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# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

November 22, 2016

KEITH B. ASHDOWN, STAFF DIRECTOR  
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The Honorable Gene L. Dodaro  
Comptroller General of the United States  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Mr. Dodaro:

Whistleblowers play a critical role in government oversight. They are our eyes and ears on the ground and their disclosures about waste, fraud, abuse and public safety support have increased accountability and transparency in our government. To that end, I have spent my time in the Senate working to improve and strengthen whistleblower protections for federal and non-federal employees.

Over the last several years, Congress has enacted increased protections for contractor and grantee employees at federal agencies. Since 2008, Congress has amended 10 U.S.C. § 2409 – which protects contractors and grantee employees at the Department of Defense and the National Aeronautics and Space Administration (NASA) – three times.<sup>1</sup> Each of those amendments has only served to make these protections stronger and more expansive. In addition, in 2013, Congress created a pilot program to protect contractor and grantee employee whistleblowers at civilian agencies.<sup>2</sup>

I have grown increasingly concerned that these agencies are not adequately implementing these protections. The success and failure of these protections rely in large part on agencies updating their contracting regulations and contracting officers ensuring that the appropriate clauses are included in new and modified contracts. The Government Accountability Office (GAO) has reported on the extent to which the Department of Energy has failed to protect whistleblowers by not including the appropriate clauses in its contracts.<sup>3</sup> Currently, GAO is examining whistleblower protections for contractor and civilian employees at the Department of Defense<sup>4</sup> and implementation of the whistleblower protection pilot program.<sup>5</sup>

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<sup>1</sup> 10 USC § 2409 was amended by Pub. L. 110-181 (2008), Pub. L. 112-239 (2013), Pub. L. 113-291 (2014).

<sup>2</sup> Pub. L. 113-239, Sec. 828 (2013).

<sup>3</sup> Government Accountability Office, *Department of Energy: Whistleblower Protections Need Strengthening* (July 2016) (GAO-16-618).

<sup>4</sup> Letter from Senator Claire McCaskill, Senator Charles Grassley and Senator Kristen Gillibrand to Gene Dodaro, Government Accountability Office (Mar. 16, 2015).

Little oversight has been done on NASA's efforts at implementation of enhanced whistleblower protections for contractors and grantees. I have received troubling reports regarding some whistleblower cases falling through the cracks due to implementation delays. I request that GAO review NASA's implementation of 10 U.S.C. § 2409, and in particular, to address the following questions:

1. What actions, such as new training, guidance, policy, or communication with contractors, has NASA taken to implement the enhanced whistleblower protections for contractor employees?
2. What have been the results of NASA's whistleblower program (number of reprisal complaints, investigations, and results of investigations) from 2008 through 2016?
3. How quickly did NASA amend its policies and contracting regulations to reflect each amendment to 10 U.S.C. § 2409 and, if any, what were the causes of delays?
4. To what extent have NASA contract awards and modifications included enhanced whistleblower protections for contractor employees from 2008 through 2016?
5. What challenges, if any, has NASA faced in implementing enhanced whistleblower protections for its contractor employees?

Please have your staff contact Sarah Garcia at (202) 224-9505 with any questions. Please send any official correspondence related to this request to [Kelsey\\_Stroud@hsgac.senate.gov](mailto:Kelsey_Stroud@hsgac.senate.gov).

Sincerely,



Claire McCaskill  
Ranking Member  
Permanent Subcommittee on Investigations

cc: Rob Portman  
Chairman  
Permanent Subcommittee on Investigations

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<sup>5</sup> Pub. L. 113-239, Sec. 828(e) (2013).