

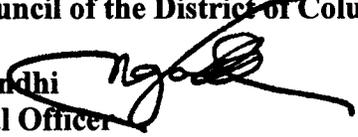
Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi 
Chief Financial Officer

DATE: July 7, 2010

SUBJECT: Fiscal Impact Statement – “District of Columbia False Claims
Amendment Act of 2009”

REFERENCE: Draft – No Bill Number

Conclusion

Funds are sufficient in the FY 2009 through FY 2012 budget and financial plan to implement the proposed legislation.

By facilitating *qui tam* relators’ ability to bring lawsuits, and thus making the District’s false claims laws consistent with the federal false claims laws, the proposed legislation would make the District eligible for a 10 percentage point increase in its share of the State medical assistance with respect to any amounts recovered under a District action brought under such a law. This change would have a positive, yet unknown, impact on the budget and the financial plan.

Background

The proposed legislation amends District of Columbia’s laws regulating procurement related claims¹ to meet the criteria promulgated by the Office of the Inspector General, U.S. Department of Health and Human Services,² so that the District may qualify for an increased share of amounts recovered in false claims actions involving the Medicaid program.

Specifically, the proposed legislation:

¹ Title VIII, Part C of the District of Columbia Procurement Practices Act of 1985, effective May 8, 1998 (D.C. Law 12-104, D.C. Code 2-308.13).

² Publication of OIG’s Guidelines for Evaluating State False Claim Acts, 71 Fed. Reg. 48552 (Aug. 21, 2006).

- Replaces the term "Corporation Counsel" with "the Attorney General for the District of Columbia;
- Redefines the terms "knowing" and "knowingly" by amending the definition to read "has actual knowledge of information;"
- Allows persecution of both false and fraudulent claims;
- Increases the range of the civil penalties associated with each false and fraudulent claim from the current \$5,000 to \$10,000 to the proposed \$5,500 to \$11,000;
- Limits *qui tam* lawsuits—lawsuits filed on behalf of the government by private citizens for false claims or fraud—based on public information, unless the person bringing the action has direct and independent knowledge of information or circumstances on which the allegations are based;
- Provides *qui tam* plaintiffs' rights when the District assumes control of *qui tam* lawsuits
- Increases *qui tam* plaintiffs' share in a settlement or judgment to at least 15 percent and a maximum of 25 percent;
- Permits interstate sharing of information relevant to false claims investigations;
- Provides for stay of discovery in *qui tam* lawsuits to avoid interference with criminal proceedings;
- Augments criminal false claims investigation authority; and
- Authorizes the Attorney General to promulgate rules to adjust the amount of the Act's civil penalties by the same amount that the Attorney General of the United States has adjusted penalties.

Financial Plan Impact

Funds are sufficient in the FY 2009 through FY 2012 budget and financial plan to implement the proposed legislation. The proposed legislation would have a positive, yet unknown fiscal impact on the budget and financial plan.

Upon enactment of the proposed legislation, the District's share of the amounts recovered for the Medicaid program brought under false claims laws will increase by 10 percentage points. According to the Office of the Attorney General for the District of Columbia, had this legislation been in place, the District would have recovered an additional \$276,055 in FY 2008 and \$306,147 in the first half of FY 2009. Because amounts recovered depend on when the cases are settled and what damages models are used, it is not possible to come up with a reliable estimate of the positive fiscal impact of this legislation based on historical data.