Alphabetical List of Letters Asking Federal Agencies to Inform Workers of Their Whistleblower Rights and Protections

1. Central Intelligence Agency
2. Department of Agriculture
3. Department of Commerce
4. Department of Defense
5. Department of Education
6. Department of Energy
7. Department of Health and Human Services
8. Department of Homeland Security
9. Department of Housing and Urban Development
10. Department of Justice
11. Department of Labor
12. Department of State
13. Department of the Interior
14. Department of the Treasury
15. Department of Transportation
16. Department of Veterans Affairs
17. Environmental Protection Agency
18. Federal Trade Commission
19. General Services Administration
20. National Security Agency
21. Nuclear Regulatory Commission
22. Office of Management and Budget
23. Office of Personnel Management
24. Office of the Director of National Intelligence
25. United States Agency for Global Media
The Honorable Gina C. Haspel  
Director  
Central Intelligence Agency  
McLean, VA 22101  

December 21, 2020  

Dear Director Haspel,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Central Intelligence Agency workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy. Finally, the Ukraine whistleblower—reportedly one of your employees—who disclosed abuses at the highest levels, was treated as both a hero and villain, despite going through lawful proper reporting channels.

All of these factors combined make it incumbent on CIA to reinforce the whistleblower protections afforded to its employees to prevent the possible effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, and intelligence contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

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CIA should compensate for any previous unlawful communications or other chilling effects by informing employees of the whistleblower rights they enjoy under federal law. CIA employees should know that:

- Intelligence Community employees and contractors have legal rights to report wrongdoing and receive protection from retaliation by following the disclosure process outlined in the Intelligence Community Whistleblower Protection Act (ICWPA) of 1998, which allows intelligence employees to fashion “protected disclosures” of “urgent concerns” through their Inspectors General.4
- If a whistleblower suffers retaliation for making a protected disclosure, Presidential Policy Directive-19 and related statutes offer IC employees protections from retaliation.5 Intelligence contractors were afforded these protections through the FISA Reauthorization Act of 2018.
- Appropriations law prohibits Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions.6
- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.7

Employees who exercise their whistleblower rights perform an essential public service. Federal employees may soon be witness to, and choose to disclose, evidence of a whole host of abuses, including but not limited to federal records destruction, misinformation used by political appointees and elected officials used to prompt retaliatory investigations against politically disfavored individuals, grave national security threats, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, lawfully reporting evidence of serious abuses and wrongdoing. Rather, they should be encouraged to do so.

Emblemizing your workforce’s quiet patriotism, CIA officers’ protection is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

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7 See, e.g., *Denius v. Dunlap*, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
Very truly yours,

Louis Clark  
Executive Director and Chief Executive Officer  
Government Accountability Project

Austin Evers  
Executive Director  
American Oversight

John Langford  
Counsel  
Protect Democracy

Robert Weissman  
President  
Public Citizen

CC: Vaughn F. Bishop, Deputy Director
The Honorable Sonny Perdue  
Secretary  
Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250

December 21, 2020

Dear Secretary Perdue,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Agriculture workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies\(^1\) prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech.\(^2\) Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.\(^3\)

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Department of Agriculture should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

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• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.  

• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.  

• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.  

• Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.  

• Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.  

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health. Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.  

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of Agriculture are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference.  

5 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(f).  
6 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.  
8 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) ("The right to hire and consult an attorney is protected by the First Amendment's guarantee of freedom of speech, association and petition.")  
9 Rick Bright’s full whistleblower disclosure to the Office of Special Counsel: May 5, 2020.  
https://www.cnn.com/2020/05/05/politics/rick-bright-full-complaint/index.html
for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

CC: The Honorable Stephen Censky, Deputy Secretary
The Honorable Wilbur L. Ross, Jr.  
Secretary  
Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230  

December 21, 2020

Dear Secretary Ross,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Commerce workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Department of Commerce should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

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• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.  
• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.
• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.
• Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.
• Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health. Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of Commerce are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil

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5 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j)
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8 See, e.g., Denis v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

