



Whistle-Blower Protections for Feds May Get Makeover Under Trump

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The federal government's mechanisms for protecting whistle-blowers may not be sturdy enough to counteract a president who made the phrase "you're fired" a centerpiece of his public image.

That's according to Jeff Ruch, executive director of Public Employees for Environmental Responsibility, a nonprofit group that advocates on behalf of federal workers in environmental agencies. Ruch said he's concerned that federal employees may not be adequately protected when they're told to take actions they believe are contrary to their agencies' missions.

As president, Donald Trump will have the opportunity to fill vacant inspector general slots and choose a new leader for the U.S. Office of Special Counsel. He will also pick the third member—and likely next chairman—of the Merit Systems Protection Board, Ruch told Bloomberg BNA Dec. 14. Inspectors general already in place at federal agencies lack true independence, and the Republican-controlled Congress isn't likely to provide the oversight it would for a Democratic president, he said.

Trump Should Support IGs, Cato Says

Chris Edwards, director of tax policy studies at the Cato Institute, agreed that IG vacancies are a problem in the federal government.

"Trump, if his policy follows his rhetoric, should be a strong supporter of IGs," Edwards told Bloomberg BNA. "They are the current line of defense against waste, fraud and abuse in the federal government."

The Cato Institute is a Washington-based nonprofit that describes its mission as defending "individual liberty, limited government, free markets and peace."

Nominations Pending

Of the 73 inspector general positions in the federal government, 36 are nominated by the president and subject to Senate confirmation, according to a Nov. 7 [letter](#) to Congress from the Council of the Inspectors General on Integrity and Efficiency.

Of those 36 positions, nine are vacant, CIGIE said. Agencies without a confirmed inspector general include the departments of Defense, Energy and Interior, as well as the Office of Personnel Management, the letter said. The OPM acts as the federal government's central human resources agency.

The Senate still hasn't voted on the DOD, Energy, Interior and OPM inspector general appointments, according to a [Senate website](#).

Even for agencies with inspectors general in place, oversight may be insufficient, Ruch said.

They generally report to the heads of the agencies they oversee, which means they don't have enough independence, Ruch said. And they sometimes fail to take on larger institutional issues, even when they issue critical reports that get lots of media attention, he said.

"They ask the \$5 million question instead of the \$50 billion question," he said.

Opportunity to Name New OSC Chief

As for the OSC, Special Counsel Carolyn N. Lerner, who currently leads the agency, has a five-year term that ends in June, Ruch said.

That means Trump will have the opportunity to nominate a new OSC chief, Ruch said. The investigative agency is charged with protecting federal workers from whistle-blower retaliation, discrimination and other "[prohibited personnel practices](#)," according to the OSC website.

The merit systems could get less attention under a Trump-nominated special counsel, Ruch said. He was referring to the [management principles](#) that ensure federal workers are hired through "fair and open" processes and aren't subject to improper influences.

The Merit Systems Protection Board, the adjudicatory agency with responsibility for protecting the federal merit systems, currently has two members, one Republican and one Democrat, Ruch said.

Trump could affect the balance of power at the MSPB by nominating a third member, who if confirmed by the Senate could be designated by the president as the board's chairman, Ruch said. If the new president picks someone "who's not friendly to workers" for that spot, this could make it even harder for federal employees alleging merit systems violations to prevail, he said.

"It's already tough to win" cases before the MSPB, Ruch said. Federal employees' chances to prevail before the agency, which hears administrative appeals alleging merit systems violations from federal employees, "could become much slimmer" in this scenario, he said.

The Trump transition team didn't immediately respond to a request for comment from Bloomberg BNA on Dec. 14.