

GAO Highlights

Highlights of [GAO-18-262](#), a report to the Ranking Member, Committee on Homeland Security and Governmental Affairs, U. S. Senate

Why GAO Did This Study

NASA obligated over \$18 billion in contracts and more than \$1 billion in grants in fiscal year 2016, and it relies on a significant number of contractor and grantee employees to accomplish its work. These employees are legally protected from reprisal—such as demotion or firing—for whistleblowing.

GAO was asked to review NASA’s whistleblower reprisal protections for contractor and grantee employees. This report addresses, among other things, the extent to which (1) NASA’s Inspector General investigated contractor and grantee whistleblower reprisal complaints; (2) NASA’s Administrator reviewed reprisal complaints in a timely manner; and (3) NASA communicated the applicable whistleblower reprisal protections to contractors. GAO reviewed NASA and its Inspector General’s policies and guidance; reviewed a generalizable sample of 100 contracts from all NASA centers with contracts in fiscal year 2016; and interviewed relevant officials and contractors, grantees, and advocacy groups.

What GAO Recommends

GAO is making three recommendations to NASA, including evaluating the process for reviewing reprisal complaints to ensure it is meeting the required timeframe and clarifying guidance on when protections apply to contractor employees. NASA agreed with the recommendations and plans to develop a documented process to ensure it reviews reprisal complaints in a timely manner and clarify guidance as appropriate, among other things.

View [GAO-18-262](#). For more information, contact Shelby S. Oakley at (202) 512-4841 or oakleys@gao.gov.

March 2018

NASA CONTRACTOR WHISTLEBLOWERS

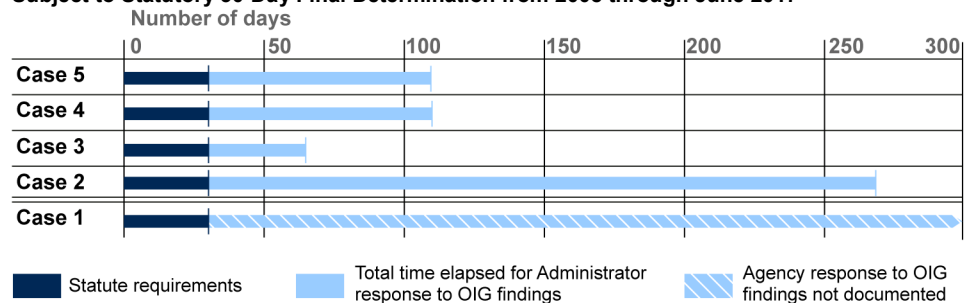
Steps Taken to Implement Program but Improvements to Timeliness and Guidance Needed

What GAO Found

From 2008 through June 2017, National Aeronautics and Space Administration (NASA) contractor and grantee employees submitted 48 reprisal complaints such as alleged firing or demotion for reporting fraud, waste, or abuse within the government. NASA’s Inspector General addressed all 48 complaints, completed investigations for 6 of those complaints, and forwarded investigation reports to the NASA Administrator, who is responsible for making a final determination of whether reprisal occurred. The Administrator determined that none of the complaints qualified for protection under the law.

Further, in 5 of the 6 cases forwarded by the OIG, the Administrator was required by statute to make a final determination of reprisal within 30 days. GAO found that the Administrator did not meet this required time frame for all 5 cases and had no documented response for one of them (see figure for all 5 cases). According to officials from NASA’s Office of General Counsel, each case must be handled on a case by case basis to ensure due process and 30 days is insufficient time to issue an order of final determination of reprisal. However, in order to ensure that whistleblower reprisal complaints are handled within required timeframes, NASA would have to monitor and evaluate its processes for making final determinations of reprisal, but it has not yet taken this step. Consequently, NASA does not know what changes may be needed to ensure that it is meeting the statutory 30-day requirement.

Figure: Timeline for NASA Administrator’s Response for 5 Investigated Reprisal Cases Subject to Statutory 30-Day Final Determination from 2008 through June 2017



Source: GAO analysis of documents provided by National Aeronautics and Space Administration Office of Inspector General (OIG) and Administrator. | [GAO-18-262](#)

NASA communicates whistleblower protections to contractors through inclusion of a required contract clause. For example, GAO found that almost all—98 percent—of contracts would be expected to include a whistleblower clause as required by statute. However, certain elements of NASA whistleblower protection guidance have contributed to a different understanding of reprisal protections among officials at headquarters, a NASA center, and the Inspector General. For example, a July 2014 procurement notice and contract clause language resulted in different interpretations about when the protections apply. Federal internal control standards require that an entity should communicate necessary quality information internally to meet the objectives of its mission. Without additional clarity in its guidance on when the protections apply, NASA centers and procurement officials will be at risk of inconsistent implementation of the law.