



To: Allison Greene, Chief Executive Officer (CEO)
Emily Haimowitz, Chief Compliance Officer

From: Joaquin E. Ferrao, Inspector General *Joaquin Ferrao*

Date: June 13, 2025

Subject: **Management Advisory Report: Peace Corps Non-Disclosure Agreements Generally Comply with Anti-Gag Provision Requirements, but Agency Policies Need Updating**

The purpose of this report is to provide the results of our survey of the Peace Corps' compliance with the anti-gag provision requirement in the Whistleblower Protection Enhancement Act (WPEA) (5 U.S.C. § 2302(b)(13)). We initiated this assessment at the request of Senator Chuck Grassley. (See attached Senator Grassley Letter, dated March 11, 2024).

We determined that the statutorily required anti-gag provisions were listed in the sample of the Peace Corps' non-disclosure agreements (NDA) that we reviewed, with some variances in the verbiage. These variances did not alter our assessment that the NDAs we reviewed complied with the statute.

However, the agency generally did not include the required provisions in its applicable policies, procedures, and forms. We reached this conclusion after reviewing 23 Peace Corps documents that the agency deemed to be applicable to anti-gag requirements, none of which included the required language. In response to the results of the Office of Inspector General's (OIG) work, one agency official described a plan to update the Peace Corps' non-disclosure policies.

Peace Corps Generally Includes Anti-Gag Provision in NDAs as Statutorily Required

While conducting our review, we asked for a sample of the Peace Corps' NDAs. Specifically, the OIG's request to the agency was to:

[I]dentify and provide copies of all non-disclosure policies and procedures, forms, and agreements (also known as NDAs) that were issued or executed with current or former employees anytime between January 1, 2022, to March 11, 2024. For purposes of this request, non-disclosure terms are those terms which **ostensibly bind Peace Corps employees without also including the mandated verbiage from the WPEA**. (Emphasis added).

In response to our request, the Office of General Counsel (OGC) provided OIG with eight settlement agreements ranging from May 20, 2022, to November 28, 2023. Two of the settlement agreements did not ostensibly bind Peace Corps employees to any non-disclosure terms and were not, in fact, NDAs. Therefore, the WPEA language was not required nor included in these two documents.

The remaining six NDAs did ostensibly impose binding conditions on the settlements, which triggered the need for anti-gag provisions. Four of these NDAs were fully compliant. Specifically, all four of these NDAs contained, verbatim, the statutorily required language, as follows:

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.

The remaining two NDAs omitted or otherwise altered minor verbiage, which did not materially alter the substance of the statutory requirement.

For example, in the first NDA, the word “complainant” was substituted for “employee,” altering the phrase to read: “or otherwise alter the complainant obligations, rights, or liabilities.” This same NDA also omitted the phrase “or the Office of Special Counsel”. OIG determined that these two changes did not materially alter the statutorily required language.

In the second NDA, the agency omitted the word “employee” from the phrase “or otherwise alter the employee obligations, rights, or liabilities” to read: “or otherwise alter obligations, rights, or liabilities.” This omission also did not materially alter the statutorily required language.

Overall, the Peace Corps Does Not Include Anti-Gag Provision in Agency Policies and Forms as Statutorily Required.

We asked the Peace Corps to identify any policies, procedures, and forms that the agency deemed to be related to the anti-gag provision requirements, regardless of the documents’ dates. In response, the agency identified 23 documents: 16 Peace Corps Manual Sections and interim policy statements and 7 procedures related to these policies. After reviewing these items, we did not identify any instances of the statutorily mandated language included in the materials.

We asked the Peace Corps officials responsible for NDA drafting whether the agency had established guidance to inform staff about the WPEA language and when it should be included in documents. One official from OGC provided OIG with a document entitled “Settlement Agreement Template.” The template includes a paragraph titled “Excepted Employee Waivers” which states the following:

These provisions are consistent with and do not supersede, conflict with, or otherwise alter 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. All other provisions will remain as written in this Agreement.

According to an agency official, OGC uses this template for every negotiated settlement agreement that it enters into with an opposing party, unless the agreement is drafted by the U.S. Department of Justice. In those instances, OGC ensures that the required WPEA statement is included in those agreements. The official further noted that OGC is “reviewing and revising, where necessary, each policy of the Peace Corps Manual” and “intends to add a manual section that requires the whistleblower statement be included in every settlement agreement.” These proposed actions would serve to ensure the Peace Corps’ future compliance with this important provision of the law.

OIG recommends that the Peace Corps amend or modify its relevant policies, procedures, and forms to incorporate the required anti-gag provision.

If you have any questions regarding our work and observations, or if you would like additional information related to our survey, please do not hesitate to contact me.

