

## Contractors Blowing Whistles on Feds

Written by Nick Sanders  
Friday, 30 January 2015 00:00

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Recently we had occasion [to discuss](#) a new channel for reporting DCAA misconduct—the DCAA Office of Inspector General. The new DCAA OIG exists to accept disclosures of “incidents of fraud, waste, abuse or gross mismanagement without fear of reprisal or retaliation.” Importantly, *anybody*—be they auditor or Contracting Officer or contractor—may file a complaint with the DCAA OIG.

We expressed some confusion regarding when one was supposed to report concerns to the DCAA OIG Hotline and when one was supposed to use the more traditional Hotline of the Department of Defense OIG. Either method would seem to be acceptable, though naturally DCAA would hope that its auditors would use their internal Hotline instead of calling the DoD OIG Hotline.

Just like contractors would hope their employees would use their internal Hotlines instead of calling the DoD OIG Hotline.

As we noted in our previous article, the DoD OIG thought having contractor employees use contractor internal Hotlines negatively impacted the effectiveness of the official DoD OIG Hotline. However, no such concerns appeared to exist with regard to the existence of a competing DCAA OIG Hotline. Indeed (according to DCAA), the DoD OIG actually *encouraged* creation of the competing Hotline.

*Hmm....*

Regardless of the apparent inconsistency, there are now (at least) two avenues that can be used for reporting concerns with DCAA audits. And now there is another avenue that contractors can use to report wrongdoing by Federal employees. They can report wrongdoing

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directly to the United States [Office of Special Counsel](#) . Or at least they will be able to in the future, when this [proposed rule](#) becomes final.

According to the information in the proposed rule, the OSC is proposing to allow contractors to file whistleblower disclosures of “a violation of any law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; or a substantial and specific danger to public health or safety” from “current and former Federal contractors, subcontractors, and grantees (collectively, “contractors”).”

As the rulemaking comments explain—

In the modern workforce, employees of contractors, subcontractors, and grantees ... often work alongside Federal employees, having similar if not identical duties. Thus contractors are similarly situated to observe or experience the same type of wrongdoing as are Federal employees. According contractors a safe channel to report wrongdoing within the government advances Congress's purpose in enacting the CSRA and WPA. Moreover, Congress recently extended protection against retaliation to government contractors who make whistleblower disclosures, thereby signaling its encouragement of such disclosures. OSC deems such protection against retaliation a precondition to asking insiders to risk their careers to report wrongdoing.

Thus, since the modern Federal workforce consists of both employees and contractors, and it is difficult to figure out who is whom, it was deemed appropriate to extend the reporting avenue (and protections) of the OSC to the contractors embedded in the workforce.

We're okay with that.

Indeed, we have in the past [lamented](#) the seeming decay of ethics in the Federal workplace (including the military branches). So we welcome another avenue for wrongdoing to be reported for investigation.

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The remaining problem, as we've noted before (see link in paragraph immediately above), is that investigative resources are in short supply. DCAA investigative support to DoJ and DoD has been thin. There simply may not be enough trained and seasoned investigators to quickly and efficiently determine whether Hotline allegations received have merit.

But that's a downstream problem.

At this point, contractors and Contracting Officers and Federal employees and auditors have many avenues available to them to report suspected wrongdoing. Whistleblower protections have been beefed up, to the point where anybody who retaliates against a whistleblower is a fool. If you think wrongdoing has occurred, you are running out of excuses to rationalize your silence.

At this point, If you remain silent, you are part of the problem.