



BRIEFLY...

REGION IX WHISTLEBLOWER PROTECTION PROGRAM COMPLAINTS WERE NOT COMPLETE OR TIMELY

November 23, 2020

WHY OIG CONDUCTED THE AUDIT

On July 6, 2018, then Secretary of Labor Alexander Acosta received a referral from the U.S. Office of Special Counsel (OSC) that described allegations against the Occupational Safety and Health Administration's (OSHA) Whistleblower Protection Program (WPP).

WPP investigates complaints of employer retaliation when employees report violations of law by their employers. The Whistleblower in OSC's referral was an investigator for OSHA from 2010–2015, who alleged OSHA's Region IX had breakdowns processing the complaints it received, which in turn resulted in widespread failure to protect complainants.

This report is in response to Secretary Acosta's request to review OSC's referral.

WHAT OIG DID

OSC determined there was substantial likelihood the Whistleblower's allegations disclosed violations of law, rule, or regulation, and gross mismanagement. OSC also raised overarching concerns about ongoing WPP issues raised in previous GAO and OIG audits.

To address OSC's concerns, we answered the 5 questions it posed and conducted additional work to answer the following question:

Did the whistleblower's disclosures reveal violations of law, rule, or regulation, and gross mismanagement?

To answer all of these questions, we: 1) tested a sample of whistleblower complaints from October 1, 2010, through September 30, 2018; 2) conducted interviews in Region IX to determine if OSHA provided investigators with appropriate operational resources; and 3) reviewed 15 WPP cases and 77 allegations provided by the Whistleblower.

We also followed up on recommendations from prior audits to determine if OSHA had successfully implemented corrective actions.

WHAT OIG FOUND

We found no evidence of misconduct, nor evidence of any other issue that would rise to the level of "violations of law, rule, or regulation and gross mismanagement." However, we did find problems with the completeness and timeliness of investigations into whistleblower complaints, as 96 percent of those sampled did not meet all essential elements and 88 percent of cases exceeded statutory timeframes for investigations by an average of 634 days.

These results were worse than the results we reported in 2010 and 2015 audits, and could be attributed partly to average caseload counts in Region IX that were approximately double the average caseloads nationwide. Both Region IX and OSHA's Directorate of Whistleblower Protection Programs took steps to address the backlog created by the caseload, but in FY 2018 the average caseload in Region IX was still 57 percent higher than the national average.

WHAT OIG RECOMMENDED

We made recommendations to OSHA regarding case management, monitoring, and development of guidance. OSHA agreed with the report recommendations and stated strengthening WPP continues to be one of OSHA's top priorities.

READ THE FULL REPORT

<http://www.oig.dol.gov/public/reports/oa/2021/02-21-001-10-105.pdf>