

Whistleblowers: Disclosures and Retaliation Complaints to Pandemic Auditors

GAO-24-106655
Q&A Report to Congressional Committees

February 13, 2024

Accessible Version

Why This Matters

In response to the over \$4.6 trillion of federal funding provided under the CARES Act and other COVID-19 relief laws, agencies acted quickly to create new programs and scale up existing ones, including by awarding contracts and grants. Because of their scale and speed, pandemic relief programs have been vulnerable to significant risk of fraudulent activities. Whistleblowers can play an important role in identifying waste, fraud, or abuse in government operations, including those carried out by federal contractors and grantees.

The CARES Act created two new oversight bodies for pandemic relief programs: the Special Inspector General for Pandemic Recovery (SIGPR) and the Pandemic Response Accountability Committee (PRAC). The act also assigned existing inspectors general (IG) responsibilities for conducting audits and investigations related to the relief programs. The Council of the Inspectors General on Integrity and Efficiency's (CIGIE) Integrity Committee is an oversight body for IGs and other designated officials in Offices of Inspector General. All three entities accept tips about potential wrongdoing and provide public contact information for submitting such tips.

The Joint Explanatory Statement accompanying the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 includes a provision for us to review the application of whistleblower protections to disclosures by contractor and grantee employees to SIGPR, PRAC, and the CIGIE Integrity Committee.¹ This report provides the entities' views on the scope of whistleblower protections for contractor and grantee employees, the number of disclosures they have received, and the entities' procedures for handling such disclosures.

Key Takeaways

- SIGPR officials told us that contractor and grantee employees who make disclosures to SIGPR are protected against retaliation under federal law. PRAC officials told us that, regarding disclosures made to them, there is ambiguity in the protections for contractor and grantee whistleblowers in section 4712 of title 41 of the U.S. Code. Integrity Committee officials told us that they have not assessed whether this statutory provision applies to disclosures made to the committee.
- Officials from the three oversight bodies told us that they are not aware of having received any disclosures or retaliation complaints from federal contractor or grantee whistleblowers.
- The three oversight bodies have processes in place for receiving and referring whistleblower disclosures and retaliation complaints.

Who is a whistleblower?

In general, whistleblowers are employees who report allegations of wrongdoing—such as a violation of law, abuse of authority, or gross mismanagement—committed by their respective employers. In this report, we refer to such allegations as whistleblower disclosures, regardless of to whom the disclosure is made or whether the whistleblower has reported retaliation. Whistleblower retaliation occurs when certain unfavorable action is taken or threatened against a whistleblower for making such a disclosure. We will focus on whistleblowers who are employees of federal contractors, subcontractors, grantees, subgrantees, and personal services contractors. We refer to these whistleblowers as contractor and grantee whistleblowers.

While any person—including a member of the public—can provide valuable information about an organization’s wrongdoing, whistleblowers are a distinct category because of the risk they face of employment-related retaliation. Certain legal protections address this risk. Section 4712 of title 41 of the U.S. Code (Section 4712) prohibits most federal contractors and grantees from discharging, demoting, or otherwise discriminating against their employees as retaliation for making whistleblower disclosures to certain persons and bodies, including IGs and GAO.² An employee of a contractor or grantee who experiences such retaliation can make a complaint to the IG of the agency involved in the contract or grant.³ Section 4712, however, does not explicitly name SIGPR, PRAC, or the Integrity Committee. Courts have not addressed whether disclosures by contractor and grantee whistleblowers to these entities are protected under federal law. Separate whistleblower protections exist for federal employee whistleblowers.⁴

