

## OSHA Says Workers Do Not Have to Waive Whistleblower Rights

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Practices

Workplace Safety and Health

The Occupational Safety and Health Administration has issued new guidance designed to protect the rights of whistleblowers who reach settlements approved by OSHA.

The three-page memorandum, issued August 23, 2016, and released September 15, 2016, revised portions of [OSHA's Whistleblower Investigations Manual \(CPL 02-03-007\)](#).

The manual already states OSHA will not approve a "gag" provision restricting an employee's ability to participate in investigations or offer testimony or file later complaints.

The revision identifies other settlement provisions that OSHA will not accept, including:

- waiving the right to a cash reward;
- requiring the employee to return a portion of the cash reward to the employer;
- mandating workers notify employers before contacting the government; and
- requiring workers affirm to employers that they had not had other contacts with the government.

OSHA issued the guidance after the Government Accountability Project, an advocacy organization, petitioned the agency last year to clarify that it will not approve settlements that discourage whistleblowers.

Please contact Jackson Lewis with any questions about compliance with this and other regulations.

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