CC: The Honorable Karen Dunn Kelley, Deputy Secretary
The Honorable Christopher C. Miller  
Acting Secretary  
Department of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301

December 21, 2020

Dear Acting Secretary Miller,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Defense workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Past practice combined with repeat reporting about the Department of Defense’s efforts to block and chill communications between career civil servants and incoming President-elect transition teams\(^1\) prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech.\(^2\) Indeed, President Trump's recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.\(^3\)

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, military personnel, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

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The Defense Department should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Under the Whistleblower Protection Act of 1989 (WPA), most civilian federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis, or technical information that would result in such forms of misconduct.\footnote{5 U.S.C. § 2302(b)(8)(A)}

- Federal contractors and grantees enjoy similar rights to make disclosures under 10 U.S.C. § 2409.\footnote{5 U.S.C. § 2409}

- Under the Military Whistleblower Protection Act, service members also have the right to make disclosures free from reprisal to a member of Congress, an Inspector General, a member of a Defense Department audit, investigation, or law enforcement organization, or a person in their chain of command.\footnote{6 U.S.C. § 2409}

- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.\footnote{7}

- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.\footnote{8}

Employees who exercise their whistleblower rights perform an essential public service, as National Guardsman Major Adam DeMarco did when he blew the whistle to Congress on the “unprovoked escalation and excessive use of force” when law enforcement cleared racial justice protesters near the White House ahead of President Trump’s photo shoot at St. John’s Church.\footnote{9 Federal employees may soon be witness to, and choose to disclose,}

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  \item Under the Whistleblower Protection Act of 1989 (WPA), most civilian federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis, or technical information that would result in such forms of misconduct.\footnote{5 U.S.C. § 2302(b)(8)(A)}
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Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

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Austin Evers  
Executive Director  
American Oversight

John Langford  
Counsel  
Protect Democracy

Robert Weissman  
President  
Public Citizen

CC: The Honorable David L. Norquist, Deputy Secretary
Dear Secretary DeVos,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Education workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

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The Department of Education should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

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• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.4

• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.5

• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.6

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Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of Education are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power,

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5 5 U.S.C. § 2302(b)(9). If such information is barred from release by statute or Executive Order (i.e., classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j).
6 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
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Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

CC: The Honorable Mitchell M. Zais, Deputy Secretary
The Honorable Dan Brouillette  
Secretary  
Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585

December 21, 2020

Dear Secretary Brouillette,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Energy (DOE) workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Department of Energy should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.  

They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.  

Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.  

Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.  

Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.  

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health. Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, national security threats, gross misuse of funds, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so. 

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of Energy are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the

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5 5 U.S.C. § 2302(b)(6). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3344(1).
6 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
8 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
9 Rick Bright’s full whistleblower disclosure to the Office of Special Counsel: May 5, 2020. https://www.cnn.com/2020/05/05/politics/rick-bright-full-complaint/index.html
continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
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Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

Cc: The Honorable Mark Menezes, Deputy Secretary
The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Azar,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Health and Human Services’ (HHS) workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies, combined with specific examples involving HHS, lead us to conclude your agency may be in violation of federal whistleblower and appropriation provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. For example, HHS impeded the Biden-Harris transition team from accessing critical information concerning the COVID-19 pandemic, the denial of which would constitute abuse of authority and a substantial and specific danger to public health and safety, all categories of protected whistleblowing disclosures. Moreover, a November 18, 2020 press report paraphrases an administration official saying, “HHS staffers have been informed that if anyone from Biden's team contacts them, they are not to communicate with them and should instead alert the deputy surgeon general of the communication.”

