

GSA ORDER

SUBJECT: Protecting Whistleblowers with Access to Classified Information

1. **Purpose:** This policy provides agency direction and guidance on Protecting Whistleblowers with Access to Classified Information.
2. **Background:** On October 10, 2012, the President issued a Presidential Policy Directive/PPD-19. The policy ensures employees serving in the Intelligence Community or those who are eligible for access to classified information can effectively report waste, fraud, and abuse while protecting classified national security information. It prohibits retaliation against employees for reporting waste, fraud, and abuse. PPD-19 also requires the Agency head to notify its employees of the policy and procedures set forth below, and to certify that GSA has complied with the requirements of this Presidential Policy Directive. Under the Intelligence Community Whistleblower Protection Act (ICWPA) of 1998, employees may report to Congress allegations regarding classified information.
3. **Applicable:** Employees in the Intelligence Community who have gained the appropriate security clearance adjudication in accordance with E.O.12968, as amended.
4. **Policy:** GSA will not tolerate any form of retaliation toward any employee who has disclosed allegations of wrongdoing— specifically allegations of a violation of law, rule or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety. A person who makes these types of disclosures is commonly called a whistleblower.
5. **Process and Procedures:**
 - a. Current or former employees may contact the Office of Inspector General (OIG) about prohibitions on retaliation for protected disclosures or whistleblower rights and remedies against retaliation. Guidance is attached and found on the OIG's website at:
<http://www.gsaig.gov/index.cfm/hotline/whistleblower-protection/>.

- b. Upon receipt of an OIG Hotline complaint alleging an action affecting eligibility for access to classified information in violation of the Inspector General Act of 1978, as amended, the OIG will review the allegation, determine whether PPD-19 provisions were violated, and initiate an investigation of the allegation as warranted. The OIG may also receive such allegations as a result of a personnel security adjudication, and will review any allegation received, determine whether investigation is warranted, and initiate appropriate review or investigative action.
 - c. For any case reviewed or investigated, the OIG will ensure that the appropriate standard of proof is applied to determine compliance with PPD-19 provisions.
 - d. In substantiated cases, the OIG may recommend to agency management that GSA take appropriate corrective action to return the employee, as nearly as practicable and reasonable, to the position the employee would have held had the reprisal not occurred. In addition, in substantiated cases relating to Eligibility for Access to Classified Information, the OIG may recommend that the employee's eligibility for access to classified information be reconsidered, consistent with the national security and Executive Order 12968. Agency management must then carefully consider the findings and actions recommended by the OIG and initiate appropriate corrective action(s).
 - e. An employee alleging a reprisal, and who has exhausted the applicable review process as described above, may request an external review by a three-member Inspector General panel chaired by the Inspector General of the intelligence community. The chairperson of this panel determines whether or not to convene such an external review. If a request is reviewed by an external OIG panel, it will not include the GSA Inspector General and the review is required by PPD-19 to be completed within 180 days.
 - f. The Administrator of GSA will carefully consider the panel's recommendation(s), initiate corrective action within 90 days, and inform the panel and the Director of National Intelligence as to any action(s) taken.
6. These procedures apply to personnel actions taken after the effective date of this policy, affecting access to or eligibility to access classified information taken after that date.

/S/

DAN TANGHERLINI
Administrator

August 2, 2013

OFFICE OF INSPECTOR GENERAL (OIG)

Whistleblower Protection

Federal laws protect Federal employees from retaliation for disclosing allegations of wrongdoing—specifically allegations of a violation of law, rule or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety. A person who makes these types of disclosures is commonly called a whistleblower.

Federal officials are prohibited from taking, threatening, proposing or failing to take a personnel action against a whistleblower because they made a whistleblower disclosure. Personnel actions can include a poor performance review, reassignment, demotion, suspension, and termination.

Making a Whistleblower Disclosure

General Services Administration (GSA) employees have several options to disclose wrongdoing, including:

- Telling their supervisor or someone higher up in management;
- Contacting the GSA's Office of Inspector General (<http://www.gsaig.gov/index.cfm/hotline/>); or
- Contacting the Office of Special Counsel (<http://www.osc.gov>).

Filing a Complaint about Whistleblower Retaliation

Current and former GSA employees and applicants for employment with the GSA, who believe they have been retaliated against for reporting wrongdoing, have several avenues for filing a whistleblower retaliation complaint.

- GSA employees may be able to file a grievance. Employees should consult applicable grievance procedures to determine whether their specific issue is grievable.
- Current and former GSA employees and applicants for employment may file a complaint with the Office of Special Counsel, which is an independent agency that enforces whistleblower protections and certain other actions within the Federal government. The Office of Special Counsel has the authority to seek corrective or disciplinary action on behalf of complainants. Information about filing a whistleblower retaliation complaint with the Office of Special Counsel can be found at <http://www.osc.gov/ppp.htm>.
- If the personnel action taken by management is an action directly appealable to the Merit Systems Protection Board (i.e. adverse actions like removals and suspensions of more than 14 days), when filing the appeal, employees and former employees may include in their filing that they believe the personnel action was taken as a result of whistleblower retaliation. The Merit Systems Protection

Board will then review the action to make a determination on whether it was in fact taken as a result of whistleblower retaliation.

Complainants must choose one venue to file a complaint at a time. The entities with authority to investigate or hear appeals concerning allegations of whistleblower retaliation will not process the claim if a claim over the same issue is pending elsewhere.

Further Whistleblower Retaliation Appeal Rights

Current and former GSA employees and applicants for employment with the GSA who have initially filed a complaint with the Office of Special Counsel have further appeal rights. Complainants may file what is called an Individual Right of Action Appeal with the Merit Systems Protection Board if the Office of Special Counsel:

- Has made a determination to not seek corrective or disciplinary action on your behalf; or
- Has not YET decided to seek corrective or disciplinary action AND 120 days has lapsed since the office's receipt of your complaint.

Information about filing whistleblower appeals with the Merit Systems Protection Board can be found at <http://www.mspb.gov/appeals/whistleblower.htm>.

Whistleblower Protection Ombudsperson

Current and former GSA employees can contact the GSA Office of Inspector General Whistleblower Protection Ombudsperson with questions about prohibitions on retaliation for protected disclosures or whistleblower rights and remedies against retaliation at whistleblower@gsaig.gov.

Please note that the Ombudsperson is prohibited from acting as an employee's or former employee's legal representative, agent, or advocate.