



Council of the
INSPECTORS GENERAL
on INTEGRITY and EFFICIENCY

Whistleblowing Works: How Inspectors General Respond to and Protect Whistleblowers

A collection of Inspector General reports available on [Oversight.gov](https://www.oversight.gov)

July 2019

EXECUTIVE SUMMARY

Objective

CIGIE is issuing this report to summarize the important contributions that whistleblowers have made to the work of Offices of Inspectors General (OIG), and to demonstrate OIG efforts to protect whistleblowers from unlawful retaliation.

Approach

To accomplish this objective, we searched the almost 12,000 OIG reports currently available on www.Oversight.gov. Our search generated many examples of OIG investigations, audits, and reviews initiated or advanced because of a whistleblower disclosure. We selected a representative sample of these reports to highlight disclosures that contributed to OIG efforts to curb waste and improve government operations, or that reflect OIG efforts to protect whistleblowers from retaliation.

On October 1, 2017, the Council of Inspectors General on Integrity and Efficiency (CIGIE) launched www.Oversight.gov. This web site created a single home for the thousands of Office of Inspector General (OIG) reports that federal Inspectors General (IG) issue each year. Oversight.gov provides the public with greater transparency and accessibility to the IG community's work on behalf of the taxpayers. For example, the public can quickly review OIG's collective work on critical issues, such as cybersecurity, the opioids crisis, and counter-terrorism. Oversight.gov also provides timely updates on the IG community's consolidated results, including up to date totals on the billions of dollars of savings that result from OIG oversight.

The public can also use Oversight.gov to assess the ways in which whistleblowers contribute to OIG efforts to improve the effectiveness and efficiency of federal government programs, and curb government waste, fraud, and abuse. To illustrate the importance of individuals coming forward to report waste, fraud, and abuse to OIGs, we used the search function on Oversight.gov and identified many examples of OIG investigations, audits, and reviews initiated or advanced because of a whistleblower disclosure. We present a sample of these reports below and also summarize OIG efforts to protect whistleblowers from unlawful retaliation. Our search results demonstrate how critical it is that OIGs receive information from insiders to be able to conduct effective independent oversight of a federal budget that exceeds \$4 trillion and a workforce of about 2 million employees and many millions of additional contractors and grantees. It also reflects the importance of protecting whistleblowers from unlawful retaliation so that individuals continue to feel comfortable coming forward to report allegations of fraud, waste, and abuse.

Congress also has recognized the importance of whistleblowers to the work of the IG community, and has taken steps to support OIG efforts to educate whistleblowers about their rights and protections. In 2018, Congress passed the "Whistleblower Protection Coordination Act," which permanently reauthorized a Whistleblower Protection Coordinator (WPC) position in each OIG. The law further required CIGIE, in consultation with the U.S. Office of Special Counsel (OSC), which is a member of CIGIE, to develop best practices for handling protected disclosures and enforcing whistleblower protection laws. CIGIE and OSC fulfill this mandate through regular meetings of a WPC working group, which discusses and identifies such best practices. To further educate the public and promote lawful disclosures of wrongdoing, CIGIE and OSC launched a web page at: www.Oversight.gov/Whistleblowers. The IG Community are continuing to explore ways to encourage individuals to report waste, fraud, abuse, and gross mismanagement.

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Whistleblower Disclosures Assist OIG Efforts to Improve Government Programs and Address Wasteful Spending

It is critical that OIGs receive information from insiders in order to be able to conduct effective independent oversight of a federal budget that exceeds \$4 trillion and a workforce of about 2 million employees and many millions of additional contractors and grantees.

2,000,000 employees



\$4,000,000,000,000



OIGs Protect Whistleblowers from Unlawful Retaliation

In order to ensure that whistleblowers continue to come forward with evidence of wrongdoing, OIGs take proactive steps to educate agency employees about the importance of reporting waste, fraud, abuse, and gross mismanagement, and about laws that prohibit individuals from being retaliated against for doing so.



CIGIE Educates on the Importance of Blowing the Whistle

OIGs have a Whistleblower Protection Coordinator to educate agency employees about whistleblower rights and protections, and their remedies for addressing unlawful retaliation. Additionally, CIGIE works with the Coordinators and with the Office of Special Counsel to develop best practices for handling protected disclosures and enforcing whistleblower protection laws.

