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Subtitle A--General Military Law

PART IV--SERVICE, SUPPLY, AND PROCUREMENT

CHAPTER 141--MISCELLANEOUS PROCUREMENT PROVISIONS

Sec. 2409. Contractor employees: protection from reprisal for disclosure of certain information

(a) Prohibition of Reprisals.--An employee of a contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of an agency or the Department of Justice information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract).

(b) Investigation of Complaints.--A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) submit a complaint to the Inspector General of an agency. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency.

(c) Remedy and Enforcement Authority.--(1) If the head of the agency determines that a contractor has subjected a person to a reprisal prohibited by subsection (a), the head of the agency may take one or more of the following actions:

(A) Order the contractor to take affirmative action to abate reprisal.

(B) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person that position if the reprisal had not been taken.

(C) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing complaint regarding the reprisal, as determined by the head of the agency.

(2) Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title

(d) Construction.--Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

(e) Definitions.--In this section:

(1) The term ``agency'' means an agency named in section 2303 of this title.

(2) The term ``head of an agency'' has the meaning provided in section 2302(1) of this title.

(3) The term ``contract'' means a contract awarded by the head of an agency.

(4) The term ``contractor'' means a person awarded a contract with an agency.

(5) The term ``Inspector General'' means an Inspector General appointed under the Inspector General Act of 1978.

(Added Pub. L. 99-500, Sec. 101(c) [title X, Sec. 942(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-162, and Pub. L. 99-591, Sec. 101(c) [title X, Sec. 942(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-162; Pub. L. 99-661, div. A, title IX, formerly title IV, Sec. 942(a)(1), Nov. 14, 1986, 100 Stat. 3942, renumbered title IX, Pub. L. 100-26, Sec. 3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 102-25, title VII, Sec. 701(k)(1), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102-484, div. A, title X, Sec. 1052(30)(A), Oct. 23, 1992, 106 Stat. 2500; Pub. L. 103-355, title VI, Sec. 6005(a), Oct. 13, 1994, 108 Stat. 3364; Pub. L. 104-106, div. D, title XLIII, Sec. 4321(a)(10), Feb. 10, 1996, 110 Stat. 671.)

References in Text

The Inspector General Act of 1978, referred to in subsec. (e)(5), Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees

Codification

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 added identical sections.

Amendments

1996--Pub. L. 104-106 made technical correction to Pub. L. 103-355, Sec. 6005(a). See 1994 Amendment note below.

1994--Pub. L. 103-355, Sec. 6005(a), as amended by Pub. L. 104-106, amended section generally. Prior to amendment, subsec. (a) related to prohibition of reprisals, subsec. (b) to investigation of complaints,

subsec. (c) to construction of section, and subsec. (d) to coordinati
of section with former section 2409a of this title.

1992--Subsec. (d). Pub. L. 102-484 amended subsec. (d) generally.
Prior to amendment, subsec. (d) read as follows: ``Effective Date.--T
section shall not be in effect during the period when section 2409a c
this title is in effect.''

1991--Subsec. (d). Pub. L. 102-25 added subsec. (d).

Effective Date of 1996 Amendment

Section 4321(a) of Pub. L. 104-106 provided that the amendment ma
by that section is effective as of Oct. 13, 1994, and as if included
Pub. L. 103-355 as enacted.

Effective Date of 1994 Amendment

For effective date and applicability of amendment by Pub. L. 103-
355, see section 10001 of Pub. L. 103-355, set

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out as a note under section 251 of Title 41, Public Contracts.

Effective Date of 1992 Amendment

Section 1052(30)(B) of Pub. L. 102-484 provided that: ``The
amendment made by subparagraph (A) [amending this section] shall take
effect as if enacted immediately following the enactment of Public La
102-25 (105 Stat. 75).''

Effective Date

Section 101(c) [title X, Sec. 942(b)] of Pub. L. 99-500 and Pub.
99-591, and section 942(b) of title IX, formerly title IV, of Pub. L.
99-661, renumbered title IX, Pub. L. 100-26, Sec. 3(5), Apr. 21, 1987
101 Stat. 273, provided that: ``Section 2409 of title 10, United Stat
Code (as added by subsection (a)(1)), shall apply with respect to any
reprisal action taken on or after the date of the enactment of this A
[Oct. 18, 1986].''

Sec. 2409a