These speech restrictions are compounded by reported efforts on the part of the Trump administration to suppress information concerning the COVID-19 pandemic, which would constitute scientific censorship threatening public health and safety, another category that would enjoy whistleblower protection if disclosed by an employee. This backdrop of chilled speech, combined with President Trump's recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who

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are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.5

Directives that fail to assure employees that their whistleblower rights supersede gag orders have the dangerous effect of chilling employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

HHS should correct any previous unlawful communication by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.6

• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.7

• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.8

• Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.9

• Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.10

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7 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e., classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j)
8 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
10 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health. Likewise, federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, gross mismanagement or abuses related to vaccine production or distribution, or fraud related to COVID-19 relief spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at HHS are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

Cc: The Honorable Eric D. Hargan, Deputy Secretary

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Mr. Chad F. Wolf  
Department of Homeland Security  
245 Murray Lane, S.W.  
Washington, D.C. 20528  

December 21, 2020  

Dear Mr. Wolf,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Homeland Security (DHS) workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Between a record of Department of Homeland Security whistleblowers who have suffered reprisal for whistleblowing and DHS repeatedly violating federal whistleblower protection laws and provisions, we are writing to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. This worrisome past practice is reinforced by recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies. Finally, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety.

During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

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DHS should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.  
- They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect's transition team—so long as the disclosed information is not barred from release by statute or Executive Order.  
- Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.  
- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.  
- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.

Employees who exercise their whistleblower rights perform an essential public service. Some of the most important whistleblowers over the past several years have worked for DHS, such as Drs. Scott Allen and Pamela McPherson, contracted medical and mental health subject matter experts for DHS’s Office of Civil Rights and Civil Liberties who raised the alarm about harm to children in immigration detention, and Brian Murphy, former head of DHS’s intelligence component, who reported efforts to censor of intelligence analysis warning of interference in the 2020 presidential election by Russia and white supremacists.

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6 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e., classified information), or if the federal employees are members of the United States Armed Forces or Intelligence Community, lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j).  
7 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.  
9 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)  
Federal employees may soon be witness to, and choose to disclose, evidence of a whole host of abuses, including but not limited to federal records destruction, politicized censorship of science or intelligence data, fraud related to COVID-19 relief spending, gross misuse of funds, or misinformation used by political appointees and elected officials used to justify military actions or to prompt retaliatory investigations against politically disfavored individuals. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of Homeland Security are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

Cc: Kenneth T. Cuccinelli, Acting Deputy Secretary
The Honorable Benjamin S. Carson  
Secretary  
Department of Housing and Urban Development  
451 7th Street, S.W.  
Washington, D.C. 20410

December 21, 2020

Dear Secretary Carson,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Housing and Urban Development workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Department of Housing and Urban Development should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

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• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.4

• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.5

• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.6

• Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.7

• Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.8

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health.9 Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of Housing and Urban Development are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during

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5 5 U.S.C. § 2302(b)(9). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(f).
6 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
8 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
9 Rick Bright’s full whistleblower disclosure to the Office of Special Counsel May 5, 2020. https://www.cnn.com/2020/05/05/politics/rick-bright-full-complaint/index.html
a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

CC: The Honorable Brian D. Montgomery, Deputy Secretary
December 21, 2020

Dear Attorney General Barr and Incoming Acting Attorney General Rosen,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Justice workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Between a battery of Department of Justice employees who have been compelled to exercise their whistleblower rights to report inappropriate political interference in prosecutions,1 combined with recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies,2 we are writing to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech.3 Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.4

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of

funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Department of Justice should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.5
- They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.6
- Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.7
- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.8
- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.9

Employees who exercise their whistleblower rights perform an essential public service. Career prosecutors John Elias and Aaron Zelinsky both strengthened the legitimacy of the Department of Justice when they respectively testified before Congress about DOJ leadership abusing its authority by ordering unwarranted, harassing antitrust investigations into disfavored industries and efforts to reduce the sentencing recommendations of Roger Stone because of his favored relationship with President

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6 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j)
7 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
9 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 [7th Cir. 2000] ("The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.")
Trump. Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, politically motivated retaliatory investigations and prosecutions, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of Justice are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

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Executive Director and Chief Executive Officer  
Government Accountability Project

Austin Evers  
Executive Director  
American Oversight

John Langford  
Counsel  
Protect Democracy

Robert Weissman  
President  
Public Citizen

CC: The Honorable Richard P. Donoghue, Incoming Acting Deputy Attorney General

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10 See fn. 1, supra.
The Honorable Eugene Scalia  
Secretary  
Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