United States Senate
WASHINGTON, DC 20510

March 11, 2024

VIA ELECTRONIC TRANSMISSION

Mr. Joaquin E. Ferrao
Inspector General
Peace Corps

Dear Inspector General Ferrao:

Whistleblowers are patriots and the government's most powerful tool in rooting out waste, fraud, abuse, and misconduct. Nevertheless, federal agencies continue to implement nondisclosure policies and similar agreements without the inclusion of the "anti-gag" provision as required by law.¹ This failure has a chilling effect that discourages whistleblowers from reporting allegations of misconduct to Congress, Inspectors General (IG), and the Office of Special Counsel (OSC). The "anti-gag" provision has been included in almost every appropriations bill since 1988 and was codified in the Whistleblower Protection Enhancement Act.²

The anti-gag law requires all federal agency nondisclosure policies, forms, or agreements to include the following explicit statement notifying the employee of their rights to report wrongdoing:

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

Appropriation law prohibits the use of government funds to enforce these agreements if they fail to contain the anti-gag provision.⁴

¹ 5 USC § 2302(b)(13); Pub. L. No. 117-328

² *Id.*

³ 5 USC § 2302(b)(13).

⁴ Pub. L. No. 117-328.

Even though Congress made it abundantly clear that employees are required to be informed of their rights to make legally protected disclosures, there's a growing trend among federal agencies to use nondisclosure policies and similar agreements without the inclusion of the anti-gag provision in violation of the law.⁵ This is unacceptable.

The importance of whistleblowers knowing their rights under the law cannot be stated enough, and federal agencies should encourage their employees to disclose allegations of waste, fraud, and abuse. Federal agencies cannot be allowed to conceal their wrongdoing behind illegal nondisclosure policies and related actions. Accordingly, I request that you review all nondisclosure policies, forms, agreements, and related documents specific to your agency to ensure the anti-gag provision is included as required by law.

Thank you for your prompt review and response. If you have any questions, please contact Brian Randolph on my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget

⁵ See Letter from Senators Grassley and Johnson to Inspector General Horowitz (Apr. 19, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_johnson_to_justice_deptinspectorgeneralfbiantigagprovision.pdf; Letter from Senators Grassley and Johnson to Inspectors General Horowitz and George (Jun 6, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_johnson_to_dojoigtiga_-_whistleblower_retaliation.pdf; Letter from Senators Grassley and Johnson to Internal Revenue Service Commissioner Werfel (Jun. 6, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_johnson_to_irs_-_protected_whistleblower_disclosure.pdf; Letter from Senator Grassley, Senator Johnson, Representative Smith, and Representative Comer to Special Counsel Kerner (Jul. 5, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_johnson_comer_jordan_smith_to_osc_-_whistleblower_retaliation.pdf; Letter from Senator Grassley to Health and Human Services Secretary Becerra, Administration for Children and Families Acting Assistant Secretary Hild, and Office of Refugee Resettlement Director Marcos (Nov. 21, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_to_hhs_acf_and_orr_-_whistleblower_protections.pdf; Letter from Senator Grassley to Acting Special Counsel Gorman (Nov. 21, 2023) https://www.grassley.senate.gov/imo/media/doc/grassley_to_osc_-_hhs_whistleblower_protections.pdf; Letter from Senator Grassley to DOJ-OIG Horowitz (Feb. 12, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_doj_oig_-_protected_whistleblower_disclosures.pdf; Letter from Senator Grassley to Bureau of Alcohol, Tobacco, Firearms, and Explosives Director Dettelbach (Feb. 12, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_atf_-_protected_whistleblower_disclosures.pdf; Letter from Senator Grassley to Inspector General Horowitz (Mar. 8, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_doj_inspector_general_-_eoir_disclosures_to_congress.pdf; Letter from Senator Grassley to Attorney General Garland (Mar. 8, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_doj_-_eoir_disclosures_to_congress.pdf; Letter from Senator Grassley to Executive Office for Immigration Review Director David Neal (Mar. 8, 2024) https://www.grassley.senate.gov/imo/media/doc/grassley_to_executive_office_for_immigration_review_-_eoir_disclosures_to_congress.pdf.



MEMORANDUM

TO: Joaquin Ferrao, Inspector General

FROM: Allison Greene, Chief Executive Officer

CC: Cheryl Gregory Faye, Deputy Chief Executive Officer
Julie Burns, Acting Chief of Staff
Emily Haimowitz, Chief Compliance and Risk Officer
David Van Hoogstraten, Acting General Counsel
Akoua Enow, Chief Human Capital Officer
Jennifer Piorkowski, Executive Secretariat
Julie Nelson, Compliance Officer

DATE: June 11, 2025

RE: Agency Response to the Management Advisory Report Peace Corps Non-Disclosure Agreements

Thank you for the opportunity to respond to this preliminary report from the Office of Inspector General (OIG). Enclosed please find the agency's response to the recommendation made by the Inspector General as outlined in the OIG's Management Advisory Report: *Peace Corps Non-Disclosure Agreements Generally Comply with Anti-Gag Provision Requirements, but Agency Policies Need Updating* sent to the agency on May 29, 2025.

Recommendation 1

The Peace Corps amend or modify its relevant policies, procedures, and forms to incorporate the required anti-gag provision.

Concur

Response: The agency will revise an existing policy or procedure in which this requirement will be included.

Document to be Submitted:

- Revised policy or procedure

Status and Timeline for Completion: September 2025



OIG RESPONSE TO AGENCY COMMENTS

In response to the report exposure draft, the Peace Corps concurred with the one recommendation OIG made. OIG will consider closing the recommendation upon confirmation from the Chief Compliance and Risk Officer that corrective actions listed in the agency's response are documented and complete. OIG wants to note that in closing recommendations, OIG is not certifying that OIG has reviewed their effects.