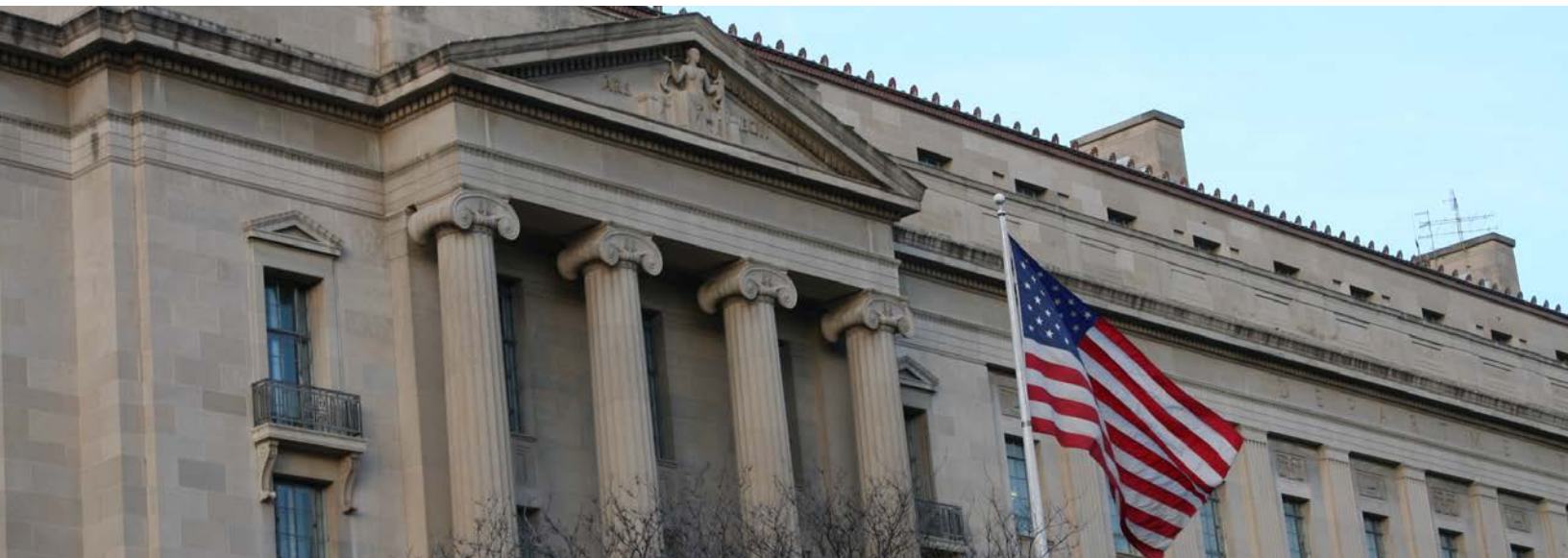




**Office of the Inspector General**  
U.S. Department of Justice

**OVERSIGHT ★ INTEGRITY ★ GUIDANCE**



**Procedural Reform**  
**Recommendation for the Federal**  
**Bureau of Prisons on Ensuring That**  
**Contractor and Grantee Employees**  
**Are Notified of Whistleblower**  
**Rights and Remedies**

# **PROCEDURAL REFORM RECOMMENDATION FOR THE FEDERAL BUREAU OF PRISONS ON ENSURING THAT CONTRACTOR AND GRANTEE EMPLOYEES ARE NOTIFIED OF WHISTLEBLOWER RIGHTS AND REMEDIES**

## **SYNOPSIS**

During a recent investigation in which it found reprisal against the former employee of a contractor, the Department of Justice (DOJ) Office of the Inspector General (OIG) determined that the Federal Bureau of Prisons (BOP) and its contractor failed to comply with legal requirements to inform contractor employees “in writing of the rights and remedies provided under” 41 U.S.C. § 4712 (§ 4712), which provides whistleblower protections to employees of federal contractors and grantees. Accordingly, the OIG recommends that the BOP take steps to ensure that its contractors and any grantees are aware of the whistleblower protections that federal law provides, and that those contractors and any grantees take appropriate actions to notify their employees about whistleblower protections and to conform their internal policies to federal law.

## **DETAILS**

### **The Issue**

During an investigation into a complaint of reprisal by a former employee of a BOP contractor, the OIG found that the employee suffered reprisal for a protected disclosure the employee made directly to a BOP official. The OIG found that the protected disclosure was a contributing factor in the contractor’s imposition of a six-month probationary period on the employee, during which the employee was prohibited from having any further contact with the BOP official who had received the disclosure or any other person associated with the BOP or another federal agency connected to the contract, and that the protected disclosure was also a contributing factor in the employee’s later termination. The OIG did not find clear and convincing evidence that the contractor would have imposed the probationary period or ultimately terminated the employee in the absence of the protected disclosure.

In addition to constituting reprisal under the facts of this investigation, the OIG found that the contractor’s imposition of a “no contact” probationary period on the employee was in direct conflict with the plain language of § 4712, which permits a contractor employee to make a protected disclosure to certain federal employees and further states that the rights and remedies of § 4712 may not be waived.

During the investigation, the OIG observed that the contractor did not provide its employees with any written materials to communicate the rights and remedies available to them under § 4712. The Federal Acquisition Regulations

(FAR) states that federal contractors are required to “inform [their] employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712.” Moreover, § 4712(d) requires that the head of each executive agency to ensure that contractors and grantees inform their employees in writing of the rights and remedies of § 4712.

BOP compliance with the law’s notice and educational requirements for contractors will help to prevent contractors and any grantees from taking actions that are in conflict with the law, like the “no contact” probationary period at issue in this case.

## **RECOMMENDATIONS**

The OIG recommends that the BOP take steps to ensure that its contractors and any grantees are aware of the whistleblower protections that federal law provides for employees of federal contractors and grantees, and that its contractors and any grantees take appropriate actions to conform their internal policies to federal law. Specifically, the BOP should ensure that its contractors, subcontractors, and grantees inform their employees in writing of the rights and remedies provided by § 4712, as required by the law and the FAR. Further information about the applicable law and its requirements is available in a publicly available brochure prepared by the OIG, <https://oig.justice.gov/hotline/docs/NDAA-brochure.pdf>.



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