December 21, 2020

Dear Secretary Scalia,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Labor workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies\(^1\) prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech.\(^2\) Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.\(^3\)

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Department of Labor should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

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- Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.\textsuperscript{4}

- They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.\textsuperscript{5}

- Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.\textsuperscript{6}

- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.\textsuperscript{7}

- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.\textsuperscript{8}

As the Department of Labor, which enforces many other federal whistleblower protection laws, well knows, employees who exercise their whistleblower rights perform an essential public service in promoting legal compliance and exposing misconduct. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health.\textsuperscript{9} Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of Labor are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to

\textsuperscript{5} 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j).
\textsuperscript{6} 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific evidence to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.


\textsuperscript{8} See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) ("The right to hire and consult an attorney is protected by the First Amendment's guarantee of freedom of speech, association and petition.")

\textsuperscript{9} Rick Bright’s full whistleblower disclosure to the Office of Special Counsel. May 5, 2020. https://www.cnn.com/2020/05/05/politics/rick-bright-full-complaint/index.html
work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

CC: The Honorable Patrick Pizzella, Deputy Secretary
The Honorable Michael R. Pompeo
Secretary of State
Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Secretary Pompeo,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of State workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Between State Department employees who felt compelled to exercise their whistleblower rights to report abuses,1 and recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies,2 we are writing to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech.3 Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.4

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The State Department should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.⁵
- They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.⁶
- Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.⁷
- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.⁸
- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.⁹

Employees who exercise their whistleblower rights perform an essential public service. Federal employees may soon be witness to, and choose to disclose, evidence of a whole host of abuses, including but not limited to federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, and fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of State are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the

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⁶ 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e. classified information), or if the federal employees are members of the United States Armed Forces or Intelligence Community, lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j)
⁷ 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
⁹ See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

CC: The Honorable Stephen Biegun, Deputy Secretary
The Honorable David Bernhardt  
Secretary  
Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

December 21, 2020

Dear Secretary Bernhardt,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of the Interior workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Between a record of Department of Interior whistleblowers who have suffered reprisal for whistleblowing and recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies,1 we are writing to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech.2 Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.3

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety.

During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

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The Department of the Interior should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.\(^4\)

- They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.\(^5\)

- Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.\(^6\)

- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.\(^7\)

- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.\(^8\)

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health.\(^9\) Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, misuse of funds, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

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\(^5\) 5 U.S.C. § 2302(b)(8)(B), if such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j)
\(^6\) 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
\(^8\) See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
\(^9\) Rick Bright’s full whistleblower disclosure to the Office of Special Counsel1 May 5, 2020. https://www.cnn.com/2020/05/05/politics/rick-bright-full-complaint/index.html
Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of the Interior are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark  
Executive Director and Chief Executive Officer  
Government Accountability Project  

Austin Evers  
Executive Director  
American Oversight  

John Langford  
Counsel  
Protect Democracy  

Robert Weissman  
President  
Public Citizen  

CC: The Honorable Kate MacGregor, Deputy Secretary
The Honorable Steven T. Mnuchin  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220  

December 21, 2020

Dear Secretary Mnuchin,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of Treasury workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Department of Treasury should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:


• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.4

• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.5

• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.6

• Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain’ provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.7

• Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.8

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health.9 Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of Treasury are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power,
ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

CC: The Honorable Justin Muzinich, Deputy Secretary
The Honorable Elaine L. Chao  
Secretary  
Department of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590  

December 21, 2020

Dear Secretary Chao,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of the Transportation workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Department of the Transportation should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.  

They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.  

Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712. 

Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.  

Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health. Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of the Transportation are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil

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5 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j).  
6 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.

