

**DEPARTMENT OF THE TREASURY
WHISTLEBLOWER PROTECTION**

Whistleblower Protection Act

Whistleblower retaliation is a Prohibited Personnel Practice, specifically defined and prohibited in 5 U.S.C. § 2302(b)(8)-(9).

All supervisors are prohibited from taking, directing, recommending, or approving, any personnel action against an employee or applicant for employment for any lawful disclosure of information, including specifically to the Office of Special Counsel (OSC) or an Office of Inspector General (OIG), that the employee/applicant reasonably believes shows:

- a violation of any law, rule, or regulation, gross mismanagement;
- gross waste of funds, abuse of authority, or
- a substantial and specific danger to public health or safety;
- unless specifically prohibited by law and not specifically required by Executive order to be kept secret.

This protection extends to:

- the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;
- testifying for or otherwise lawfully assisting any individual exercising whistleblower rights;
- cooperating with or disclosing information to the Inspector General or the Special Counsel, in accordance with applicable provisions of law; or
- refusing to obey an order that would require the individual to violate a law.

A “personnel action” can be any significant change in duties, responsibilities, or working conditions including, but not limited to, appointment; promotion; disciplinary or corrective action; reassignment; performance evaluation; and decisions concerning pay, benefits, or awards.

Protected disclosures include those:

- made in the normal course of duties;
- made to a supervisor or to a person who participated in an activity that the employee or applicant reasonably believed to be covered;
- that reveal information that had been previously disclosed;
- made while the employee was off duty; or
- made orally.

The protection applies regardless of the employee's or applicant's motive for making the disclosure, and regardless of the amount of time which has passed since the occurrence of the events described in the disclosure.

Per 5 U.S.C. §7515(b), a supervisor found by a court, by OSC, by MSPB, or by an IG, to have engaged in retaliation is subject to mandatory discipline.

Additional Whistleblower Provisions

- Petitions and other communications to Congress: 5 U.S.C. §7211
- Depository institutions and regulators: 12 U.S.C. §1831j
- Financial institutions and other BSA-governed entities: 31 U.S.C. §5328
- Contractor employees: 41 U.S.C. §4712 and FAR – 48 C.F.R. Subpart 3.9
- American Recovery and Reinvestment Act: Pub. L. 111-5
- Section 1553 Intelligence Community employees: PPD-19

Inspector General Act of 1978

The Inspector General Act of 1978 as amended (5 U.S.C. Chapter 4) provides specific authority for agency oversight and whistleblower protection. Under the act, OIGs shall make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable. In doing so, the OIG has a right to all records and materials that relate to agency programs and operations except where prohibited by law.

Whistleblower Protection Coordinator

5 USC §403 requires that each Inspector General shall designate a Whistleblower Protection Coordinator who shall:

- educate agency employees about prohibitions against retaliation for protected disclosures;
- educate employees who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures, including the means by which employees may seek review of any allegation of reprisal, including the roles of the Office of the Inspector General, the Office of Special Counsel, the Merit Systems Protection Board, and any other relevant entities;
- provide general information about the timeliness of such cases, the availability of any alternative dispute mechanisms, and avenues for potential relief;

- assist the Inspector General in promoting the timely and appropriate handling and consideration of protected disclosures and allegations of reprisal, to the extent practicable, by the Inspector General; and
- assist the Inspector General in facilitating communication and coordination with the Special Counsel, the Council of the Inspectors General on Integrity and Efficiency, the Department, Congress, and any other relevant entity regarding the timely and appropriate handling and consideration of protected disclosures, allegations of reprisal, and general matters regarding the implementation and administration of whistleblower protection laws, rules, and regulations;
- however, the Whistleblower Protection Coordinator shall not act as a legal representative, agent, or advocate of the employee or former employee.

Treasury's Whistleblower Protection Coordinator is Loren Scieurba, Assistant Counsel. Contact him on 202-927-5869 or sciurbaL@oig.treas.gov.

Confidentiality

Per 5 USC §407, an IG shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

Treasury Employee Rules of Conduct

Under the Treasury Rules of Conduct, 31 CFR Part 0, Treasury employees have a responsibility to report wrongdoing. Section 0.203 Reporting suspected misconduct, states that an employee shall immediately report to his or her supervisor, to any management official, or to the applicable Office of Inspector General:

- Any information that the employee reasonably believes indicates a possible offense against the United States by an employee of the Department or any other individual working on behalf of the Department;
- Any suspected violation of a statute, rule, or regulation;
- Any instance in which another person inside or outside the federal government uses or attempts to use undue influence to induce an employee to do or omit to do any official act in derogation of his official duty; and,
- Any information that the employee reasonably believes indicates the

existence of an activity constituting:

- Mismanagement, a gross waste of funds, or abuse of authority;
- A substantial and specific danger to the public health and safety;
- A threat to the integrity of programs and operations relating to the Department; or
- A violation of merit systems principles or a prohibited personnel practice as described in 5 U.S.C. §2301 and §2302.

Section 0.204 prohibits reprisal for reporting suspected misconduct and Section 0.210 requires Treasury employees to provide full, timely, and truthful information and responses when directed in matters of official interest. This duty is also set forth in Treasury Directive 40-01, Responsibilities of the Inspector General, which requires employees to promptly report to the OIG any information or allegation coming to their attention that indicates that any Treasury employee, former employee, contractor, subcontractor, or potential contractor, may have engaged in improper or illegal activity.

TD 40-01 also states that all Treasury employees must cooperate fully with duly authorized representatives of the OIG by disclosing complete and accurate information pertaining to matters being investigated, audited or reviewed by the OIG, and the TD protects employees from retaliation for making a complaint or disclosing information to the OIG unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

How to Report

Treasury employees may report suspected waste, fraud, abuse, or wrongdoing to any person in their chain of command or other management officials. Complaints can also be made through the OIG Hotline at 800-359-3898 or website oig.treasury.gov/report-fraud-waste-and-abuse. These complaints may be anonymous or confidential at the complainant's request.

Complaints of whistleblower reprisal or other Prohibited Personnel Practices may be made directly to the Office of Special Counsel.