

November 2, 2011

Chairman Darrell E. Issa
Ranking Member Elijah E. Cummings
House Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Issa and Ranking Member Cummings:

Our undersigned organizations applaud your leadership in earning bipartisan support for the Whistleblower Protection Enhancement Act of 2011 (WPEA), H.R. 3289, as well as immediate action to consider the legislation this Thursday in the House Oversight and Government Reform Committee. Chairman Issa, we appreciate your introduction of this whistleblower reform legislation with Ranking Member Cummings and longtime whistleblower champions Rep. Todd Platts (R-PA) and Rep. Chris Van Hollen (D-MD) joining as original cosponsors. As you well know, federal workers are best positioned to disclose wrongdoing in order to protect taxpayer dollars and the public trust. But the law to protect federal whistleblowers is broken—and the WPEA will go a long way toward fixing that failed system.

Current whistleblower law is supposed to encourage federal workers to come forward when they witness waste, fraud and abuse, but court decisions over the years and a flawed administrative process have eroded the law. It also has not kept pace with modern whistleblower protections passed in last decade. Thus, the law now undermines instead of encourages good government practices.

Even using legal channels to report serious problems in government often results in honest workers being silenced, fired or demoted, perhaps for political reasons. Today, federal whistleblowers have a less than a one percent chance of fighting these actions and winning. So, although federal workers have risked their careers to protect the public and save taxpayer dollars, they are vulnerable to retaliation. We need the WPEA so that we can have the help of conscientious whistleblowers to fix what is wrong with government.

Though this legislation does not include every reform we have sought, it will restore and expand protection for legitimate disclosures of wrongdoing, reducing unauthorized leaks, increasing accountability to taxpayers, and saving billions of taxpayer dollars. In addition, H.R. 3289 includes a two-year pilot program to cover government contractors who blow the whistle, building upon the protections for defense contractors and recipients of federal funds under the Recovery Act. We also are pleased that this legislation mirrors the protections for intelligence community workers, found in the Senate version of WPEA, S. 743, which were carefully negotiated over many months by members of the Senate Homeland Security and Governmental Affairs Committee, the Select Committee on Intelligence, the Armed Services Committee, and the administration.

However, while the bill includes these and several other crucial reforms, the Senate version of this whistleblower legislation recently approved by the Homeland Security and Governmental Affairs Committee includes additional provisions to ensure a more functional system. Specifically, S. 743 provides for some limited access to jury trials and review by all circuit courts, as final safety nets for accountability.

We strongly support an amendment to H.R. 3289 proposed by Rep. Bruce Braley (D-IA) to provide access to jury trials and another by Rep. John Tierney (D-MA) to ensure warnings made to a supervisor in the chain of authority by whistleblowers in the intelligence community are also protected. Additionally, our groups would like to see H.R. 3289 strengthened by removing summary judgment for the Merit Systems Protection Board; preventing the administration from choosing to appeal substantial impact cases to the court that consistently rules against whistleblowers; and, addressing new developments in case law regarding the marking of unclassified information and agency rulemaking.

We urge you and your committee members to support amendments to strengthen H.R. 3289 in these ways, while rejecting any amendment that is not germane to whistleblower protections and that does not have well-vetted, bipartisan support.

Certainly we can no longer wait to make this reform law—the WPEA is long overdue. Passage of the Whistleblower Protection Enhancement Act of 2011 now is an opportunity for you to prove your commitment to tackling waste and increasing accountability to American taxpayers. Federal workers serving our country deserve these protections and enforceable remedies when they disclose wrongdoing.

We thank you for your leadership in advancing this critical reform legislation. Your bipartisan cooperation on this legislation is emblematic of the strong support this reform has from across the ideological spectrum. We urge all members of the committee to vote with you and send the bill to the full House without further delay.

Sincerely,

American Federation of Government Employees
Government Accountability Project (GAP)
The Liberty Coalition
National Taxpayers Union
OpenTheGovernment.org
Project On Government Oversight (POGO)
Taxpayers Protection Alliance
Union of Concerned Scientists

cc: Reps. Todd Platts, Chris Van Hollen, Edolphus Towns, Henry Waxman, and Members of House Oversight and Government Reform Committee