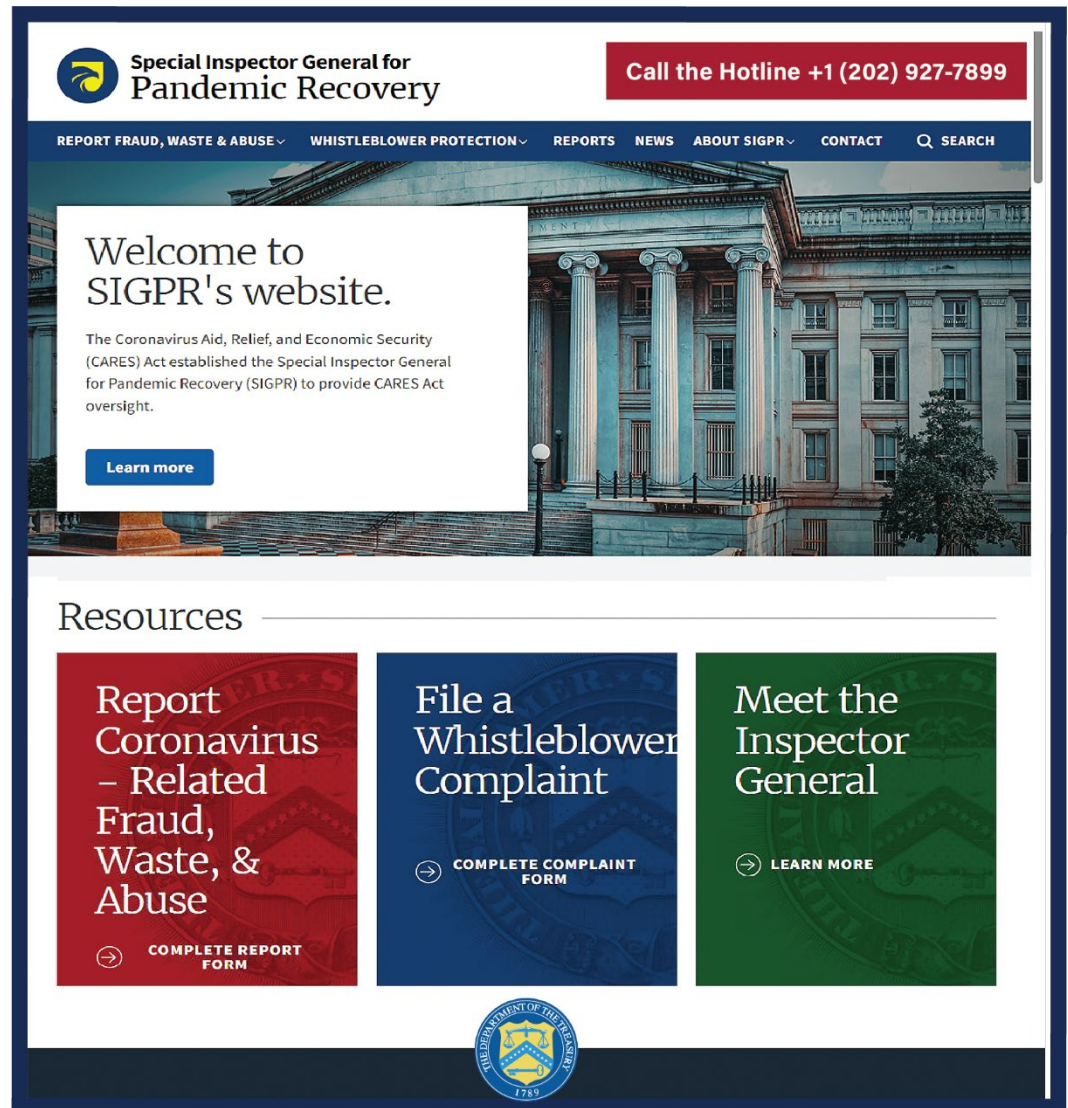
What is SIGPR’s mission?

SIGPR is responsible for conducting audits and investigations related to loans, loan guarantees, and other investments made by the Department of the Treasury under the Coronavirus Economic Stabilization Act of 2020, part of the CARES Act.⁵ The CARES Act established SIGPR in March 2020 as a Special Inspector General appointed by the President, by and with the advice and consent of the Senate.⁶ According to SIGPR officials, SIGPR had 41 full-time equivalent employees, as of October 2023. It is scheduled to cease operations on March 27, 2025.⁷

How does SIGPR receive information from the public?

SIGPR operates phone and email hotlines to receive complaints of waste, fraud, and mismanagement of funds relating to CARES Act programs (see fig. 1). According to SIGPR officials, they also receive some complaints via mail. SIGPR’s intake procedures state that complaints received by phone, mail, and email are to be reviewed and recorded in SIGPR’s case management system.

Figure 1: Phone and Email Hotline Links on the Special Inspector General for Pandemic Recovery's Website



Source: GAO illustration of Special Inspector General for Pandemic Recovery website. | GAO-24-106655

What protections exist for contractor and grantee whistleblowers who make disclosures to SIGPR?