WHISTLEBLOWERS AND THE IG COMMUNITY

On October 1, 2017, the Council of Inspectors General on Integrity and Efficiency (CIGIE) launched www.Oversight.gov. This web site created a single home for the thousands of Office Inspector General (OIG) reports that federal Inspectors General (IG) issue each year. Oversight.gov currently houses nearly 12,000 reports, providing the public with greater transparency and accessibility to the IG community's work on behalf of the taxpayers. Oversight.gov allows users to quickly review the community's work on critical issues, such as cybersecurity, the opioids crisis, and counter-terrorism. Oversight.gov also provides timely updates on the IG community's consolidated results, including up to date totals on the billions of dollars of savings that result from OIG oversight.

Using Oversight.gov, the public can now also assess the ways in which individuals who blow the whistle contribute to OIG efforts to improve the effectiveness and efficiency of government programs, and curb government waste, fraud, abuse, and gross mismanagement. To illustrate the substantial contributions made by whistleblowers to the work of the IG community, we searched the almost 12,000 OIG reports available on Oversight.gov, and identified many examples of OIG investigations, audits, and reviews initiated or advanced because of a whistleblower disclosure. We present a sample of these reports below. As these reports indicate, individuals who step forward to report on waste and misconduct provide valuable and critical assistance to OIGs in our oversight mission and help enable us to fulfill our statutory mandate to improve government programs and curb wasteful spending. To ensure that whistleblowers continue to provide information to our offices, it is critical that OIGs take steps to prevent unlawful retaliation from occurring in their agency. Toward this end, in this report we also highlight OIG efforts to protect whistleblowers from retaliation.

Examples of Whistleblower Disclosures that Assisted OIG Efforts to Improve Government Programs and Address Wasteful Spending

Whistleblowers contribute to OIG efforts to improve government in numerous ways – from ensuring that veterans receive timely access to health care, to protecting the integrity of our financial institutions, to making federal law enforcement operations safer and more accountable. The following summaries, which were obtained from OIG reports that can be found on Oversight.gov, provide a sample of OIG investigations, audits, and reviews that were initiated or advanced because of a whistleblower disclosure.

Ensuring that Veterans Receive Timely Access to Health Care

The Department of Veterans Affairs OIG received whistleblower allegations of extensive, persistent problems with veterans' health care enrollment records maintained by the Department of Veterans Affairs (VA). In response to these disclosures, the VA OIG initiated an audit, and substantiated claims of 867,000 pending health care enrollment claims by veterans, including more than 307,000 entries for individuals reported to be deceased by the Social Security Administration. The VA took corrective action to improve the enrollment process in response to the VA OIG's report. In a follow up report, the VA OIG determined that the VA did not have "reasonable assurances that veterans would receive proper consideration or consistent and timely enrollment decisions at VA medical facilities nationwide." The VA OIG recommended that the VA develop standardized policies and implement national oversight to improve the enrollment program at VA medical facilities.¹

Protecting U.S. Consumers from Fraudulent Practices by Drug Companies

The Postal Service, Department of Health and Human Services (HHS), and Defense Department (DoD) OIGs jointly investigated whistleblower allegations that Johnson & Johnson and its

¹ Department of Veterans Affairs OIG, "Audit of the Health Care Enrollment Program at Medical Facilities," 16-00355-296, August 14, 2017, available at <https://www.oversight.gov/sites/default/files/oig-reports/VAOIG-16-00355-296.pdf>.

subsidiary Janssen Pharmaceutica, Inc. introduced the antipsychotic drug Risperdal into interstate commerce for non-FDA approved use and allegedly provided incentives for this off-label use to healthcare providers. The joint investigation resulted in a civil settlement agreement with the Department of Justice in which the company agreed to pay the Government a total of \$1.2 billion to settle allegations of off-label marketing. Additionally, Janssen pleaded guilty to a criminal information charging it with introducing a misbranded drug, Risperdal, into interstate commerce. Janssen was sentenced to pay a criminal fine of \$334 million and was ordered to forfeit \$66 million, based on FDA forfeiture actions.²

