



Reply to the attention of:

OCT 12 2016

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

THROUGH:


DOROTHY DOUGHERTY
Deputy Assistant Secretary

FROM:


MARYANN GARRAHAN
Director, Directorate of Whistleblower Protection Programs

SUBJECT: Updated Guidelines on Sharing Complaints and Findings with
Partner Agencies

This guidance has been developed to supplement the existing guidance in Chapters 2, 4, and 5 of the Whistleblower Investigations Manual regarding the partner agency referral process. This policy applies to all complaints received by the whistleblower protection program.

1. Several of the regulations require that OSHA provide copies of incoming whistleblower complaints to the appropriate partner agency. The Regions are to send copies of incoming complaints to each relevant partner agency no later than the date that notification letters are sent to the parties.
2. In cases where the complainant withdraws his or her complaint prior to docketing, the Regions should request permission from the complainant to forward the complaint to the relevant partner agency(s). If the complainant does not give consent to forward the complaint, then the regional whistleblower manager should review the underlying substantive allegation (e.g. defective wings on an aircraft) and consider the gravity of the impact to the workforce and the public. Should the manager believe that serious harm would result if the complaint goes unaddressed; the regional manager has the discretion to notify the relevant partner agency(s) of the substance of the allegation without revealing the identity of the complainant. The regional manager will notify the complainant of such action.
3. The regional manager should ensure that the Region sends all of the relevant partner agencies copies of the complaint and findings in each case. For example, if a claim is docketed under FRSA, but also has NTSSA implications, both the FRA and FTA should be notified.

4. In all cases, the relevant partner agency(s) should be notified of OSHA's closure of a case regardless of the disposition (e.g. merit, dismissed, settled, kicked-out, or withdrawn). The Regions should transmit case closure documentation (e.g. findings, settlement approval letters, or confirmation of withdrawals) to the relevant partner agency(s) on the same day that such information is sent to the parties. The Regions should transmit kick-out information to the relevant partner agency(s) when OSHA receives a copy of the district court complaint from the complainant or otherwise learns that complainant has filed an action in district court.
5. When a complaint alleges conduct that may violate both SOX and CFPA, the Region should docket the case under both statutes. The Region should send copies of the complaint to both the CFPB and the SEC no later than the date that OSHA sends notification letters to the parties. The Region should send case closure documentation to both SEC and CFPB on the same day that it sends that documentation to the parties.
6. In all cases that are filed under CFPA, SOX or both, the complaint and case closure documents should also be sent to the U.S. Department of Justice, Civil Frauds Division at the same time that they are sent to the primary agency(s). Please see the attached Distribution of Complaints and Investigation Findings chart.
7. As a reminder, please utilize the system set forth in the email of April 27, 2015, addressing standardized subject lines for emails sent to our partner agencies. See attached.

Attachments