

GUIDE TO FILING A DEPARTMENT OF DEFENSE CONTRACTOR, SUBCONTRACTOR, GRANTEE, SUBGRANTEE, OR PERSONAL SERVICES CONTRACTOR EMPLOYEE WHISTLEBLOWER REPRISAL COMPLAINT

1. INSTRUCTIONS

- a. There are multiple avenues for filing a complaint with the DoD Hotline. The most efficient and secure method is to use the online complaint form on the DoD Hotline website at www.dodig/Hotline/reprisalcomplaints.html. Alternatively, you may send the information requested in Section 2, "Complaint Information," to: DoD Hotline, The Pentagon, Washington, DC 20301-1900; or fax to: 703-604-8567, DSN 664-8567.
- b. If you have any questions, please call the DoD Hotline at 1-800-424-9098.

2. COMPLAINT INFORMATION

- a. If you previously filed this reprisal complaint with another agency, be prepared to provide a copy of the complaint and any reply. If the documents are not available, please provide details such as the agency, contract number, and date filed.
- b. Provide your full name, job title, status as an employee or former employee, company and location, work and residence telephone numbers, and mailing and e-mail addresses.
- c. Be prepared to provide a copy of the protected disclosure—if written—and any reply received about the matter. If a copy of the disclosure is not available, please provide the following information:
 - (1) The date of the disclosure.
 - (2) Identify the **official** to whom the disclosure was made by including the official's name, title, organization and location, and telephone number.
 - (3) The content of the disclosure.
 - (4) Whether the matter was investigated, when, and by whom.
- d. Identify and be prepared to provide a copy of the personnel action taken—for example, demotion, discharge, or other discrimination.
- e. Provide the full name, title, company and location, and telephone numbers of the company officials responsible for recommending or taking the personnel action at issue.
- f. Indicate why and how any responsible official knew of the protected disclosure before taking the personnel action.
- g. Indicate why you believe there is a connection between your protected disclosure and the personnel action taken against you.
- h. Identify key witnesses that can provide evidence to support your reprisal complaint and include telephone numbers to contact the witnesses.

3. DEFINITIONS

- a. **Abuse of Authority.** The term "abuse of authority" means the following: (a) An arbitrary and capricious exercise of authority that is inconsistent with the mission of the DoD or the successful performance of a Department contract or grant, (b) an arbitrary and capricious exercise of authority that is inconsistent with the mission of the National Aeronautics and Space Administration or the successful performance of an Administration contract or grant. (10 U.S.C. § 2409)
- b. **Agency.** The term "agency" means the DoD, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Coast Guard, and the National Aeronautics and Space Administration. (10 U.S.C. 2409)
- c. **Contract.** The term "contract" means a contract awarded by the head of an agency. (10 U.S.C. 2409)
- d. **Contractor.** The term "contractor" means person awarded a contract with an agency. (10 U.S.C. 2409)
- e. **Grant.** The term "grant" means a legal instrument used to enter into a relationship: (a) of which the principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the DoD's direct benefit or use; (b) in which substantial involvement is not expected between the DoD and the recipient when carrying out the activity contemplated by the grant. (32 C.F.R. § 21.655)
- f. **Grantee.** The term "grantee" means a person awarded a grant with an agency (10 U.S.C. 2409)
- g. **Head of the Agency.** The term "head of an agency" means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Secretary of Homeland Security, and the Administrator of the National Aeronautics and Space Administration. (10 U.S.C. 2409)
- h. **Inspector General.** The term "Inspector General" means an inspector general appointed under the Inspector General Act of 1978, as amended, and any Inspector General that receives funding from or has oversight over contracts awarded for or on behalf of, the Secretary of Defense. (10 U.S.C. 2409)

i. Investigation of Complaints. A Department of Defense (DoD) contractor, subcontractor, grantee, subgrantee, or personal services contractor employee who believes that he or she has been subjected to a reprisal prohibited by Title 10, United States Code, Section 2409 may submit a complaint to the DoD Office of Inspector General. The DoD Office of Inspector General shall review the matter to determine if it meets the basic criteria for reprisal as established within the statute. If it meets the criteria, the DoD Office of Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of findings of the investigation to the person who filed the complaint; the contractor concerned; and the head of the agency. *(10 U.S.C. 2409)*

j. Personal Services Contract. The term “personal services contract” means a contract that, by its express terms or as administered, makes the contractor personnel appear to be, in effect, government employees. *(48 CFR 2.101)*

k. Prohibition of Reprisals. An employee of a DoD contractor, subcontractor, grantee, subgrantee, or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress, a representative of a committee of Congress, an Inspector General, the Government Accountability Office, a DoD employee responsible for contract oversight or management; an authorized official of an agency or the Department of Justice, a court or grand jury, or a company management official or employee appointed to investigate, discover, or address misconduct information that the employee reasonably believes is evidence of gross mismanagement or abuse of authority of a DoD contract or grant, a gross waste of DoD funds, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a DoD contract—including the competition for or negotiation of a contract—or grant. *(10 U.S.C. 2409)*

l. Subcontract. The term “subcontract” means a contract or contractual action entered into by a subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract. *(48 CFR § 3.502-1)*

m. Subcontractor. The term “subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor. *(48 C.F.R. 44.101)*

n. Subgrant. A subgrant is an award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible subgrantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of grant in this part. *(32 C.F.R. § 33.3)*

o. Subgrantee. The term “subgrantee” means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided. *(32 C.F.R. § 33.3)*