Protecting the U.S. Taxpayers from Unnecessary Expenditures by Fannie Mae

The Federal Housing Finance Agency (FHFA) OIG received whistleblower allegations that Fannie Mae engaged in excessive spending to consolidate its staff and relocate its offices. Fannie Mae has been under the conservatorship of the federal government since 2008, and U.S. taxpayers have invested \$119.8 billion in Fannie Mae during this period. The whistleblower's allegations prompted FHFA OIG to issue four reports concerning excessive spending by Fannie Mae, including a Management Alert in 2018. The 2018 Management Alert raised concerns about FHFA approval of a \$727 million staff consolidation and relocation plan. The FHFA OIG report concludes: "We found no analysis that [Fannie Mae] provided to [FHFA] that demonstrates that Fannie Mae's willingness to spend three quarters of a billion dollars, just to implement a [workplace plan] in one location, is in the best interests of the taxpayers."³

Protecting the Financial System from Abuses by Credit Unions

The National Credit Union Administration (NCUA) OIG received whistleblower allegations concerning the CEO for a credit union. The whistleblower accused the CEO and the Board of Directors of perpetuating an environment of financial abuse and mismanagement, which in turn had stifled the natural growth of the Credit Union. Further, the whistleblower stated that the mismanagement had led to the credit union's dependence on taxi medallion lending, which jeopardized the financial integrity, stability, and solvency of the credit union and its members. The whistleblower's allegations contributed to an NCUA OIG report that assesses the causes for the failure of the whistleblower's credit union and two others, and the resulting \$765.5 million loss to the National Credit Union Share Insurance Fund.⁴

Protecting Social Security from Fraud

² Department of Defense OIG, "Semiannual Report to the Congress, October 1, 2013 to March 31, 2014," available at https://www.oversight.gov/sites/default/files/oig-sa-reports/SAR_MAR_2014_FINAL_compliant1.pdf.

³ Federal Housing Finance Agency OIG, "Consolidation and Relocation of Fannie Mae's Northern Virginia Workforce," Management Alert, OIG-2018-004," September 6, 2018, available at <https://www.oversight.gov/sites/default/files/oig-reports/Management%20Alert%20OIG-2018-004.pdf>.

⁴ National Credit Union Administration OIG, "Material Loss Review of Melrose Credit Union, Lomto Federal Credit Union, and Bay Ridge Federal Credit Union," Report #OIG-19-06, March 29, 2019, available at <https://www.oversight.gov/sites/default/files/oig-reports/ncua-oig-1906-mlr-melrose-lomto-bayridge.pdf>.

The Social Security Administration (SSA) received whistleblower allegations that an Administrative Law Judge (ALJ) in West Virginia conspired with an attorney to grant favorable decisions to disability claimants who were potentially ineligible for benefits. As a result of the SSA's criminal investigation, an attorney who represented disability claimants pled guilty to stealing from the government and paying illegal gratuities, and an ALJ pled guilty on two felony counts.⁵

Stopping Inappropriate Travel Expenses by Senior Government Officials

The Department of Homeland Security (DHS) received whistleblower allegations that the former Director of the Federal Law Enforcement Training Centers (FLETC) in Glynco, GA violated travel regulations. The DHS found that the former Director's air fare, lodging, and rental car expenses routinely exceeded government-approved rates, and the former Director did not seek or receive approval for the excessive costs. In one instance, the former Director booked business-class travel to Sydney for over \$14,000 despite the availability of a much lower government rate of \$3,300. DHS issued recommendations to ensure greater accountability and oversight of travel expenses by DHS component heads.⁶

Holding Senior Military Officials Accountable for Misconduct

DoD investigated whistleblower allegations that multiple sources brought to the Senate Armed Services Committee. The sources alleged that a U.S. Marine Corps Brigadier General created a hostile work environment through disparaging treatment of personnel that led to a "general distrust" of his impartiality toward women and his overall leadership. The DoD investigation substantiated the allegation that the General's overall course of conduct disparaged, bullied, and humiliated subordinates, devalued women, and created a negative work environment that led to a general distrust of his impartiality and leadership. The DoD determined that his overall course of conduct violated 10 U.S.C. Section 5947, "Requirement of Exemplary Conduct," DoD 5500.07-R, "Joint Ethics Regulation," DoD Instruction 1020.03, "Harassment Prevention and Response in the Armed Forces," and U.S. Navy Regulations, "Responsibility," and "Abuse of Authority."⁷