SIGPR officials told us that contractor and grantee whistleblowers who make disclosures to SIGPR are protected against retaliation under federal law. SIGPR's public website states that contractor and grantee whistleblowers may make protected disclosures to SIGPR. SIGPR officials told us that they would refer complaints related to other federal agencies to the office or agency that has jurisdiction over those complaints. In contrast, officials told us they would directly investigate complaints from any SIGPR contractor or grantee whistleblowers. However, they stated that, as of May 2023, SIGPR had not awarded any contracts or grants.

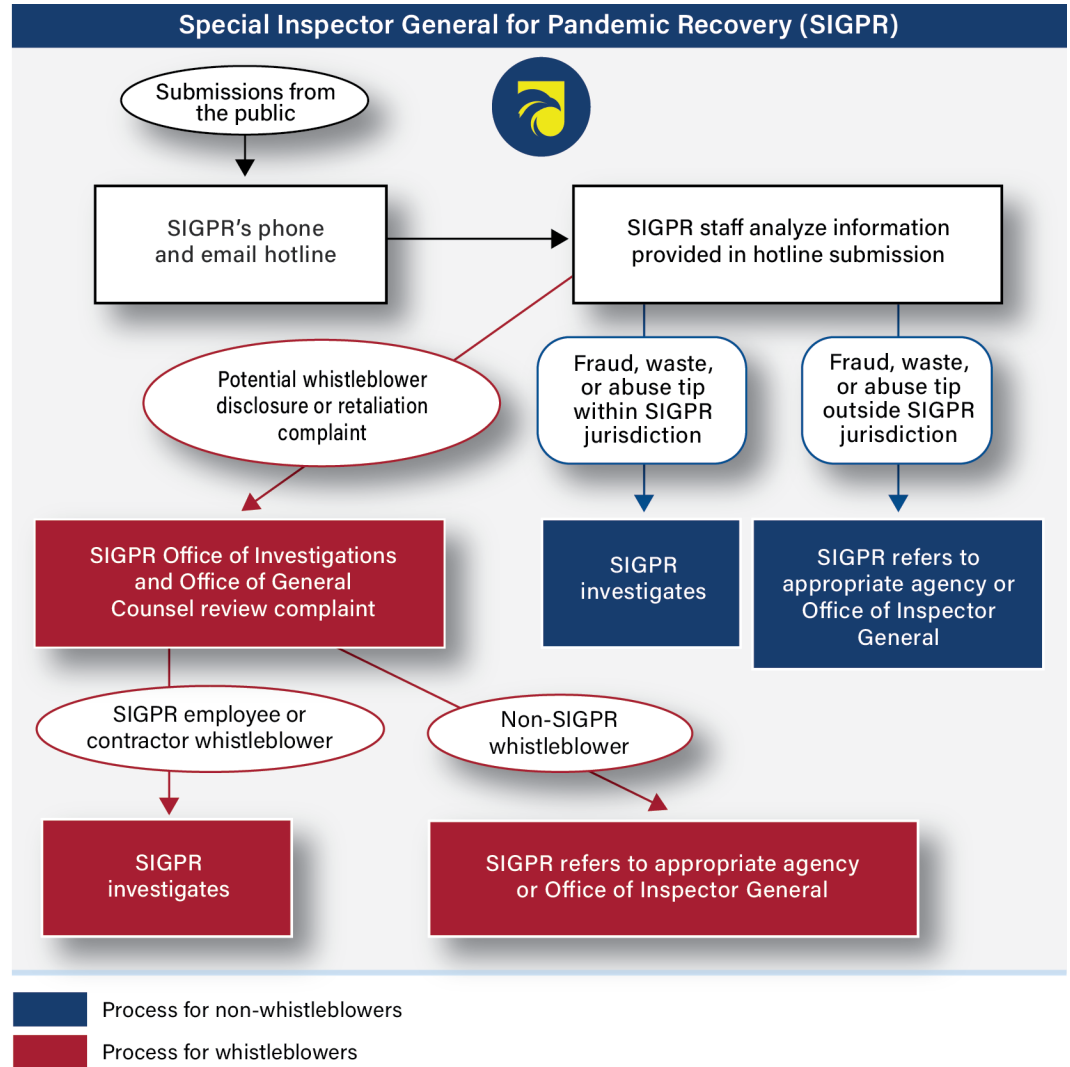
How many disclosures and claims of retaliation has SIGPR received from contractor or grantee whistleblowers?