8 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)  
9 Rick Bright’s full whistleblower disclosure to the Office of Special Counsel May 5, 2020. https://www.cnn.com/2020/05/05/politics/rick-bright-full-complaint/index.html
service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

CC: The Honorable Steven G. Bradbury, Deputy Secretary
Dear Secretary Wilkie,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Department of the Veterans Affairs workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Between a record of VA whistleblowers who have suffered reprisal for whistleblowing,\(^1\) combined with recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies,\(^2\) we are writing to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech.\(^3\) Indeed, President Trump's recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.\(^4\)

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

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The Department of the Veterans Affairs should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.5
- They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.6
- Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.7
- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.8
- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.9

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health.10 Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

6 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j).
7 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
9 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Department of the Veterans Affairs are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen

CC: The Honorable Pamela J. Powers, Acting Deputy Secretary
Dear Administrator Wheeler,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Environmental Protection Agency workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Between a record of EPA whistleblowers who have suffered reprisal for whistleblowing,1 combined with recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies,2 we are writing to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblower rights supersede the gag on their speech.3 Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.4

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants,

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federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Environmental Protection Agency should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.5
- They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.6
- Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.7
- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.8
- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.9

Employees who exercise their whistleblower rights perform an essential public service. Examples from EPA alone include climate scientists who raised concerns about rule changes based on politics rather than science with adverse consequences to public health, safety, and the environment, and senior officials who reported gross waste of funds and abuses of authority by former EPA Administrator Scott Pruitt.10 Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, or gross misuse of funds.

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5 5 U.S.C. § 2302(b)(8)(A)
6 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j)
7 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
9 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
10 See fn. 1, supra.
Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Environmental Protection Agency are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark
Executive Director and Chief Executive Officer
Government Accountability Project

Austin Evers
Executive Director
American Oversight

John Langford
Counsel
Protect Democracy

Robert Weissman
President
Public Citizen
The Honorable Joseph J. Simons  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, DC 20580

December 21, 2020

Dear Chairman Simons,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Federal Trade Commission workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Federal Trade Commission should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.  

• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.  

• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.  

• Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.  

• Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.  

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health. Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, and fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.  

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Federal Trade Commission are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, 

5 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e., classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j).  
6 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees who disclose misconduct are generally immune from retaliatory actions.  
8 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)  
ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark  
Executive Director and Chief Executive Officer  
Government Accountability Project

Austin Evers  
Executive Director  
American Oversight

John Langford  
Counsel  
Protect Democracy

Robert Weissman  
President  
Public Citizen
The Honorable Emily W. Murphy  
Administrator  
General Services Administration  
1800 F Street, N.W.  
Washington, D.C. 20405  

December 21, 2020

Dear Administrator Murphy,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the General Services Administration workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The General Services Administration should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.4
• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.5
• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.6
• Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain’ provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.7
• Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.8

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health.9 Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the General Services Administration are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference.

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5 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e. classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j).
6 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office [GAO], the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
8 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark  
Executive Director and Chief Executive Officer  
Government Accountability Project

Austin Evers  
Executive Director  
American Oversight

John Langford  
Counsel  
Protect Democracy

Robert Weissman  
President  
Public Citizen

CC: The Honorable Allison Brigati, Deputy Administrator
The Honorable General Paul M. Nakasone
Director
National Security Agency
9800 Savage Road, Suite 6272
Fort George G. Meade, MD 20755

December 21, 2020

Dear Director Nakasone,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the National Security Agency workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution government agencies against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy. Finally, the Ukraine whistleblower—reportedly a CIA employee—who disclosed abuses at the highest levels, was treated as both a hero and villain despite going through lawful reporting channels.

All of these factors combined make it incumbent on NSA to reinforce the whistleblower protections afforded to its employees to prevent the possible effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between

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administrations, civil servants, and intelligence contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

National Security Agency should compensate for any previous unlawful communications or other chilling effects by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Intelligence Community employees and contractors have legal rights to report wrongdoing and receive protection from retaliation by following the disclosure process outlined in the Intelligence Community Whistleblower Protection Act (ICWPA) of 1998, which allows intelligence employees to fashion “protected disclosures” of “urgent concerns” through their Inspectors General.  

- If a whistleblower suffers retaliation for making a protected disclosure, Presidential Policy Directive-19 and related statutes offer IC employees protections from retaliation. Intelligence contractors were afforded these protections through the FISA Reauthorization Act of 2018.

- Appropriations law prohibits Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions.

- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.

