



Office of Inspector General

MANAGEMENT ADVISORY MEMORANDUM
REGARDING INTERAGENCY AGREEMENTS AND
WHISTLEBLOWING RIGHTS

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Report No. MAM-24-03
June 2024

Federal Labor Relations Authority
1400 K Street, N.W., Washington, D.C. 20424

Table of Contents

Management Advisory Memorandum Regarding Interagency Agreements and Whistleblowing Rights

Review Results.....	1-2
Conclusion	2
Appendix: Report Distribution	3

Acronyms

BFD	Budget and Finance Division
FLRA	Federal Labor Relations Authority
FS	Bureau of the Fiscal Service
IAA	Interagency agreement
MAM	Management Advisory Memorandum
OIG	Office of Inspector General
U.S.C.	United States Code
WPEA	Whistleblower Protection Enhancement Act of 2012, as amended



INSPECTOR GENERAL

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY

June 25, 2024

Memorandum

TO: Susan Tsui Grundmann
Chairman

FROM: Dana Rooney
Inspector General

SUBJECT: Management Advisory Memorandum Regarding Interagency Agreements and Whistleblowing Rights (Report No. MAM-24-03)

In accordance with a request from a Member of Congress, the Office of Inspector General (OIG) conducted a review of the Federal Labor Relations Authority's (FLRA) interagency agreements (IAAs) to identify any nondisclosure provisions that ostensibly bind FLRA and/or other agency employees without inclusion of requisite statutory language.^{1,2}

Our review found that the FLRA's Budget and Finance Division (BFD) effectively oversees this aspect of the IAA process that we assessed, with no identified IAAs containing nondisclosure provisions that would require inclusion of the statutory language from 5 U.S.C. § 2302(b)(13)(A). Accordingly, we have no recommendations for management at this time. The OIG greatly appreciates the cooperation and courtesies extended to our staff during the review process.

Review Results

The objective of our review was to examine FLRA IAAs and identify any nondisclosure provisions that ostensibly bind FLRA and/or other agency employees without inclusion of the necessary statutory language from the Whistleblower Protection Enhancement Act of 2012, as amended (WPEA). Specifically, under the WPEA, the following is considered a prohibited personnel practice:

¹ Whistleblower Protection Enhancement Act of 2012, Pub. L. No. 112-199, 126 Stat. 1465 (codified, in relevant part, at 5 U.S.C. § 2302).

² This review was related and in addition to the review reported in MAM-24-02, *Management Advisory Memorandum Regarding FLRA Nondisclosure Requirements and Whistleblowing Rights* (May 2024), <https://www.flra.gov/system/files/webfm/Inspector%20General/2024/Management%20Advisory%20Memorandum%20Regarding%20FLRA%20Nondisclosure%20Requirements%20and%20Whistleblowing%20Rights.pdf>.

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority- ... implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement- ... does not contain the following statement: “These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General or the Office of Special Counsel of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”³

In order to accomplish our objective, we submitted a request to the FLRA Office of the Executive Director and the FLRA BFD⁴ for copies of all IAAs that FLRA is a party to, as well as any recurring or planned IAAs during Fiscal Year 2024 (the period covering October 1, 2023, through the date of the request, May 14, 2024). Additionally, we requested copies of the documents that are incorporated by reference and attached to the IAAs.

Federal agencies, including the FLRA, use IAAs to obtain needed goods and services from other agencies. As of May 14, 2024, FLRA had 15 IAAs for services provided by 10 Federal trading partners totaling \$872,668 in FLRA obligations. These services included, for example, systems and support for financial management, accounting, procurement, purchase and fleet cards, travel, payroll, and human resources, and investigative services. The FLRA did not provide goods or services to other agencies. We reviewed all 15 IAAs in place to identify any nondisclosure provisions that ostensibly bind FLRA and/other agency employees without inclusion of the necessary language from the WPEA at 5 U.S.C. § 2302(b)(13)(A).⁵

Conclusion

We found that the FLRA’s BFD effectively oversees this aspect of the IAA process that we assessed, with no identified IAAs containing nondisclosure provisions necessitating inclusion of the statutory language from 5 U.S.C. § 2302(b)(13)(A). As a result, we have no recommendations for management at this time. However, we advise the FLRA to be mindful that future agreements with nondisclosure provisions may require the inclusion of the statutory language from 5 U.S.C. § 2302(b)(13)(A).

³ 5 U.S.C. § 2302(b)(13)(A). *See also* Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, div. B, tit. VII, § 743(a), 138 Stat. 460, 584 (“No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: [provisions identical to those at 5 U.S.C. § 2302(b)(13)(A)].”).

⁴ The Director of the BFD stated that BFD maintains all of the FLRA’s IAAs.

⁵ BFD and the FLRA Administrative Services Division provided documentation for other kinds of transactions with four agencies (for printing and publishing, rent, workers’ compensation, and penalty mail). This documentation was also reviewed for this report.

Appendix: Report Distribution

Federal Labor Relations Authority

The Honorable Colleen Duffy Kiko, Member
Michael Jeffries, Executive Director
Gregory Mister, Director, Budget and Finance Division

Contacting the Office of Inspector General

IF YOU BELIEVE AN ACTIVITY IS WASTEFUL,
FRAUDULENT, OR ABUSIVE OF FEDERAL FUNDS,
CONTACT THE:

HOTLINE (877) 740-8278
[HTTP://WWW.FLRA.GOV/OIG-FILE_A_COMPLAINT](http://www.flra.gov/oig-file_a_complaint)

EMAIL: OIGMAIL@FLRA.GOV
CALL: (771) 444-5712 FAX: (202) 208-4535
WRITE: 1400 K Street,
Washington, D.C. 20424

The complainant may remain confidential; allow their name to be used; or anonymous. If the complainant chooses to remain anonymous, FLRA OIG cannot obtain additional information on the allegation, and also cannot inform the complainant as to what action FLRA OIG has taken on the complaint. Confidential status allows further communication between FLRA OIG and the complainant after the original complaint is received. The identity of complainants is protected under the provisions of the Whistleblower Protection Act of 1989 and the Inspector General Act of 1978. To learn more about the FLRA OIG, visit our Website at <http://www.flra.gov/oig>



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