

# **DISTRICT OF COLUMBIA WHISTLEBLOWER NON-PROSECUTION PILOT PROGRAM<sup>1</sup>**

## **(Individual Voluntary Self-Disclosure Program)**

**Effective September 16, 2024**

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 District of Columbia (“USAO-DC”) will implement a pilot program applicable to circumstances where an individual discloses to this Office information regarding criminal conduct<sup>2</sup> undertaken by or through public or private companies, exchanges, financial institutions, investment advisers, or investment funds involving fraud or corporate control failures or affecting market integrity, or criminal conduct involving state or local bribery or fraud relating to federal, state, or local funds.<sup>3</sup> 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 USAO-DC or to any component of the Department of Justice (“DOJ”);

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<sup>1</sup> The contents of this memorandum provide internal guidance to USAO-DC prosecutors on legal issues. Nothing in this memorandum 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 USAO-DC to determine whether an individual has satisfied each of the conditions necessary for the Office to enter into a non-prosecution agreement in exchange for the individual’s cooperation, and, where the Office has determined that any of those conditions are not met, it remains at all times in the sole discretion of the Office 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. Finally, this policy does not supersede any provision of the Justice Manual.

<sup>2</sup> This program is distinct from the Corporate Whistleblower Awards Pilot Program, which is set forth at [justice.gov/CorporateWhistleblower](https://justice.gov/CorporateWhistleblower). The Corporate Awards Pilot Program is for individuals who did not meaningfully participate in criminal activity, and the information provided must relate to one of the following areas: (1) certain crimes involving financial institutions, from traditional banks to cryptocurrency businesses; (2) foreign corruption involving misconduct by companies; (3) domestic corruption involving misconduct by companies; or (4) health care fraud schemes involving private insurance plans.

<sup>3</sup> This program does not apply to individuals who provide information regarding violations for which USAO-DC has restricted authority to investigate and charge. For example, the Office’s pilot program does not extend to Foreign Corrupt Practices Act matters otherwise investigated by the Department of Justice’s Criminal Division or national security matters where charges require Department of Justice National Security Division authorization.

2. The individual discloses the criminal conduct voluntarily to USAO-DC and not in response to a government inquiry or obligation by any federal law enforcement or regulatory agency on the subject matter of the disclosure, not pursuant to an existing agreement to report misconduct to any federal law enforcement or regulatory agency, and prior to imminent threat of disclosure or government investigation;
3. The individual is able to provide substantial assistance in the investigation and prosecution of one or more equally or more culpable persons (*e.g.*, the highest-ranking individuals criminally liable for misconduct within their organizations), and is prepared to cooperate fully with this Office in its investigation and prosecution of the disclosed conduct and 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) a federal, state, or local, or foreign elected or appointed and confirmed official; (b) an official or agent of a federal, state, or local investigative or law enforcement agency; (c) the highest-ranking person within the organization where the misconduct occurred (*e.g.*, Chief Executive Officer, Executive Director); or (d) the person who, regardless of title, exercises primary control over the operations of the organization where the misconduct occurred;
6. The individual did not lead or originate the illegal activity, and has not engaged in the use of force or violence (or threat of violence); any federal or state criminal conduct that involves the use of force or violence (or threat of violence); any federal or state sex offense involving fraud, force, or coercion, or a minor; and any federal or state offense involving terrorism or implicating national security or foreign affairs; and

7. The individual has not been previously convicted of any felony involving fraud or dishonesty; violence or the threat of violence; terrorism or implicating national security; or a sex offense involving fraud, force, coercion, or a minor.

*Considerations for a Discretionary Non-Prosecution Agreement*

Where an individual discloses information to this Office regarding criminal conduct undertaken by or through public or private companies, exchanges, financial institutions, investment advisers, or investment funds involving fraud or corporate control failures or affecting market integrity or criminal conduct concerning federal, state, or local bribery or fraud relating to federal, state, or local funds, *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 USAO-DC, any component of DOJ, or to any criminal law enforcement agency;
2. Whether the individual disclosed the criminal conduct voluntarily to USAO-DC and not in response to government inquiry or reporting obligation to USAO-DC 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 Forfeiture/Disgorgement/Restitution Requirement*

A reporting individual understands that to receive any non-prosecution agreement under the USAO-DC Whistleblower Non-Prosecution Pilot Program, an individual will be required to forfeit or disgorge any proceeds from their own criminal wrongdoing and pay restitution to victims consistent with the individual's role in the offense.

**Contact Information**

To self-disclose pursuant to this policy, please email:

USAODC-Whistleblower@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 Chief of the Criminal Division and the Chief of the Fraud, Public Corruption, and Civil Rights Section, will evaluate disclosures received pursuant to this policy,

in consultation with appropriate Division and Section supervisors. Even if the Committee Co-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 Co-Chairs make an initial determination that a reporting individual appears to be eligible or should be considered under the discretionary portion of the policy, the reporting individual and/or his/her representative(s) will be contacted.