

# Congress Enacts Whistle-Blower Protections to Prevent Fraud in Stimulus Spending

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The economic stimulus bill passed by Congress on Feb. 12, 2009 includes whistle-blower protections known as The McCaskill Amendment to ensure that employees of private contractors and state and local governments can disclose waste, fraud, gross mismanagement or a violation of law related to stimulus funds. This whistle-blower protection amendment to the stimulus bill applies to private contractors, state and local governments, and other nonfederal employers that receive a contract, grant or other payment appropriated or made available by the stimulus bill. Protected conduct includes a disclosure to a person with supervisory authority over the employee, a state or federal regulatory or law enforcement agency, a member of Congress, a court or grand jury, the head of a federal agency, or an inspector general information that the employee reasonably believes evidences: gross mismanagement of an agency contract or grant relating to stimulus funds; gross waste of stimulus funds; substantial and specific danger to public health or safety related to the implementation or use of stimulus funds; abuse of authority related to the implementation or use of stimulus funds; or violation of a law, rule, or regulation that governs an agency contract or grant related to stimulus funds.

The McCaskill Amendment prohibits a broad range of retaliatory employment actions, including termination, demotion, or any other discriminatory act, which includes any act that would dissuade a reasonable person from engaging in protected conduct. To prevail in a whistle-blower action under the McCaskill Amendment, an employee need not show that



the protected conduct was a significant or motivating factor in the reprisal, but instead must merely prove that the protected conduct was a contributing factor to the reprisal. A prevailing employee is entitled to make whole relief, which includes, reinstatement, back pay, compensatory damages and attorneys' fees and litigation costs. Where an agency files an action in federal court to enforce an order of relief for a prevailing employee, the court may also award exemplary damages. In sum, the McCaskill Amendment provides a critical safeguard against fraudulent spending of stimulus funds.

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