Ensuring Safe Conditions for Juvenile Detainees

The Department of Justice (DOJ) received whistleblower allegations that the state of Wisconsin submitted fraudulent compliance data to the DOJ in order to receive grant funds. The investigation concluded that Wisconsin failed to perform required physical inspections of secure

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⁶ Department of Homeland Security (DHS) received whistleblower allegations that the former Director of the Federal Law Enforcement Training Centers (FLETC) in Glynco, GA violated travel regulations. The DHS found that the former Director's air fare, lodging, and rental car expenses routinely exceeded government-approved rates, and the former Director did not seek or receive approval for the excessive costs. In one instance, the former Director booked business-class travel to Sydney for over \$14,000 despite the availability of a much lower government rate of \$3,300. DHS issued recommendations to ensure greater accountability and oversight of travel expenses by DHS component heads. Available at <https://www.oversight.gov/sites/default/files/oig-reports/OIG-18-65-May18.pdf>.

⁷ Defense Department (DoD) investigated whistleblower allegations that multiple sources brought to the Senate Armed Services Committee. The sources alleged that a U.S. Marine Corps Brigadier General created a hostile work environment through disparaging treatment of personnel that led to a "general distrust" of his impartiality toward women and his overall leadership. The DoD investigation substantiated the allegation that the General's overall course of conduct disparaged, bullied, and humiliated subordinates, devalued women, and created a negative work environment that led to a general distrust of his impartiality and leadership. The DoD determined that his overall course of conduct violated 10 U.S.C. Section 5947, "Requirement of Exemplary Conduct," DoD 5500.07-R, "Joint Ethics Regulation," DoD Instruction 1020.03, "Harassment Prevention and Response in the Armed Forces," and U.S. Navy Regulations, "Responsibility," and "Abuse of Authority." Available at <https://www.oversight.gov/sites/default/files/oig-reports/DODIG-2019-092.pdf>.

detention facilities housing juveniles and did not have an adequate monitoring system to ensure compliance with grant requirements that are intended to protect juveniles. OSC referred additional whistleblower allegations to DOJ, which resulted in a second DOJ OIG investigation that substantiated the whistleblower's claims that DOJ employees failed to ensure compliance with core protections for juveniles.⁸

OIG Efforts to Protect Whistleblowers from Unlawful Retaliation

In order to ensure that whistleblowers continue to come forward with evidence of wrongdoing, OIGs take proactive steps to educate agency employees about the importance of reporting waste, fraud, abuse, and gross mismanagement, and about laws that prohibit individuals from being retaliated against for doing so. Additionally, OIGs seek to address unlawful retaliation when it does occur by holding managers accountable for violating whistleblower laws. The following summaries demonstrate recent OIG efforts to protect whistleblowers from retaliation and/or to prevent retaliatory acts on a systemic basis.

Retaliation for Reporting Gross Mismanagement of a High Profile Technology Initiative

The General Services Administration (GSA) OIG substantiated a whistleblower reprisal complaint by the GSA's Federal Acquisition Service (FAS) Commissioner. GSA's investigation found that the Commissioner, a career member of the Senior Executive Service, was subjected to reprisal for reporting gross mismanagement of a high-profile GSA program intended to increase and improve the availability of mobile and other technology for all Americans. After issuing its reprisal report, the GSA OIG referred its findings to OSC, which was able to secure significant relief for the whistleblower.⁹

Retaliation for Disclosing a Pattern of Discriminatory Remarks by a Defense Contractor

DoD OIG substantiated a whistleblower reprisal claim brought by an employee of a DoD contractor. The employee was not selected to work on a bridge contract after she reported a pattern of inappropriate racial and sexual remarks by another employee of the contractor. In its report of investigation, the DoD OIG recommended that the Secretary of Defense take appropriate action against the contractor for retaliating against the employee and order the contractor to provide the employee with appropriate relief.¹⁰

⁸ Department of Justice OIG, "Audit of the Office of Juvenile Justice and Delinquency Prevention Title II Part B Formula Grant Program Related to Allegations of the OJJDP's Inappropriate Conduct," Audit Division 17-31, July 2017, available at <https://www.oversight.gov/sites/default/files/oig-reports/a1731.pdf>.