SIGPR officials told us that, from March 2020 to September 2023, they did not receive any whistleblower disclosures or retaliation claims from individuals who identified themselves as employees of federal contractors or grantees.

What processes does SIGPR use to identify potential whistleblower disclosures and claims of retaliation?

SIGPR officials who staff and manage SIGPR’s hotline told us they use the process shown in figure 2 to identify potential whistleblower disclosures and retaliation claims. According to SIGPR officials, most of the complaints received through the hotline relate to programs that are outside SIGPR’s jurisdiction. They refer such complaints to the agencies with jurisdiction to investigate them.

Figure 2: SIGPR’s Hotline Intake and Referral Process



Source: GAO analysis of Special Inspector General for Pandemic Recovery (SIGPR) process documents and interviews. | GAO-24-106655

SIGPR’s intake procedures state that complainants may be identified as unknown or anonymous in the case management system, but that complainant names should be recorded when possible. SIGPR officials told us they do not routinely record information about complainants’ employers, including whether the complainant works for a federal agency or contractor. However, they said complainants sometimes provide information about their employers when relevant to the complaint. According to the officials, SIGPR staff would refer any complaints alleging wrongdoing at a federal agency, contractor, or grantee to senior SIGPR officials to be processed as whistleblower disclosures.

SIGPR’s intake procedures state that SIGPR can designate complaints in its database as sensitive when necessary. SIGPR officials told us that whistleblower disclosures would be so designated and that access to sensitive information about these disclosures would be limited to a small number of SIGPR staff.

What is PRAC's mission?

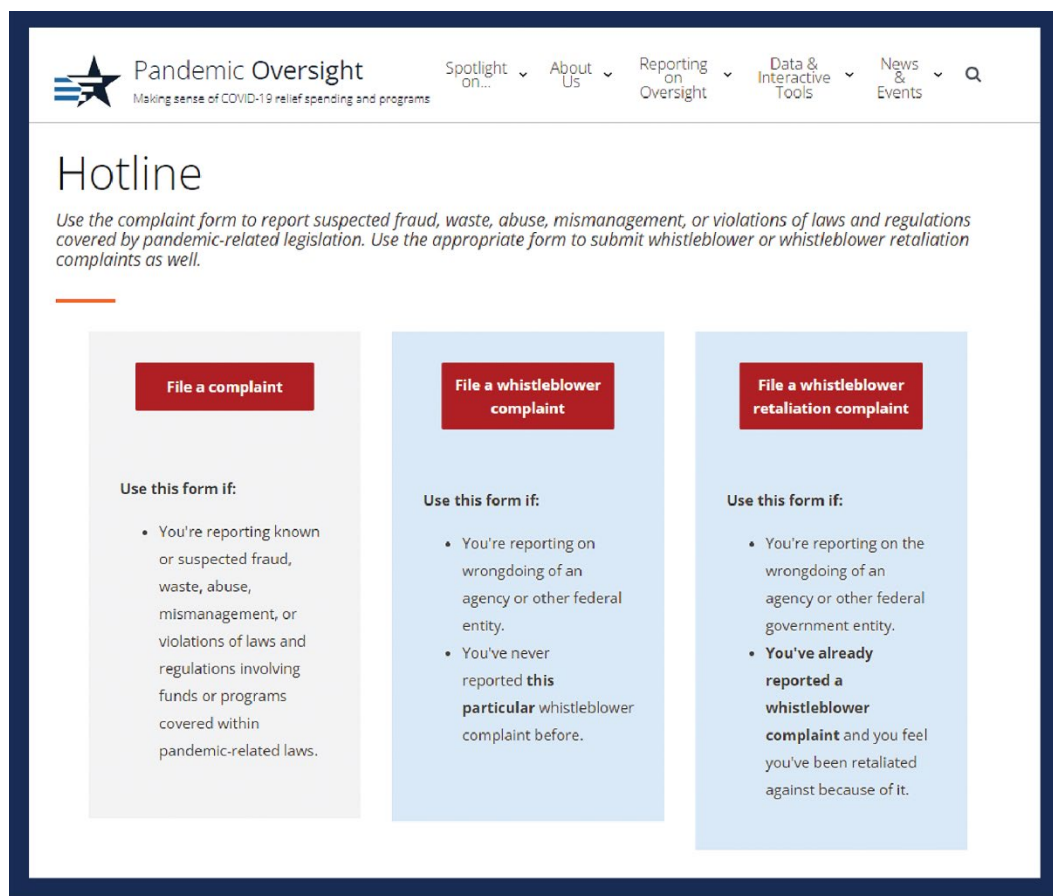
The CARES Act created PRAC as a committee of CIGIE in March 2020 to conduct oversight of the federal government's pandemic response and recovery effort.⁸ According to officials, PRAC had 60 employees as of October 2023. It is scheduled to cease operations on September 30, 2025.⁹

How does PRAC receive information from the public?