Employees who exercise their whistleblower rights perform an essential public service. Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, misinformation used by political appointees and elected officials used to prompt retaliatory investigations against politically disfavored individuals, grave national security threats, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, lawfully reporting evidence of serious abuses and wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at National Security Agency are entrusted to preserve the integrity of our institutions and the foundations of our democracy. The need to empower a civil service to protect the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

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8 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
Very truly yours,

Louis Clark  
Executive Director and Chief Executive Officer  
Government Accountability Project

Austin Evers  
Executive Director  
American Oversight

John Langford  
Counsel  
Protect Democracy

Robert Weissman  
President  
Public Citizen

CC: The Honorable George C. Barnes, Deputy Director
The Honorable Kristine L. Svinicki  
Chairman  
Nuclear Regulatory Commission  
Washington, D.C. 20555  

December 21, 2020  

Dear Chairman Svinicki,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Nuclear Regulatory Commission workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Nuclear Regulatory Commission should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

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• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct. 4

• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order. 5

• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712. 6

• Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act. 7

• Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights. 8

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health. 9 Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, national security threats, gross misuse of funds, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Nuclear Regulatory Commission are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power,

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5 5 U.S.C. § 2302(b)(8)(B). If such information is barred from release by statute or Executive Order (i.e., classified information), lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(f).
6 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
8 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
9 Rick Bright’s full whistleblower disclosure to the Office of Special Counsel: May 5, 2020. https://www.cnn.com/2020/05/05/politics/rick-bright-full-complaint/index.html
ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark  
Executive Director and Chief Executive Officer  
Government Accountability Project

Austin Evers  
Executive Director  
American Oversight

John Langford  
Counsel  
Protect Democracy

Robert Weissman  
President  
Public Citizen
The Honorable Russell T. Vought  
Director  
Office of Management and Budget  
725 17th Street, N.W. Washington, D.C. 20503

December 21, 2020

Dear Director Vought,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Office of Management and Budget (OMB) workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, the recent reclassification per President Trump’s Executive Order of more than 85% of your agency’s workforce into “Schedule F” employees who are in policy-related positions—which, if enacted, would effectively strip employees of their civil service protections, which include their whistleblower protection rights— sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

OMB should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

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- Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.4
- They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.5
- Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.6
- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.7
- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.8

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health.9 Federal employees may soon be witness to, and choose to disclose, evidence of a whole host of abuses, including but not limited to federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, and fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Office of Management and Budget are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil

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5 5 U.S.C. § 2302(b)(8). 5 U.S.C. § 2302(b)(9)(A). If such information is barred from release by statute or Executive Order (i.e. classified information), or if the federal employees are members of the United States Armed Forces or Intelligence Community, lawful mechanisms exist to facilitate its disclosure within the federal government: 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(8)(B-G); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j).
6 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees may make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
8 See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
9 Rick Bright’s full whistleblower disclosure to the Office of Special Counsel: May 5, 2020. https://www.cnn.com/2020/05/05/politics/rick-bright-full-complaint/index.html
service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

Very truly yours,

Louis Clark  
Executive Director and Chief Executive Officer  
Government Accountability Project  

Austin Evers  
Executive Director  
American Oversight  

John Langford  
Counsel  
Protect Democracy  

Robert Weissman  
President  
Public Citizen
The Honorable Michael Rigas  
Acting Director  
Office of Personnel Management  
1900 E Street, NW  
Washington, DC 20415-1000

December 21, 2020

Dear Mr. Rigas,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Office of Personnel Management (OPM) workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Office of Personnel Management should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

• Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.4
• They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.5
• Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.6
• Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.7
• Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.8

Employees who exercise their whistleblower rights perform an essential public service. A recent example includes Dr. Rick Bright, the former head of the Biomedical Advanced Research and Development Authority, who publicly disclosed his reasonable belief about the failures of the federal government to respond to the pandemic as a substantial and specific danger to public health.9 Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, politicized censorship of science or intelligence data, gross misuse of funds, and fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Office of Personnel Management are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power,
ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

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Louis Clark  Austin Evers  
Executive Director and Chief Executive Officer  Executive Director  
Government Accountability Project  American Oversight

