



1           The FCA provides that a *qui tam* action must be filed under seal while the United  
2 States decides whether to intervene, *see* 31 U.S.C. § 3730(b)(2), but it clearly contemplates that  
3 after the United States makes a decision, the seal will be lifted, *see id.* § 3730(b)(3); *U.S. ex rel.*  
4 *Lee v. Horizon W., Inc.*, No. 00-2921, 2006 WL 305966, at \*2 (N.D. Cal. Feb. 8, 2006).  
5 Generally, the seal will be lifted entirely “unless the government shows that such disclosure  
6 would: (1) reveal confidential investigative methods or techniques; (2) jeopardize an ongoing  
7 investigation; or (3) harm non-parties.” *Id.* “[I]f the documents simply describe routine or  
8 general investigative procedures, without implicating specific people or providing substantive  
9 details, then the Government may not resist disclosure.” *Id.*; *see also United States v. CACI Int’l.*  
10 *Inc.*, 885 F. Supp. 80, 83 (S.D.N.Y. 1995). The FCA “evinces no specific intent to permit or deny  
11 disclosure of *in camera* material as a case proceeds.” *U.S. ex rel. Mikes v. Straus*, 846 F. Supp.  
12 21, 23 (S.D.N.Y. 1994). Rather, it “invests the court with authority to preserve secrecy of such  
13 items or make them available to the parties.” *Id.* Overall, the court’s decision must also account  
14 for the fundamental principle that court records are generally open to the public. *U.S. ex rel.*  
15 *Costa v. Baker & Taylor, Inc.*, 955 F. Supp. 1188, 1191 (N.D. Cal. 1997).

16           Here, the Government Entities’ request to maintain the seal because “in discussing  
17 the content and extent of the Government Entities’ investigation, such papers are provided by law  
18 to the Court alone for the sole purpose of evaluating whether the seal and time for making an  
19 election to intervene should be extended.” Notice 2. This explanation does not assure the court  
20 that a seal is necessary to maintain the confidentiality of “investigative methods or techniques,” to  
21 protect ongoing investigations, to protect others who are not a part of this litigation, or for another  
22 reason.

23           The court therefore orders as follows:

24           (1) The complaint, ECF No. 1, the Government Entities’ notice, ECF No. 46, this  
25 order, and all future filings are UNSEALED, but all other contents of the court’s file in this action  
26 remain under TEMPORARY SEAL pending further order of this court;

27           (2) Within fourteen days, any party may SHOW CAUSE why the previous filings  
28 in this action should remain under seal; and

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(3) Relator shall serve the complaint on the defendants.

IT IS SO ORDERED.

DATED: April 11, 2017.

  
UNITED STATES DISTRICT JUDGE