PRAC accepts tips about suspected wrongdoing involving pandemic-related programs or funds through a hotline portal on its website. As shown in figure 3, the portal includes three links:

- a link labeled “file a complaint,” for reports of known or suspected fraud, waste, abuse, mismanagement, or violations of laws and regulations involving funds or programs covered within pandemic-related laws;
- a link labeled “file a whistleblower complaint,” for reports of wrongdoing of an agency or other federal entity; and
- a link labeled “file a whistleblower retaliation complaint,” for individuals who have already reported a whistleblower complaint and feel they have experienced retaliation.

Figure 3: Hotline Links on the Pandemic Response Accountability Committee's Website



Source: GAO illustration of Pandemic Response Accountability Committee website. | GAO-24-106655

What protections exist for contractor and grantee whistleblowers who make disclosures to PRAC?

PRAC officials told us that statutes concerning contractor and grantee whistleblowers do not explicitly state that they are applicable to PRAC. They explained that, while the CARES Act granted PRAC many of the same authorities and functions afforded IGs, PRAC is not an IG nor one of the other bodies identified in Section 4712. As discussed above, disclosure to one of these identified bodies would grant protection against retaliation.

Therefore, they said, there is ambiguity about whether the protections against reprisal apply when disclosures are made to PRAC.

The officials stated that, to protect whistleblowers, PRAC accepts all complaints of potential whistleblower retaliation and refers them to the appropriate IG or other entity for action. PRAC also provides a link on its hotline portal web page to a page on www.oversight.gov, a CIGIE website, that explains whistleblower protections—including those for contractor and grantee employees—and provides information about where to report fraud, waste, abuse, or retaliation.

How many disclosures and claims of retaliation has PRAC received from contractor or grantee whistleblowers?

PRAC officials told us that from March 2020 to September 2023, PRAC received three potential whistleblower disclosures through its “file a complaint” link. None of these three submissions appears to have been made by a contractor or grantee whistleblower. The officials told us that during the same period, PRAC did not receive any whistleblower disclosures through its whistleblower complaint or whistleblower retaliation complaint links.