John Langford  Robert Weissman  
Counsel  President  
Protect Democracy  Public Citizen
The Honorable John Ratcliffe  
Director of National Intelligence  
Office of the Director of National Intelligence  
1500 Tysons McLean Drive  
McLean, VA 22102  

December 21, 2020  

Dear Director Ratcliffe,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the Office of the Director of National Intelligence workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies prompts us to caution government agencies against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. Indeed, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy. Finally, the Ukraine whistleblower—a CIA employee detailed to the White House—who disclosed abuses at the highest levels, was treated as both a hero and villain, despite going through lawful reporting channels.

All of these factors combined make it incumbent on the ODNI to reinforce the whistleblower protections afforded to its employees to prevent the possible effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition

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between administrations, civil servants, federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

The Office of the Director of National Intelligence should compensate for any previous unlawful communications or other chilling effects by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Intelligence Community employees and contractors have legal rights to report wrongdoing and receive protection from retaliation by following the disclosure process outlined in the Intelligence Community Whistleblower Protection Act (ICWPA) of 1998, which allows intelligence employees to fashion “protected disclosures” of “urgent concerns” through their Inspectors General.\(^5\)
- If a whistleblower suffers retaliation for making a protected disclosure, Presidential Policy Directive-19 and related statutes offer IC employees protections from retaliation.\(^6\) Intelligence contractors were afforded these protections through the FISA Reauthorization Act of 2018.
- Appropriations law prohibits Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite any nondisclosure restrictions.\(^7\)
- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.\(^8\)

Employees who exercise their whistleblower rights perform an essential public service. Federal employees may soon be witness to, and choose to disclose, evidence of misconduct such as federal records destruction, misinformation used by political appointees and elected officials used to prompt retaliatory investigations against politically disfavored individuals, grave national security threats, or fraud related to COVID-19 relief or defense spending. Your workforce should not be prohibited or chilled from, or retaliated against for, lawfully reporting evidence of serious abuses and wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the Office of the Director of National Intelligence are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to protect the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

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\(^7\) §§713 and 743, Consolidated Appropriations Act, 2020; Division E, Financial Services and General Government Appropriations Act, 2016; Title VII, General Provisions, Government-Wide.

\(^8\) See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
Please inform your workers of their whistleblower rights and protections and ensure they understand their rights are not superseded by any restriction placed on their speech.

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Austin Evers  
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American Oversight

John Langford  
Counsel  
Protect Democracy

Robert Weissman  
President  
Public Citizen
The Honorable Michael Pack  
Chief Executive Officer  
U.S. Agency for Global Media  
330 Independence Avenue, S.W.  
Washington, D.C. 20237

December 21, 2020

Dear Mr. Pack,

Government Accountability Project, a nonprofit organization that represents whistleblowers and develops whistleblower policy, joined by American Oversight, Protect Democracy, and Public Citizen, writes to request that you inform the U.S. Agency for Global Media (USAGM) workforce of the whistleblower rights they enjoy under federal law. During this transition period, it is critical to remind employees to report wrongdoing they witness in the workplace, and that their rights supersede any non-disclosure policies or restrictions.

Between a record of U.S. Agency for Global Media’s Voice of America whistleblowers who have suffered reprisal for whistleblowing and USAGM repeatedly violating federal whistleblower protection laws and provisions, we are writing to caution your agency against violating federal whistleblower protection laws and provisions which require that any directives barring employee communications include explicit language noting that their whistleblowing rights supersede the gag on their speech. This worrisome past practice is reinforced by recent reporting about efforts to block and chill communications between career civil servants and incoming President-elect transition teams in several government agencies. Finally, President Trump’s recent Executive Order directing agencies to reclassify employees who are in policy-related positions into “Schedule F” workers, which would effectively strip employees of their civil service protections—including their whistleblower protection rights—sends a message to those workers who are in the most likely positions of discovering high-level, serious misconduct that reporting wrongdoing will leave them most vulnerable to future reprisal without a remedy.

