

[The False Claims Act](#) that prohibits false claims made for government money has been expanded. Civil claims brought to enforce the law are known as [qui tam actions](#)

. On May 20, 2009, President Obama signed into law the [Fraud Enforcement and Recovery Act of 2009](#) ("FERA"). Two of the changes to the law are likely to have great impact on future whistleblower claims.

The two key changes to *qui tam* law are that:

- A whistleblower no longer has to prove an intent to obtain payment using a false claim;
- and
- A whistleblower can now recover for claims made *indirectly* to the government.

The Act addresses more than *qui tam* actions. As [the White House described the law last week](#) :

"The legislation strengthens the capacity of federal prosecutors and regulators to hold accountable those who have committed fraud. The amendments expand the Department of Justice's authority to prosecute crimes involving mortgage fraud, commodities fraud, and fraud involving U.S. government assistance provided during the recent economic crisis."

But the new law also makes recovering rewards easier for employee whistleblowers. Congress implicitly repudiated *Allison Engine v. United States, ex rel. Sanders*, the Supreme Court's decision that [required a whistleblower to show that the employer intended to use the false claim for payment by the government](#) .

Indeed,

[Section 4 of FERA](#)

concerns the False Claims Act and is captioned "Clarifications To The False Claims Act To Reflect The Original Intent Of The Law." This portion of FERA is also made retroactive to June 7, 2008 - the date of the *Allison Engine* decision.

Under the new law, the false statement only needs to be "material" to the false claim. The statute defines "material" as: "having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property." To erase any doubt about whether this broadens the reach of the False Claims Act, the Supreme Court quoted with approval a lower court's opinion that eliminating the intent requirement would make the reach of the Act "almost boundless: for example, liability could attach for any false claim made to any college or university, so long as the institution has received some federal grants-as most of them do."

False claims under the new law are also expanded beyond merely claims made directly to the government. Most courts had required the claim to be presented directly to the government for the claim to violate the *qui tam* statute. Now, however, claims made "to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest" are subject to the *qui tam* laws if government money or property will be used for payment.