

## Pilot Program for Enhancement of Employee Whistleblower Protection (41 U.S.C. 4712)

The federal government has enacted a pilot program, effective until January 1, 2017, to add protections for employees against reprisal for certain whistleblowing activities in connection with federal grants and contracts.

The pilot program is established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and Federal Acquisition Regulation 3.908. While the provisions of the program are summarized below, more detailed information about rights and remedies under the program may be found by consulting the establishing materials [here](#) and [here](#).

Under the program, employers cannot discharge, demote, or otherwise discriminate against an employee as a reprisal for disclosing information (*except* for classified information) that the employee reasonably believes is evidence of any of the following:

- A gross mismanagement of a federal contract or grant;
- A gross waste of federal funds;
- An abuse of authority relating to a federal contract or grant (where “abuse of authority” is defined as an “arbitrary and capricious exercise of authority that is inconsistent with the mission of the executive agency . . . or the successful performance of a [federal] contract or grant . . . .”)
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a federal contract (including competition for or negotiation of a contract) or grant.

The pilot program covers only those employees who disclose these types of information to certain people or entities, identified as:

- A member of Congress or a representative of a committee of Congress;
- An Inspector General;
- The Government Accountability Office;
- A federal employee responsible for contract or grant oversight or management at the relevant federal agency;
- An authorized official of the Department of Justice or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of Columbia who has the responsibility to investigate, discover, or address misconduct.\*\*

In addition, the pilot program covers an employee who initiates or provides evidence of misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a federal contract or grant.

Finally, the pilot program provides a process for whistleblowers to file complaints with federal agencies if they believe they were discriminated against for their disclosure of information, provided those complaints are submitted within three years of the date of the alleged discrimination. Whistleblowers may submit complaints to the Inspector General of the federal agency involved. The Inspector General will generally perform an investigation and submit a report to the federal agency, which then determines whether sufficient basis exists to conclude that discrimination occurred. If the agency determines that discrimination has occurred, the pilot program sets out remedies that may be available, including ordering an institution to reverse the reprisal, reinstate the employee with compensatory damages and employment benefits, and/or pay costs reasonably incurred by the whistleblower in bringing the complaint. The institution has the right to appeal any agency order to the relevant United States court.

\*\*Columbia is committed to operating with integrity and in full compliance with all applicable laws, regulations, and policies, and it does not tolerate retaliation against individuals who report compliance concerns in good faith. There are a number of resources available to individuals who have such a concern. You may be able to discuss the concern with a supervisor or another responsible person in your own unit, or with one of the many specialized compliance offices around the University. Any employee with concerns of any kind stemming from possible noncompliance or irregularities may also report them to the University Hotline anonymously and without fear of retaliation. Compliance reports may be submitted 24 hours a day by phone at (866) 627-3768 or on the internet. For more information about the hotline and to file a report online, please follow the links found at the University Compliance website at: <http://www.compliance.columbia.edu/hotline.html>.