Will New “Secure” Chip Facilities Lead to More Qui Tam Cases?

A recent article in the Wall Street Journal discusses Intel's potential receipt of billions of dollars in government funding to build secure facilities for producing microchips for U.S. military and intelligence applications. The funding comes from the Biden administration's Chips Act. The aim is to reduce the U.S. military's dependence on chips imported from East Asia, particularly Taiwan. The proposed facilities, referred to as a "secure enclave," have sparked debate among lawmakers and industry stakeholders.

A project of this scale, in which Intel will be working with numerous sub-contractors, presents significant risk of fraud, which could lead to cases arising under the False Claims Act (FCA).Under the FCA, individuals or entities can file lawsuits on behalf of the government if they believe fraudulent claims have been made to obtain government funds. In the context of the Intel project, potential FCA cases could include:

- **False Certification of Compliance**: If Intel or any other party involved in the project falsely certifies compliance with certain regulations or requirements to obtain funding, it could lead to an FCA case if these certifications are proven to be untrue.
- **Bid Rigging or Collusion**: If there is evidence of bid rigging or collusion among companies bidding for the project, leading to inflated costs or an unfair selection process, it could result in an FCA case. This occurs when companies conspire to rig the bidding process, thereby defrauding the government.
- **Overstating Costs**: If the actual costs incurred by Intel or its contractors are lower than what was claimed for reimbursement, it could be considered a false claim under the FCA. Overstating costs to obtain higher funding is a common FCA violation.
- **Failure to Meet Security Standards**: If Intel fails to meet the specified security or cybersecurity standards required for the secure enclave but still claims compliance to obtain funding, it could lead to an FCA case – especially if a breach of security standards is later discovered.
- **Providing Inferior Products or Services**: If Intel delivers products or services that do not meet the agreed-upon specifications or are of inferior quality, yet still bills the government for the full amount, it could be considered a false claim under the FCA.
- **Kickbacks**: If there is evidence of kickbacks or other improper financial arrangements between Intel and government officials or employees involved in the project, it could lead to FCA charges.

It's important to note that these are hypothetical scenarios, and the actual occurrence of any False Claims Act case would depend on the specific facts, evidence, and legal

interpretations related to the project. Legal action under the FCA typically requires substantial evidence of fraudulent intent and false claims.

If an individual suspects wrongdoing on Intel's projects, they can file a *qui tam* lawsuit under the FCA. A *qui tam* case empowers private individuals, often referred to as relators or whistleblowers, to initiate legal proceedings on the government's behalf. In the event that the government recovers funds as a result of such a lawsuit, the whistleblower may be entitled to a significant portion of the recovered amount as a reward.

How Do I Start?

Pollock Cohen is committed to helping whistleblowers secure their False Claims Act rewards. If you are aware of contracting fraud, call us at +1.646.290.7251. Or submit an inquiry on our website. Or email us at Confidential@PollockCohen.com. We want to hear your story.