

GAO Highlights

Highlights of [GAO-17-227](#), a report to congressional committees

Why GAO Did This Study

Whistleblowers play an important role in safeguarding the federal government against fraud, waste, abuse, and mismanagement. The National Defense Authorization Act for Fiscal Year 2013 introduced a pilot program to expand whistleblower rights against reprisal for executive agencies' contractors, subcontractors, and grantee employees. Also, in 2013, the FAR was amended to require agencies to insert a contract clause to ensure contractors communicate rights to their employees for certain contracts.

The act also contained a provision for GAO to report on the status of the pilot program. This report: (1) describes the results of the whistleblower pilot program across 14 selected executive departments from July 1, 2013, to December 31, 2015 and (2) assesses the extent to which four departments implemented the pilot program. GAO analyzed survey data from 14 executive departments, which are a subset of all entities covered by the legislation; selected four departments based on high and low contract funds awarded to conduct a more detailed review of the pilot program implementation; interviewed agency officials and contractors; and reviewed a non-generalizable sample of contracts included in the pilot program.

What GAO Recommends

GAO is making specific recommendations to the four selected departments to improve whistleblower protections policies and guidance and communication with contractors. The departments agreed with the recommendations and have taken or identified actions to address the recommendations.

View [GAO-17-227](#). For more information, contact Marie A. Mak at (202) 512-4841 or makm@gao.gov.

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CONTRACTOR WHISTLEBLOWER PROTECTIONS PILOT PROGRAM

Improvements Needed to Ensure Effective Implementation

What GAO Found

The Whistleblower Protections Pilot Program (pilot program) provides enhanced legal protections to contractor employees who believe that they have experienced reprisal as a result of disclosing certain wrongdoings. Among other enhancements, the act expanded the persons and entities to which a whistleblower could disclose wrongdoing and identified which office within an agency has responsibility for handling complaints. For example, under the pilot program, when the Office of Inspector General (OIG) receives a complaint, it must determine whether a complaint is covered by the pilot program and if covered, conduct an investigation and submit the findings to the agency head, complainant, and contractor. The 14 selected departments that GAO reviewed reported receiving an estimated 1,560 whistleblower reprisal complaints from July 1, 2013, through December 31, 2015. Of these complaints, 127 were submitted by contractor, subcontractor, and grantee employees under the pilot program. The 14 OIGs investigated 44 of the 127 complaints but did not find that reprisal had occurred in any of them. The complaints not investigated by the OIGs were excluded for a variety of reasons, such as the complaint was deemed to be frivolous or was being decided by another judicial authority.

GAO's in-depth review of four selected departments' implementation of the pilot program found various opportunities for improvement. Specific details follow:

- The pilot program requires findings of investigated reprisal complaints to be forwarded to several entities, including to the agency head for a determination of whether reprisal occurred and, as of December 2015, to the head of the contracting activity. However, at two of the four departments reviewed, the OIGs either did not forward their investigation findings to the appropriate entities or did not forward findings in the necessary format because, according to OIG officials, they were unclear about how to execute the requirement. As a result, at these two departments, the agency heads did not make the determination of whether reprisal occurred as required by the pilot program.
- Contracting officers must insert the required Federal Acquisition Regulation (FAR) whistleblower clause to be inserted into contracts exceeding the simplified acquisition threshold, which is generally \$150,000, as a method to communicate with contractors about pilot program requirements. However, while the four selected departments reported that they inserted the clause into the required contracts, GAO found new contracts awarded during the pilot program's timeframe that did not include the required clause. Without effective internal control policies, agencies may continue to omit the required clause.
- Some contractors GAO spoke with were unaware of their obligations under the pilot program. Officials from all four departments reported taking no additional action to communicate to contractors their responsibilities to inform employees of their rights under the pilot program. This is inconsistent with federal internal control standards for communication. Without actions to help contractors fully understand their responsibilities under the pilot program, the departments do not have assurance that contractor employees are also aware of the protections afforded by the pilot program legislation.