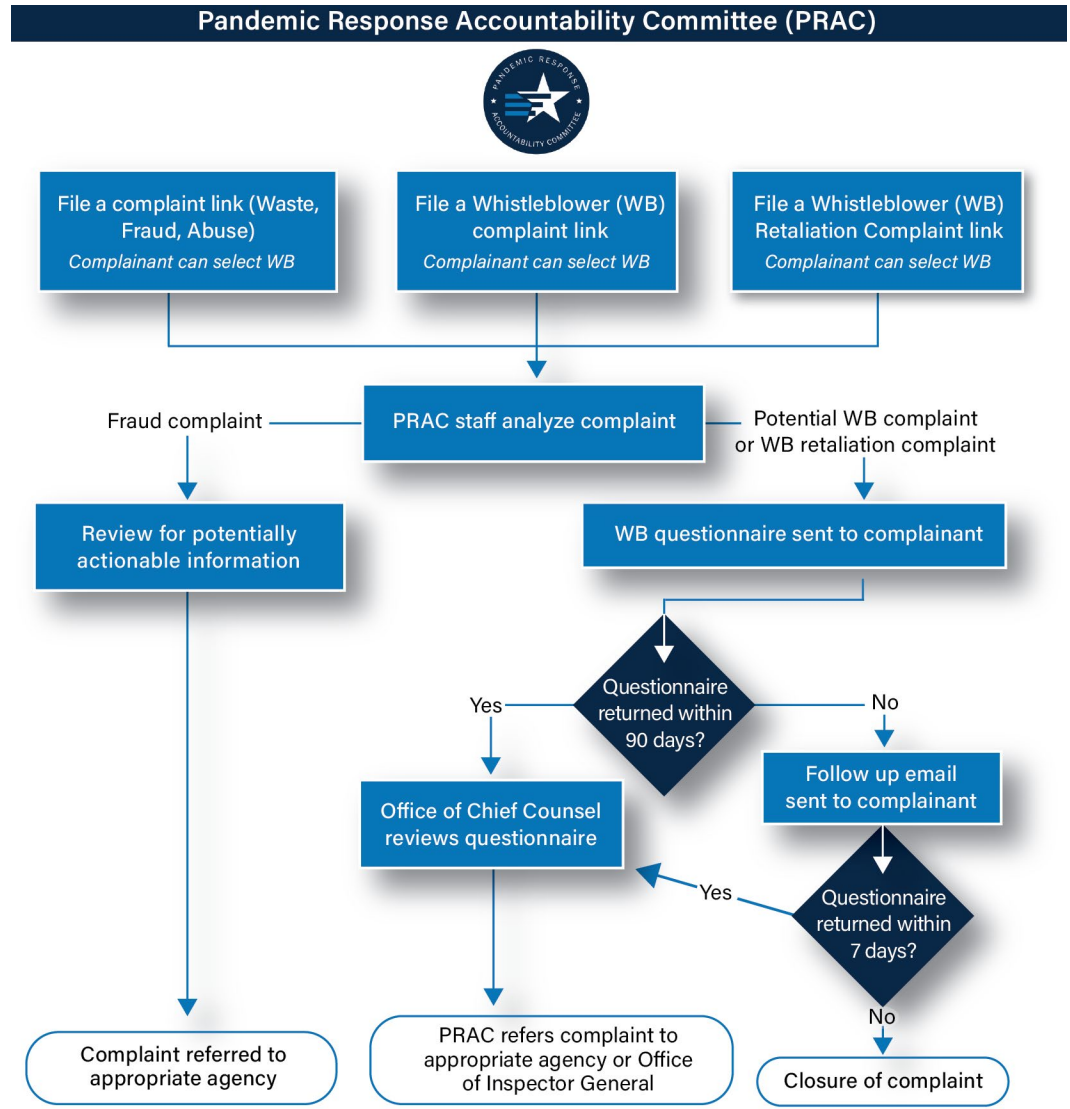
One of the three potential whistleblower disclosures was submitted by a former employee of a federal agency providing information related to that agency. PRAC collected additional information from the complainant via a whistleblower questionnaire and referred the information to the Office of Inspector General of the relevant agency.

In the other two cases, PRAC officials told us that they had sent whistleblower questionnaires to the individuals but had not received responses as of October 2023. In their initial submissions, neither of the complainants identified themselves as current employees of contractors or grantees, nor did they claim retaliation. According to PRAC officials, if a complainant has not returned the whistleblower questionnaire within 90 days, PRAC sends a follow-up email to the complainant and will subsequently close the case if it does not receive a response within 7 days.

What processes does PRAC use to identify potential whistleblower disclosures and claims of retaliation?

Officials who manage PRAC’s hotline told us that they identify potential whistleblower disclosures using the process shown in PRAC’s intake process flowchart (see fig. 4). People who submit tips to PRAC may remain anonymous or identify themselves by name. However, for complaints of whistleblower retaliation, name and contact information are required fields on PRAC’s hotline form.

Figure 4: PRAC Flowchart of Whistleblower Intake and Referral Process



Source: GAO illustration of Pandemic Response Accountability Committee (PRAC) flowchart. | GAO-24-106655

PRAC has procedures to flag incoming whistleblower disclosures and retaliation claims. The procedures require PRAC’s investigations agents to manually review all tips and flag any with content that suggests the complainant is a whistleblower. To make this determination, PRAC’s investigations agents use a list of keywords—for example, “misconduct,” “protection,” and “violation of law.” PRAC handles these flagged tips separately from other fraud, waste, and abuse tips.

What is the mission of CIGIE’s Integrity Committee?

The Integrity Committee is a permanent statutory committee of CIGIE that receives, reviews, and refers for investigation allegations of wrongdoing made against covered persons. Covered persons include IGs, designated staff members of IGs, the Special Counsel and Deputy Special Counsel of the Office of Special Counsel, and anyone serving in an acting or interim capacity in those positions.¹⁰ The Integrity Committee is composed of four IGs appointed by the Chairperson of CIGIE to serve terms of 4 years each, a designee from the Office of Government Ethics, and a designee from the Federal Bureau of Investigation.¹¹ As of October 2023, according to CIGIE officials, three CIGIE

employees were assigned to support the Integrity Committee full time and several other CIGIE employees provided support to the Integrity Committee through ancillary duties.