Combined, these efforts have the likely effect of deterring employees from reporting serious wrongdoing they witness in the workplace. Whistleblower rights exist to encourage employees, who are in the best position to identify problems, to serve the public by reporting violations of laws, rules, and regulations, gross mismanagement, gross waste of funds, abuses of authority, and substantial and specific dangers to public health and safety. During a global pandemic and a volatile transition between administrations, civil servants,

federal contractors and grantees are the first line of defense to prevent, mitigate or address abuses that violate the public trust.

USAGM should compensate for any previous unlawful communication or chilling effect by informing employees of the whistleblower rights they enjoy under federal law. Your workforce should know that:

- Under the Whistleblower Protection Act of 1989 (WPA), most federal employees may lawfully disclose, free from retaliation, information an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, or censorship of research, analysis or technical information that would result in such forms of misconduct.\(^5\)
- They can disclose information related to any of the foregoing forms of misconduct to a variety of audiences—the Office of Special Counsel (OSC), the Inspector General, the Congress, the press, or even the President-elect’s transition team—so long as the disclosed information is not barred from release by statute or Executive Order.\(^6\)
- Federal contractors and grantees enjoy similar rights to make disclosures under 41 U.S.C. § 4712.\(^7\)
- Appropriations acts prohibit Congress from funding agencies that “implement or enforce” any “non-disclosure policy, form, or agreement if such policy, form, or agreement does not contain” provisions reaffirming that employee whistleblower rights are controlling, despite nondisclosure restrictions, the inclusion of which is mandated by the Whistleblower Protection Enhancement Act.\(^8\)
- Employees have the right to seek legal counsel for guidance about their confidentiality obligations and whistleblower rights.\(^9\)

Employees who exercise their whistleblower rights perform an essential public service. Some of the most important whistleblowers over the past several years have worked for USAGM, such as Grant Turner, the former chief financial officer at USAGM who raised the alarm about political interference jeopardizing the journalistic independence of news networks at USAGM.\(^10\)

Federal employees may soon be witness to, and choose to disclose, evidence of a whole host of abuses, including but not limited to federal records destruction, politicized

\(^{5}\) 5 U.S.C. § 2302(b)(8)(A).
\(^{6}\) 5 U.S.C. § 2302(b)(8). If such information is barred from release by statute or Executive Order (i.e., classified information), or if the federal employees are members of the United States Armed Forces or Intelligence Community, lawful mechanisms exist to facilitate its disclosure within the federal government. 5 U.S.C. § 1213(a)(2); 5 U.S.C. 2302(b)(B-C); 10 U.S.C. § 1034; 50 U.S.C. §§ 3234, 3341(j)
\(^{7}\) 41 U.S.C. § 4712 protects federal non-intelligence contractors and grantees who disclose information they reasonably believe violates a law, rule, or regulation, gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority, or a substantial and specific danger to public health or safety. Employees of contractors and grantees who make disclosures to Congress, an Inspector General, the Government Accountability Office (GAO), the Department of Justice (DOJ) or other law enforcement agency, a federal employee responsible for contract oversight at the relevant agency, or a management official of the contractor with responsibility to investigate or address misconduct.
\(^{9}\) See, e.g., Denius v. Dunlap, 209 F.3d 944, 953 (7th Cir. 2000) (“The right to hire and consult an attorney is protected by the First Amendment’s guarantee of freedom of speech, association and petition.”)
censorship of science or intelligence data, fraud related to COVID-19 relief spending, gross misuse of funds, or misinformation used by political appointees and elected officials used to justify military actions or to prompt retaliatory investigations against politically disfavored individuals. Your workforce should not be prohibited or chilled from, or retaliated against for, legally reporting evidence of such wrongdoing. Rather, they should be encouraged to do so.

Evident in the oath to “support and defend the Constitution of the United States,” federal employees at the U.S. Agency for Global Media are entrusted to preserve the integrity of our civil institutions and the foundations of our democracy. The need to empower a civil service to work for the American people is most important during a transition of power, ensuring the continuity of government is stable, uninterrupted, and free from interference for our nation’s safety and security. The work of the federal employees must continue unfettered.

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