



Immediate Release
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Press Statement

Hanford Challenge Statement on GAO Report on DOE's Whistleblower Protections

Seattle, WA: Today, the Government Accountability Office (GAO) released a report¹ criticizing the U.S. Department of Energy (DOE) and its handling of whistleblower protections. The GAO report is just the latest report documenting the long history of DOE's failure to protect and encourage the reporting of critical nuclear and environmental safety issues at its aging and dangerous facilities.

The report drew heavily upon examples and interviews from the Hanford nuclear site, especially focusing on recent cases involving Dr. Walt Tamosaitis, former Research and Technology Manager, and Donna Busche, former Manager for Environmental and Nuclear Safety at the Waste Treatment Plant.

Reaction from Hanford Challenge, a long-time advocate for nuclear whistleblowers, whose attorneys have fought for whistleblowers in court for years, was unequivocal:

“The GAO report validates past findings of DOE's utter failure to establish a safe environment for employees in their nuclear facilities to raise concerns, or to hold contractors (or itself) accountable for findings of reprisals against contractors....despite having the tools to do so,” said Tom Carpenter, Executive Director of Hanford Challenge.

Carpenter criticized the recommendations of the GAO as ineffective: “Past corrective actions that rely on the DOE to reform itself have quickly ended up in the garbage bin of DOE's history. Congress should strengthen existing whistleblower protection laws to afford whistleblowers timely and meaningful remedies. This should include adding punitive damages to the statutes to deter reprisals and giving whistleblowers at DOE facilities direct access to federal court jury trials instead of through the slow and ineffective Labor Department processes.”

Among the GAO's findings:

¹ Government Accountability Office, Report for Congressional Requesters, “Department of Energy: Whistleblower Protections Need Strengthening,” July 2016, available at www.gao.gov.

- “DOE has infrequently used its enforcement authority to hold contractors accountable for unlawful retaliation, issuing two violation notices in the past 20 years. Additionally, in 2013, in response to proposed revisions to its enforcement guidance, DOE determined that it does not have the authority to enforce a key aspect of policies that prohibit retaliation for nuclear safety-related issues—despite having taken such enforcement actions previously.
- DOE has taken limited or no action to hold contractors accountable for creating a chilled work environment—in part because DOE has not clearly defined what constitutes evidence of a chilled work environment or the steps needed to hold contractors accountable.
- DOE officials provided GAO with examples where (1) little or nothing was done in response to intimidation of contractor employees who report safety and other concerns; (2) a subcontractor was terminated after reporting safety concerns; and (3) a contractor employee was terminated allegedly because she cooperated with GAO.
- DOE’s practice of contractor self-assessments is a failure, plagued with low-response rates, lack of trust, biased questions and self-serving, flawed analyses.
- At Hanford, the GAO found that the Employee Concerns Program Manager was actually investigating the employee who had raised concerns as a “management” matter. The GAO noted that this practice, “may impair or create the appearance of impaired independence.” (p. 27)
- “DOE has a standing practice of referring contractor employee concerns back to the contractor who has been accused of reprisal...in many cases without the employee’s knowledge or permission. This practice effectively exposes the complaining employee as a whistleblower.” (p. 28)

GAO issued the following recommendations:

- To help improve DOE’s ability to take enforcement action against unlawful retaliation when appropriate and take action against contractors that create a chilled work environment, we recommend that the Secretary of Energy take the following three actions:
 - Expedite the department’s time frames for codifying in regulatory language its policy that retaliation for nuclear safety-related disclosures is a nuclear safety violation and develop a specific schedule for issuing the proposed and final rules.
 - Direct DOE’s Office of Enforcement to routinely collect information from the Department of Labor and other sources regarding substantiated cases of retaliation and take appropriate enforcement action.
 - Revise DOE’s Integrated Safety Management policy and guidance to clarify what constitutes evidence of a chilled work environment and define the appropriate steps DOE should take to hold contractors.

The GAO report was commissioned by Senators Ron Wyden, Claire McCaskill (Missouri) and Ed Markey.