

## WHISTLEBLOWER PROTECTION AND NON-DISCLOSURE POLICIES, FORMS OR AGREEMENTS

The Whistleblower Protection Enhancement Act of 2012 (WPEA) was signed into law November 27, 2012. The law strengthens anti-retaliation protections for federal employees who disclose evidence of waste, fraud, or abuse. The WPEA also requires that any non-disclosure policy, form, or Non-Disclosure Agreement (NDA) include the statement copied below, and provides that NDAs executed without the language may be enforced as long as agencies give employees notice of the statement.

Pursuant to the WPEA, any NDA executed without the following language should be read as if the language were incorporated into the NDA:

*"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 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."*

### References:

Whistleblower Protection Enhancement Act of 2012

<https://www.gpo.gov/fdsys/pkg/BILLS-112s743enr/pdf/BILLS-112s743enr.pdf>

OSC Guidance to Agencies on Non-disclosure Policies, Forms, or Agreements

<https://osc.gov/Resources/NDA%20Memo%20Update.pdf>