How does CIGIE's Integrity Committee receive information from the public?

The Integrity Committee accepts allegations of wrongdoing, including those from whistleblowers, in writing. The Integrity Committee recommends submission by email and provides a designated email address for this purpose (see fig. 5).

Figure 5: Email Hotline Link for the Integrity Committee on the Council of the Inspectors General on Integrity and Efficiency Website.



Source: GAO illustration of Council of the Inspectors General on Integrity and Efficiency Integrity Committee website. | GAO-24-106655

What protections exist for contractor and grantee whistleblowers who make disclosures to CIGIE's Integrity Committee?

Integrity Committee officials told us they have not had occasion to address the question of whether the protections for contractor and grantee whistleblowers in Section 4712 apply to complaints submitted directly to the committee. Specifically, the officials said they have not received any complaints subject to the committee's authority that relied on or otherwise referenced the protections afforded by Section 4712. However, according to the officials, reprisal against anyone by a covered person for making the types of disclosures contemplated by Section 4712 could constitute wrongdoing subject to the committee's oversight authority.

Guidance for Integrity Committee complainants on CIGIE's website states that the committee does not assist complainants with obtaining a remedy if they have been wronged. The guidance provides links to other federal agencies with jurisdiction over workplace discrimination, prohibited personnel practices, and workplace conditions.¹²

CIGIE policy states that the Integrity Committee attempts to protect the confidentiality of a person who makes an allegation of, or provides information about, wrongdoing by a covered person. The policy states that the committee will not disclose the identity of such a person without that person's consent, unless the committee's Chairperson determines such disclosure is unavoidable during the course of the committee's processes or is required by law.

How many disclosures and claims of retaliation has CIGIE's Integrity Committee received from contractor or grantee whistleblowers?

Integrity Committee officials told us they are not aware of having received any disclosures from contractor or grantee whistleblowers between March 2020 and October 2023. They said the committee does not routinely request or track information about complainants' employers, because the committee's primary mission, as defined in law, is to address alleged wrongdoing by covered persons and not necessarily to obtain relief for complainants, particularly for those who are not federal employees. They said that the committee would likely not be aware of potential disclosures under Section 4712 unless a complainant or witness referred to that provision of law.

What processes does CIGIE's Integrity Committee use to review and refer complaints?

The Integrity Committee's intake process includes an initial review to determine whether the complaint is within the committee's jurisdiction. Committee officials told us that when they receive complaints that do not make an allegation of wrongdoing against a covered person, they respond to the complainant but take no further action. They stated that such complainants are generally informed of other reporting options.

Complaints that are identified as potentially within the Integrity Committee's jurisdiction are sent to its Allegation Review Group, a three-member panel that consists of designees of the Integrity Committee, the Department of Justice (DOJ), and the Office of Special Counsel (OSC). According to Integrity Committee officials, the group's membership ensures that potential concerns related to each agency's area of responsibility are considered before matters are referred to the Integrity Committee for review. The Integrity Committee's policies and procedures state that the group may refer allegations to DOJ, OSC, or the Integrity Committee, and that for matters referred to DOJ or OSC, the Integrity Committee may concurrently consider and investigate related allegations. The Integrity Committee is to review each matter referred to it and determine whether to open an investigation. Officials told us that after making this determination, the committee would consult or coordinate with DOJ and OSC as necessary and appropriate.

Agency Comments

We provided a draft of this report to SIGPR, PRAC, and CIGIE's Integrity Committee for review and comment. SIGPR did not have any comments on the report. PRAC and CIGIE provided technical comments, which we incorporated, as appropriate.

