



U.S. Department of Justice

*United States Attorney
Southern District of New York*

**FOR IMMEDIATE RELEASE
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**U.S. INTERVENES AND SETTLES CIVIL FALSE CLAIMS ACT
LAWSUIT IN CONNECTION WITH FOREIGN AID PROGRAM
FOR FAMILY PLANNING**

DAVID N. KELLEY, the United States Attorney for the Southern District of New York, announced today that the Government has intervened in an action brought under the qui tam provisions of the False Claims Act by filing a civil Complaint against ENGENDERHEALTH, INC., formerly known as AVSC INTERNATIONAL, INC. ("ENGENDERHEALTH"). Mr. KELLEY also announced that simultaneous with filing its Complaint, the district court approved the Government's settlement agreement with ENGENDERHEALTH, under which ENGENDERHEALTH will pay the Government \$3.3 million.

The Government alleges in its Complaint that since 1988, the United States Agency for International Development ("USAID") has awarded ENGENDERHEALTH approximately \$312 million under cooperative agreements with specified funding periods to provide family planning services on a global basis, consisting of voluntary surgical contraception services, other long-term

contraceptive methods and reproductive health services. Under its cooperative agreements, ENGENDERHEALTH provides financial assistance to foreign governments, non-profit entities, and private physicians to deliver family planning services directly to individuals. When ENGENDERHEALTH enters into an agreement with a foreign entity to provide services, ENGENDERHEALTH draws funds from a letter of credit provided by USAID. On a quarterly basis, ENGENDERHEALTH reports to USAID the status of funds provided under the cooperative agreements.

The Complaint alleges that at the conclusion of the cooperative agreements, some of the services were not fully performed, leaving ENGENDERHEALTH with unexpended funds on deposit in its bank accounts. Under federal law, at the conclusion of the applicable funding period, ENGENDERHEALTH must return any unused funds to USAID. However, rather than return the unused funds to USAID, it is alleged that ENGENDERHEALTH kept the funds and used them for purposes other than the provision of services under the cooperative agreement.

The Complaint further alleges that an officer of ENGENDERHEALTH reported to its Board of Directors that ENGENDERHEALTH had created a "bubble" of funds through the retention of money from its expiring cooperative agreement that ENGENDERHEALTH planned to use as a "cushion" to fund its expenses. It was allegedly reported to the Board of Directors

that "with these new procedures in place we have substantially reduced the risk of having to return unused money to the U.S. Treasury." ENGENDERHEALTH allegedly failed to disclose in its books and reports to USAID the existence of the "bubble" of funds retained by ENGENDERHEALTH.

As provided for in the False Claims Act, the Government's Complaint seeks treble damages, as well as civil penalties of up to \$11,000 for each false claim that ENGENDERHEALTH submitted to USAID.

While denying any wrongdoing in the settlement agreement, ENGENDERHEALTH has agreed to pay the Government \$3.3 million to settle the Government's False Claims Act charges. ENGENDERHEALTH also entered into an Organizational Integrity Agreement with the Office of Inspector General of USAID, aimed at ensuring that ENGENDERHEALTH's participation in USAID grant programs is in conformity with the statutes, regulations and directives applicable to those programs. Among other aspects of the Agreement, ENGENDERHEALTH will fund an independent monitor to oversee ENGENDERHEALTH's compliance with program requirements.

Mr. KELLEY stated: "This lawsuit demonstrates the federal Government's strong commitment to protect federal monies and to ensure that when foreign aid funds are not expended properly by grantees there will be serious consequences."

Mr. KELLEY praised the investigative efforts of the Office of Inspector General of the Agency for International Development.

Assistant United States Attorneys ROBERT W. SADOWSKI and EDWARD SCARVALONE are in charge of the case.

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