

Update to the below summary of the National Defense Authorization Act. In 2017, legislation was introduced to make this “pilot program” permanent. Thus, this coverage for contractors, subcontractors, and grantees is now permanent. Of note, the coverage was also extended to cover two parties who were previously not covered: personal services contractors and sub-grantees. All other stipulations described below remain the same.

The National Defense Authorization Act for Fiscal Year 2013 (NDAA), P.L. 112-239, signed by President Obama on January 2, 2013, created a four-year pilot program for the enhancement of contractor protection from reprisal for disclosure of certain information, and established a new process for review of whistleblower reprisal complaints alleged by employees of contractors, subcontractors, and grantees. Sec. 828 (codified at 41 U.S.C. § 4712).

Specifically, Sec. 828 of the NDAA provides that:

An employee of a contractor, subcontractor, or grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

Paragraph (2) of Sec. 828 defines “persons or bodies” to include: (A) a member of Congress or a representative of a committee of Congress; (B) an Inspector General; (C) the Government Accountability Office; (D) a Federal employee responsible for contract or grant oversight or management at the relevant agency; (E) an authorized official of the Department of Justice or other law enforcement agency; (F) a court or grand jury; or (G) a management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

The full text of the NDAA, including the new process for reviewing whistleblower reprisal complaints alleged by employees of contractors, subcontractors, and grantees, is available at <http://www.gpo.gov/fdsys/pkg/BILLS-112hr4310enr/pdf/BILLS-112hr4310enr.pdf>.

Complaints may be filed with the USDA Hotline at <http://www.usda.gov/oig/contractorform.htm>.

Want to know more? Contact the Whistleblower Ombudsman at OIGombudsman@oig.usda.gov.