

[Obama Signs Federal Contractor Whistleblower Protection Law](#)

    By [Matthew DeLong](#) 5/20/09 7:40 PM

In February, [TWI's Daphne Eviatar called attention](#) to the weak protections in the federal economic stimulus bill for whistleblowers who expose contracting fraud. At the time, Daphne wrote:

[T]he stimulus bill fails to adequately protect employees of government contractors, who are in the best position to blow the whistle on fraud and abuse of taxpayer money. The Senate version of the bill also doesn't protect federal employee whistleblowers — an odd oversight given that state and local employees are protected. And neither version explains how the government is going to ramp up its own hiring quickly enough to oversee and coordinate all these new government contracts.

Today, President Obama took a big step toward rectifying these problems when he signed the [Federal Enforcement and Recovery Act of 2009](#) (pdf) into law, extending broad new protections for employees of federal contractors and subcontractors who shed light on fraud.

The National Whistleblowers Center released a statement praising the new legislation:

This new law fixes problems in the False Claims Act, extends whistleblower protections to those who work for contractors and provides new funds for the government to investigate fraud. Most significantly, the Act overturns the recent Supreme Court decision in [Allison Engine](#), which created a major loophole allowing government subcontractors to escape liability under federal anti-fraud laws.

“This is a great day for whistleblowers and a bad day for those who would defraud the government,” Stephen M. Kohn, Executive Director of the NWC.

“President Obama has taken a significant first step in changing America’s whistleblower laws. We hope he continues to fulfill his campaign promises on this issue,” Kohn stated.

“Congress and the President did the right thing. Billions and billions of dollars in new government spending has been authorized. The taxpayers need the strongest possible anti-fraud laws in order to prevent financial recovery monies from being looted. Every major study documents that whistleblowers are key to fraud detection. This law is designed to encourage whistleblowers and reward them for their sacrifices.” Kohn added.

Among other provisions the new law:

- Fixes the loophole which allowed companies to use subcontractors to escape from liability under federal anti-fraud laws;
- Extends whistleblower protection to contractors, sub-contractors and agents who report fraud.

- Eliminates the requirement for “specific intent” created by the Allison Engine Supreme Court decision. Previously the Supreme Court required proof that a sub-contractor specifically intended to defraud the government in addition to showing a certification was false. Now it will be possible to sue under the False Claims Act if a subcontractor knowingly uses a false statement and obtains payment. This eliminates the ability of a sub-contractor to hide behind a prime contractor in False Claims Act cases.
- Permits whistleblowers to expose fraud whenever Government money is at stake. This provision in the law is a rebuke to a decision issued by Chief Justice John Roberts, when he served on the federal appeals court. In that case, [Totten v. Bombardier Corp.](#), Judge Roberts ruled that taxpayers could not recover for fraud committed against Amtrak, even though it was the taxpayer who paid the final bill.

“We are especially happy that the new law will extend whistleblower protection to independent contractors, sub-contractors and all those who risk their career to expose fraud. No company should be allowed to hide behind loopholes in the law to rip off the taxpayer,” Kohn said.