with or obstructing the Department's investigation. The Department may, in its sole discretion, take appropriate action against your company for such retaliation or obstruction, including by providing no or decreased cooperation credit, seeking enhancements in the sentencing guidelines relevant to the conduct, or considering charges related to obstruction.
- If you or your company attempts to interfere with a whistleblower's ability to report to the Department, the Department may consider such action in assessing your company's cooperation credit and compliance program.