⁹ General Services Administration OIG, "Investigation of Whistleblower Reprisal Complaint," June 21, 2017, available at <https://www.oversight.gov/sites/default/files/oig-reports/Investigation%2520of%2520GSA%2520Whistleblower%2520Reprisal%2520Complaint%2520June%25202017.pdf>.

¹⁰ Department of Defense OIG, "Office of Economic Adjustment, Arlington, VA Whistleblower Reprisal Investigation," January 3, 2018, available at https://www.oversight.gov/sites/default/files/oig-reports/DODIG-2018-044-Redacted_508.pdf.

Protecting Employees from Retaliatory Revocation of a Security Clearance

DHS OIG substantiated a whistleblower reprisal claim brought by an employee of the U.S. Secret Service (USSS). A Senior Special Agent with USSS alleged that the Secret Service suspended and revoked his security clearance as retaliation for disclosing alleged violations of federal antidiscrimination laws and for separately reporting abuse of authority on the part of his former Special Agent in Charge and other officials. DHS OIG substantiated the allegations that the suspension and revocation of the employee's security clearance was in reprisal for making protected disclosures. DHS OIG recommended that the Secret Service reinstate the whistleblower's security clearance and return him to a paid duty status, and that the Secret Service provide back pay and attorney fees to the whistleblower.¹¹

Protecting Employees from Law Enforcement Searches that Violate Whistleblower Protections

DHS OIG issued a Management Alert in response to a search warrant executed by the Coast Guard Investigative Service (CGIS) that sought "communications with DHS OIG and congressional aid[e]s" regarding a whistleblower's claims of discrimination. As DHS OIG noted in the Alert, "CGIS's involvement in the extraordinary efforts to seize a DHS employee's communications with DHS OIG and Congress, even if non-retaliatory, are likely to have a significant chilling effect on whistleblowers' willingness to provide information to, and cooperate with, DHS OIG and Congress." In addition to raising these concerns about the execution of the individual search warrant, the Alert also recommended that DHS ensure that all DHS components with investigative authority exercise that authority with due respect for the rights of whistleblowers.¹²

Protecting Whistleblowers in Medical Research Institutions

HHS OIG issued a report recommending that the HHS Office of Human Research Protections (OHRP) provide information on whistleblowers protections to complainants who disclose noncompliance with protections for human subjects in research conducted or supported by HHS. The report noted that employees of research institutions with insider knowledge are well-positioned to identify potential noncompliance with protections for human subjects, but that fear of reprisal may prevent potential whistleblowers from coming forward to report concerns.¹³

Protecting Intelligence Community Employees from Retaliation

¹¹ [checking on link to oversight.gov].

¹² Department of Homeland Security OIG, "Management Alert - Coast Guard Investigative Service Search and Seizure of DHS OIG and Congressional Communications," OIG-19-03, October 29, 2018, available at <https://www.oversight.gov/sites/default/files/oig-reports/OIG-19-03-Oct18.pdf>.

¹³ Department of Health and Human Services OIG, "OHRP Should Inform Potential Complainants of How They Can Seek Whistleblower Protections," OEI-01-15-00351, September 2017, available at <https://www.oversight.gov/sites/default/files/oig-reports/oei-01-15-00351.pdf>

The National Geospatial-Intelligence Agency (NGA) OIG substantiated whistleblower reprisal investigated allegations that a senior official in the Security and Installations Directorate retaliated against a subordinate employee by including derogatory comments in the employee's performance evaluation after the employee reported inappropriate behavior by the senior official to management. NGA OIG substantiated these allegations and the official was removed from employment with NGA in March 2018 on charges of Reprisal and Revocation of Security Clearance.¹⁴

In its most recent semi-annual report, the National Security Agency (NSA) OIG announced that it had substantiated three separate whistleblower reprisal investigations in the prior 6 month reporting period. In one of these cases, the NSA OIG determined that an NSA Senior Executive reprised against a subordinate for making protected communications to NSA's security office and his supervisor. NSA OIG referred its findings of retaliation against the Senior Executive to the DoD OIG, the Office of Personnel Security, and the Senior Executive's supervisor.¹⁵

¹⁴ National Geospatial-Intelligence Agency OIG, "Semiannual Report to Congress, October 1, 2017 – March 31, 2018," available at https://www.oversight.gov/sites/default/files/oig-sa-reports/NGA%20OIG%20FINAL%20SARC_SPRINGFY18_Redacted_19-380.pdf.

