

It's Time to Update Your Form Agreements Governing Trade Secrets

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The ***Defend Trade Secrets Act of 2016 (DTSA)***, [signed into law](#) on May 11 by ***US President Barack Obama***, is a new law that establishes federal rights and remedies for trade secret owners. The DTSA represents the most significant trade secret reform in decades.

Among the DTSA's key features are whistleblower protections that could require immediate changes to form agreements and policies governing the use of trade secrets and other confidential information.

The DTSA requires companies to add explicit notice of its whistleblower protections to "any contract or agreement with an employee, [contractor, or consultant] that governs the use of a trade secret or other confidential information." Such notice may be provided either directly in an agreement with the employee, contractor, or consultant or through a cross-reference to a "policy document provided to the employee, [contractor, or consultant] that sets forth the employer's reporting policy for a suspected violation of the law." Importantly, this requirement is not retroactive. It applies to any applicable agreement that is entered into on or after May 11, 2016 (the date the DTSA was signed into law).

Next Steps

Companies should consider initiating a prompt review of all form agreements, policies, and handbooks governing the use of trade secrets and other confidential information and should make any updates and revisions necessary to comply with the DTSA. Given the possibility that "contractors or consultants" could apply to service providers, vendors, and joint venturers under the DTSA, companies should be careful to include all relevant contract templates and policies in their review.

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