



## Whistleblower Protections Expand for Defense Contractor Employees

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Reflecting the unremitting expansion of federal protections for employee whistleblowers, this year's Defense Department appropriations bill amends the protections for employees of federal government contractors (as well as federal employees). The amendments significantly enlarge the scope of protected whistleblowing activity and also increase the options employees have for pursuing whistleblower retaliation claims. Whistleblower advocates characterize the amendments as a "victory" for employees and claim that "for the first time, employees of defense contractors have meaningful protections."

One of the most significant changes in the law is that contractor employees will now have the right to pursue a jury trial in federal district court. Previously, employees were limited to filing a complaint with the Department of Defense Inspector General. Now, an employee may pursue a jury trial if the Inspector General does not timely resolve his complaint or issues an order denying relief.

The amendments add new protected channels for communicating concerns, including raising concerns to a representative of a committee of Congress, an Inspector General, the Government Accountability Office, or a DoD employee responsible for contract oversight or management. Additionally, the amendments significantly broaden the scope of "protected activity." Previously, the law protected the reporting of "information relating to a substantial violation of law related to a contract." As amended, the law protects reports of "information that the employee reasonably believes is evidence of gross mismanagement of a Department of Defense contract or grant, a gross waste of Department of Defense funds, a substantial and specific danger to public health or safety, or a violation of law related to a Department of Defense contract (including the competition for or negotiation of a contract) or grant."

The impetus for the amendments was to reform and, more significantly, bring accountability to corrupt and abusive contracting practices of the breed that surfaced in Iraq and Afghanistan. Nonetheless, the expanded whistleblower protections reach beyond Middle East-related contractors and encompass any U.S. defense contractor without respect to where the contractor provides its goods or services. Given the increase in reporting channels and particularly the expansion of categories of protected activity, defense contractor employers are likely to face an increase in whistleblower retaliation claims.

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