

US Attorney's Office: Corporate Voluntary Self-Disclosure Policy



The US Attorney's Office (USAO) Corporate Voluntary Self-Disclosure (VSD) Policy¹ provides formal guidelines by which the government will determine what qualifies as a corporate voluntary self-disclosure and what incentives may be granted, on a case-by-case basis.



What are the key takeaways for companies?

At a minimum, a qualifying disclosure must be:

Voluntary

- A disclosure will NOT be considered voluntary by the DOJ (Department of Justice) if it was required by regulation or contract or as part of a prior resolution (e.g., as part of a deferred prosecution agreement)².

Timely

- A disclosure must be made to the DOJ prior to an imminent threat of public disclosure or government investigation.
- Within a reasonable amount of time following discovery by the company, with the responsibility falling on the company to demonstrate timeliness.

Complete

- Disclosures must include all relevant facts known at the time based on a preliminary investigation.
- Companies must move to quickly preserve, collect, and produce relevant documents to the USAO.
- Companies must provide ongoing updates to the USAO as new facts are learned in the investigation.



How can a company benefit?

When companies meet the specified guidelines, the government has represented that companies will receive significant benefits, including:

- A potential waiver of all criminal penalties.
- When criminal penalties are imposed, but a guilty plea is not required, penalties will be recommended at no more than 50% of the low end of the sentencing guidelines.
- The USAO may not seek a guilty plea absent aggravating* factors.
- The USAO may not require the imposition of an independent compliance monitor if the company demonstrates at the time of resolution that it has implemented an effective compliance program.

*The government defines three aggravating factors as misconduct that: poses a serious "threat to national security, public health, or the environment";³ is pervasive; or involves the C-suite.

We invite you to reach out to any member of our Forensic Services Practice to continue the conversation if you seek independent assistance in preserving evidence, conducting a preliminary investigation, and preparing a VSD submission, and/or designing, developing, and implementing enhancements to your compliance program.

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¹ <https://www.justice.gov/usao-edny/pr/damian-williams-and-breon-peace-announce-new-voluntary-self-disclosure-policy-united>

² This policy also does not apply in situations where disclosure of a company's misconduct to the USAO was made by whistleblowers, including those who have informed the Department of fraud and other misconduct in qui tam

³ <https://www.justice.gov/usao-edny/pr/damian-williams-and-breon-peace-announce-new-voluntary-self-disclosure-policy-united> actions.