• An employee, former employee, or applicants for employment
• Makes a disclosure which he/she reasonably believes evidences:
  – A violation of a law, rule, or regulation
  – Gross mismanagement
  – Gross waste of funds
  – Abuse of authority
  – Substantial and specific danger to public health or safety
• To a supervisor, high ranking agency official or the Inspector General
  – Fraud, waste, abuse and mismanagement must be reported to the Inspector General
• Whistleblower Protection Act also prohibits acts of reprisal or retaliation for making a protected disclosure (see previous slide)

• Reprisal or retaliation can include but are not limited to imposing or unreasonably refusing the following:
  – Adverse action or disciplinary action
  – Detail or reassignment
  – Appointment
  – Promotion
  – Decisions concerning pay, benefits or awards
  – Performance evaluations (positive or negative)

• Act of retaliation should be reported to the OIG and/or EAC management
  – OIG can protect employees against retaliation and reprisal
Protected Disclosures

- **Violation of any law, rule or regulation**
  - Need not involve a specific type of waste, fraud or abuse
  - Can include violations of agency policy or procedure
  - Must be a substantive disclosure, not just a disagreement or difference of opinion

- **Gross mismanagement**
  - More than a difference of opinion
  - Not simple negligence or wrongdoing
  - Management action or inaction that creates a substantial risk of significant adverse impact to the agency’s ability to fulfill its mission
  - Reasonable man standard
More on Protected Disclosures

- **Gross waste of funds**
  - More than a debatable expenditure that is significantly out of proportion to the benefit reasonable expected to accrue to the benefit of the government

- **Abuse of Authority**
  - An arbitrary and capricious use of power that benefits the abuser or others
  - For example, ordering a subordinate to retrieve cleaning from the laundry.
More on Protected Disclosures

• Substantial and specific danger to public safety or health
  – Must contain a specific statement of the dangerous activity
  – For example, disclosure by a medical employee of a computer problem that could impact patient health

• “Reasonably believe”
  – The whistleblower must reasonably believe that his/her disclosure reports a violation of law, rule or regulation; gross mismanagement; gross waste of funds; abuse of authority; or danger to public health or safety.
  – Cannot be based on rumor or gossip
  – Based on whistleblower’s knowledge of the facts at the time the complaint is made
  – Can be “reasonable” even if the substance of the complaint is later determined to be unfounded
Inspector General’s Responsibilities to Whistleblowers

• A means to complain
  – Telephone hotline
  – Web based complaint on IG home page

• Confidentiality
  – Allow for anonymous complaints
  – Maintain the confidentiality of the whistle blower who gives his name unless:
    • Whistle blower consents to the disclosure of his identity
    • IG determines that disclosure is necessary to the investigation

• A reasonable consideration of the complaint and investigation of “protected disclosures.”

• Protection against reprisal/retaliation
OIG’s Web-based Hotline
OIG’s Telephone Hotline

1-866-552-0004
Monitored by the Inspector General
When making a complaint...

• Include the “who, what, when, where and why”
  – What wrongdoing is alleged (fraud, abuse, waste, mismanagement, violation of law, rule or regulation)?
  – When did the wrongdoing occur?
  – Where did the wrongdoing occur?
  – Who was involved?
  – What was the bad actor’s motivation?
  – What harm was done?
  – Was anything done to remedy the wrongdoing?

• Be truthful and forthcoming with the OIG employee taking the complaint
  – Cooperate with the OIG during the review of the complaint and any future investigation
When making a complaint...

- Consider whether OIG is the right place to complain
  - EAC OIG handles complaints of waste, fraud, abuse or mismanagement in EAC programs or by EAC funding recipients (contractors and grantees)
  - EAC OIG also handles certain violations of law, rule or regulation, e.g., EAC rules and regulations and federal laws with which EAC programs must comply
  - EAC OIG will refer any complaints regarding:
    - Campaign contributions or campaign finance (Federal Election Commission)
    - Irregularities in state or local elections (State or Local election officials)
    - Voting fraud and election related crimes (U.S. Attorney, Department of Justice, local law enforcement)
Disposition of Complaints

- **Investigation**
  - OIG can initiate a formal or informal investigation of the complaint

- **Dismissal**
  - OIG can decline to investigate a complaint particularly when the complaint does not identify wrongdoing

- **Referral**
  - Some complaints (not whistleblower complaints) are referred to the EAC for processing (e.g., grant issues)
  - OIG will refer matters that are not within its jurisdiction
  - Other federal and state agencies have authority to investigate complaints (see previous slide for other election-related allegations and following slide for employment-related complaints)
OTHER WHISTLEBLOWER RESOURCES

• Equal Employment Opportunity Complaints
  – EAC’s EEO Officer
  – Stacie Fabre
    • sfabre@eac.gov, 202-566-3105

• Prohibited Personnel Practices & Whistleblower Complaints
  – Office of Special Counsel, www.osc.gov

• Merit System Violations (Adverse Actions)
  – Office of Special Counsel, www.osc.gov