How GAO Did This Study

We reviewed relevant laws regarding the authorities and responsibilities of SIGPR, PRAC, and the CIGIE Integrity Committee and protections for whistleblowers. We obtained information from these entities about disclosures and whistleblower retaliation complaints from employees of federal contractors, subcontractors, grantees, subgrantees, and personal services contractors from March 2020 through September or October 2023. To identify any court decisions addressing relevant disclosures by whistleblowers to SIGPR, PRAC, and the CIGIE Integrity Committee, we searched and reviewed content in legal databases. To determine whether entities received disclosures or retaliation claims from contractor or grantee employees, we reviewed the text of the three complaints that PRAC identified as potential whistleblower disclosures for information related to the complainants' employment status. We also interviewed officials from the audited entities, including attorneys and staff at each entity who handle intake and analyze hotline tips. We examined the three entities' procedures for processing and reviewing disclosures and whistleblower retaliation complaints.

We conducted this performance audit from February 2023 to February 2024 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

List of Addressees

The Honorable Jack Reed
Chairman
The Honorable Roger Wicker
Ranking Member
Committee on Armed Services
United States Senate

The Honorable Mike Rogers
Chairman
The Honorable Adam Smith
Ranking Member
Committee on Armed Services
House of Representatives

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Endnotes

¹168 Cong. Rec. H9466 (Dec. 8, 2022).

²41 U.S.C. § 4712. A separate statutory provision protects contractor and grantee whistleblowers who make disclosures related to Department of Defense or National Aeronautics and Space Administration contracts or grants. 10 U.S.C. § 4701. Note that elements of the intelligence community are not subject to these provisions, as separate statutes apply to intelligence community whistleblowers. See GAO, *Whistleblower Protection: Actions Needed to Strengthen Selected Intelligence Community Offices of Inspector General Programs*, [GAO-20-699](#) (Washington, D.C.: Sept. 25, 2020); *NASA Contractor Whistleblowers: Steps Taken to Implement Program but Improvements to Timeliness and Guidance Needed*, [GAO-18-262](#) (Washington, D.C.: Mar. 8, 2018); and *Contractor Whistleblower Protections Pilot Program: Improvements Needed to Ensure Effective Implementation*, [GAO-17-227](#) (Washington, D.C.: Mar. 2, 2017).

³41 U.S.C. § 4712(b)(1).

⁴See, e.g., 5 U.S.C. § 2302(b)(8), (9); GAO, *Whistleblowers: Office of Special Counsel Should Require Information on the Probationary Status of Whistleblowers*, [GAO-20-436](#) (Washington, D.C.: May. 28, 2020); *Whistleblowers: Key Practices for Congress to Consider When Receiving and*

Referring Information, [GAO-19-432](#) (Washington, D.C.: May. 7, 2019); and *Office of Special Counsel: Actions Needed to Improve Processing of Prohibited Personnel Practice and Whistleblower Disclosure Cases*, [GAO-18-400](#) (Washington, D.C.: June 14, 2018).

⁵Pub. L. No. 116-136, § 4018, 134 Stat. 281, 482 (2020) (codified at 15 U.S.C. § 9053).

⁶Pub. L. No. 116-136, § 4018(b)(1), 134 Stat. 281, 482-83 (2020) (codified at 15 U.S.C. § 9053(b)(1)).

⁷15 U.S.C. § 9053(h).

⁸Pub. L. No. 116-136, § 15010(b), 134 Stat. 281, 534 (2020).

⁹Pub. L. No. 116-136, § 15010(k), 134 Stat. 281, 540 (2020). In 2021, PRAC established the Pandemic Analytics Center of Excellence. The role of the center is to help oversee the trillions of dollars in federal pandemic-related emergency spending. In March 2022, we recommended that an analytics center of excellence be established permanently to aid the oversight community in identifying improper payments and fraud. See GAO, *Emergency Relief Funds: Significant Improvements Are Needed to Address Fraud and Improper Payments*, [GAO-23-106556](#) (Washington, D.C.: Feb. 1, 2023); and *Emergency Relief Funds: Significant Improvements Are Needed to Ensure Transparency and Accountability for COVID-19 and Beyond*, [GAO-22-105715](#) (Washington, D.C.: Mar. 17, 2022).

¹⁰5 U.S.C. § 424(d); CIGIE, *Integrity Committee Policies and Procedures* 2018 at 1, available at <https://www.ignet.gov/content/manuals-guides>.

¹¹5 U.S.C. § 424(d); CIGIE, *Integrity Committee Policies and Procedures* 2018 at 2, available at <https://www.ignet.gov/content/manuals-guides>.

¹²See <https://www.ignet.gov/content/guidance-and-faqs#complainant> and <https://www.ignet.gov/content/integrity-committee-links>.