It's a popular myth among those contractors who've been the subject of a *qui tam* suit under the **False Claims Act** that those filing such suits on behalf of the U.S. Government are simply disgruntled employees with an axe to grind for some perceived wrong that was done to them. That myth is wrong, of course. If the only people who filed *qui tam* suits under the FCA were disgruntled employees trying to get back at their (former) employers, then there would be no findings of liability and only the smallest of settlements. But that's not the case.

While many *qui tam* "relators" are, in fact, disgruntled, there is often some basis to their suits. We see this when the DOJ intervenes and the ensuing litigation leads to an enormous settlement. So the fact of the matter is that the emotional state of the relator is irrelevant to whether or not the Courts will find a sufficient factual basis to support a finding that the contractor violated its duty to submit accurate invoices to the U.S. Government.

All that being said, your company risks a *qui tam* suit every day. Every disgruntled employee is a potential relator. If you make your employees disgruntled, through your management actions (or inactions), then you increase the risk that one or more of them are going to file suit.

(By the way, if there are "disgruntled" employees, might there also be "gruntled" employees?

Can a disgruntled employee get "regruntled" and transform from being disgruntled to "gruntled"? We're just asking.)

When you fire employees, even for wrongdoing, you better make sure that your house is in order, because they may fire back. The DOE contractor, **CH2M Hill Hanford Group, Inc.**, recently learned this lesson the hard way. The DOJ **announced** that it had intervened in a *qui tam* suit filed by one Mr. Carl Schroeder, a former CH2M Hill employee at the Department of Energy's Hanford site. CH2M Hill ran the Hanford clean-up contract for nine years (from 1999 through 2008). It was a big, big, contract; and CH2M Hill made a big, big profit on the backs of its employees there.

We don't know all the details but, according to the DOJ press release, Schroeder was one of eight former CH2M Hill employees who **pleaded guilty** to felony charges "stemming from time card fraud." Apparently, Schroeder knew a lot about time card fraud, because he turned around and filed a *qui tam* suit against CH2M Hill, alleging "that numerous CH2M Hill hourly employees regularly and substantially overstated the number of hours that they worked [and that] CH2M Hill management knowingly condoned this practice and submitted inflated claims to the Department of Energy that included the fraudulently claimed hours."

We did a little research, and found **this article** from November 2011 that provided some more details regarding the Schroeder situation. The article reported that—

Based on documents filed in court, Mr. Schroeder began working at CH2M Hill in 2002 and quickly learned that a scheme and conspiracy to submit false time cards was widespread. According to Mr. Schroeder's plea agreement, although the time card fraud scheme and conspiracy was contrary to CH2M Hill's written procedures, submitting false time cards for unearned pay was an accepted practice, which Mr. Schroeder learned of through a variety of means including through certain direct supervisors. Mr. Schroeder, in his plea agreement, admitted to participating in and profiting from the time card fraud scheme and conspiracy.

Based on court filings, the time card fraud conspirators also engaged in patterns designed to avoid detection by law enforcement. Additionally, the court documents reveal that certain CH2M Hill supervisory personnel, despite being aware of the time card fraud conspiracy in general and Mr. Schroeder's participation in particular, did not reprimand or admonish Mr. Schroeder in any way until the discovery of the conspiracy by law enforcement was brought to

their attention.

It was noted in the DOJ release that the U.S. will move to have Schroeder dismissed from the action on the basis of his criminal conduct. So, apparently, he will not profit from filing his suit.

But that's cold comfort to CH2M Hill, who must **once again** defend itself from allegations that it violated the False Claims Act. And that's not even counting **the litigation** initiated by the LA County Department of Water and Power in 2006 under the State of California's own False Claims Act.

Certainly, CH2M Hill must have learned by now that its operations, which generally take place in remote locations far from its Corporate Headquarters in Denver, Colorado, are subject to risks that a reasonable person might think would be worth some largish internal control and awareness training investments, in order to mitigate.

Recently, we came across some excellent employee awareness training that we want to bring to our readers attention. The training was designed to reduce the chances that a disgruntled employee might file a lawsuit against its employer (or former employer). The takeaway was this: disgruntled employees don't start out disgruntled. They become disgruntled because their concerns are not adequately addressed by management. When an employee brings concerns to your attention, the proper response is to take those concerns seriously, investigate them thoroughly, and then report back to the employee. Doing so not only militates against employee resentment, but it also creates an opportunity for a real process improvement that could generate positive benefits for the company.

Failing to adequately address employee concerns leads to employee cynicism at best, and disgruntlement at worst. Employees who don't think their concerns are being heard by management are very likely to turn elsewhere, such as the Inspector General or external counsel—whom, we assure you, will be very happy to take those concerns seriously.