¹⁵ National Security Agency OIG, "Semi-Annual Report to Congress, 1 October 2018 to 31 March 2019," available at https://www.oversight.gov/sites/default/files/oig-sa-reports/OCT-MAR_2019%20UNCLASSIFIED%20OIG%20SAR.pdf.

CIGIE'S EFFORTS TO EDUCATE EMPLOYEES ON THE IMPORTANCE OF BLOWING THE WHISTLE

Congress also has recognized the importance of whistleblowers to the work of the IG community, and has taken steps to support OIG efforts to educate on the importance of blowing the whistle and on the rights and protections provided to whistleblowers. In 2012, Congress passed the Whistleblower Protection Enhancement Act (WPEA). In addition to strengthening whistleblower protections for federal workers, a 5-year pilot provision in the WPEA created a Whistleblower Protection Ombudsman each OIG who would be responsible for educating agency employees about whistleblower rights and protections, and their remedies for addressing unlawful retaliation.

The success of this pilot program caused Congress to pass the Whistleblower Protection Coordination Act, which President Trump signed into law on June 25, 2018, to permanently reauthorize the authority for a whistleblower protection role within OIGs. The law renamed the position from ombudsman to OIG Whistleblower Protection Coordinator (WPC). This legislative effort enjoyed widespread support from a bipartisan group of lawmakers, the IG community, OSC, and whistleblower advocates. For example, during a House hearing that considered the legislation, OSC noted that the pilot program “led to more collaboration and information sharing among the various Inspectors General and with OSC. Increased cooperation allows our related offices to share best practices for investigation techniques and training, and to identify and resolve issues quickly and effectively.”¹⁶

In addition to permanently reauthorizing the OIG WPC role, the Whistleblower Protection Coordination Act required CIGIE, in consultation with the WPCs and OSC, to develop best practices for handling protected disclosures and enforcing whistleblower protection laws. CIGIE, the WPCs, and OSC fulfill this mandate through regular meetings of a WPC working group. The working group meets quarterly, and is often joined by congressional and non-government stakeholders, and maintains a list serve to discuss approaches to education, outreach, and enforcement of whistleblower laws. In recent meetings, the working group has discussed and developed best practice approaches in the following areas:

- Disseminating OSC guidance on conducting whistleblower training for new employees and supervisors, including instruction on how to constructively respond to whistleblower disclosures;
- Development of a web site with training materials for OIG employees who conduct retaliation investigations, in conjunction with recent CIGIE-sponsored trainings on conducting reprisal investigations;

¹⁶ Statement of Eric Bachman, Deputy Special Counsel, U.S. Office of Special Counsel. “Five Years Later: A Review of the Whistleblower Protection Enhancement Act.” Hearing before the House Committee on Oversight and Government Reform, Subcommittee on Government Operations. February 1, 2017. <https://republicans-oversight.house.gov/wp-content/uploads/2017/02/Bachman-OSC-Statement-Whistleblower-2-1.pdf>.

- Providing employees with information on how to safely and lawfully disclose classified information;
- Incorporating mediation into OIG whistleblower programs and reprisal investigations;
- Addressing contractor non-compliance with rules on non-disclosure agreements in employment contracts;
- Developing legislative recommendations to ensure effective enforcement of whistleblower laws, such as the extension of whistleblower protections to subcontractors, subgrantees, and personal service contractors;
- Publishing completed reprisal investigations, and dissemination of these reports to appropriate agency divisions to promote accountability for retaliating officials.

To further build on these efforts to educate employees and promote lawful disclosures of wrongdoing, CIGIE and OSC have launched a whistleblower protection web page at: www.Oversight.gov/Whistleblowers. The legal landscape for potential whistleblowers can be confusing, and the options available to individuals who believe they have been retaliated against depend on their specific place of employment. Recognizing this, the Oversight.gov/Whistleblowers page provides an interactive form to allow potential whistleblowers to identify the appropriate OIG, OSC, or other entity to make a protected disclosure or file a retaliation claim. The site also provides informational resources for individuals in various sectors, including government employees, government contractors and grantees, the military, and private sector individuals.

CIGIE believes that these education and outreach efforts will help to ensure that whistleblowers are empowered to make lawful disclosures, and that these disclosures will continue to contribute to OIG efforts to cut waste and improve government programs.