

NATIONAL SECURITY AGENCY
OFFICE OF THE INSPECTOR GENERAL



Evaluation of NSA's Implementation of
Whistleblower Protection Provisions
in Nondisclosure Agreements

EV-25-0005
18 August 2026





Pursuant to the Inspector General Act of 1978, as amended, and in accordance with NSA/CSS Policy 1-60, the NSA/CSS Office of the Inspector General (OIG) conducts independent oversight that promotes the wise use of public resources; adherence to laws, rules, and regulations; and respect for Constitutional rights. Through audits, evaluations, inspections, and investigations, we detect and deter waste, fraud, abuse, and misconduct, and promote the economy, efficiency, and effectiveness of NSA operations.



Executive Summary

Why We Did This Evaluation

The National Security Agency (NSA)/Central Security Service (CSS)—hereinafter referred to as NSA—Office of the Inspector General (OIG) performed this evaluation to determine if NSA has implemented required whistleblower protection provisions in NSA-developed nondisclosure policies, forms, and agreements. NSA also uses nondisclosure forms developed by other entities, including the Department of War (DoW) and the Office of the Director of National Intelligence (ODNI), but the focus for this evaluation was on NSA-developed nondisclosure agreements (NDAs), forms, and policies. The term NDA is utilized throughout this report to be inclusive of nondisclosure agreements, nondisclosure forms, and nondisclosure acknowledgements.

What We Found

NSA does not have a central official or office responsible for NDAs and NSA could not provide the OIG with a list of all NSA-developed NDAs. Based on the NDAs we did review, NSA has not fully incorporated required whistleblower protection provisions in NSA-developed NDAs.

- Although several offices across NSA manage and have responsibilities related to various NDAs, NSA does not have an overarching NDA policy. Further, NSA has not defined an NDA development process nor identified a central point of accountability to ensure whistleblower protection requirements are included in all NDAs.
- Additionally, we found agreements that implied a requirement of nondisclosure, though not titled or identified as an NDA, and did not include the mandated whistleblower protection provisions.

Conclusion

NSA could improve processes and governance to ensure all NSA-developed NDAs contain the required whistleblower protection provisions. The OIG made three recommendations to assist the Agency in addressing these issues. The actions planned by management meet the intent of all recommendations.

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I. Introduction

Background

The National Security Agency (NSA)/Central Security Service (CSS)—hereinafter referred to as NSA—is required to incorporate whistleblower protection provisions in all nondisclosure policies, nondisclosure forms, and nondisclosure agreements (NDAs) per Section 743 of Division E of the Consolidated Appropriations Act 2026, Public Law 119-75, 140 Stat. 173 (2026).¹ The law specifically states, “No funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions:”

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.^{2 3}

As part of an inquiry to Offices of the Inspectors General in the federal government, the NSA Office of the Inspector General (OIG) received an inquiry from Senator Charles E. Grassley, the then Ranking Member of the Committee on the Budget, regarding NSA's compliance with whistleblower protection requirements. The OIG's Whistleblower Coordinator performed an initial assessment and notified NSA and Congress of areas of potential noncompliance. The OIG Whistleblower Coordinator followed up on this communication and found that NSA had not made the necessary changes to gain appropriate compliance. The OIG determined it was necessary to build upon these initial efforts and conduct a formal evaluation to determine the current state of compliance and, if warranted, issue recommendations for improvement to NSA.

¹ The Whistleblower Protection Enhancement Act (WPEA), Title 5 U.S. Code § 2302, does not, by its terms, apply to NSA; however, the WPEA whistleblower protection provisions are included in almost every appropriations bill since 1988, including the current appropriations legislation, and are therefore applicable to NSA.

² The required provisions apply to all nondisclosure agreements or forms signed by employees or officers of the U.S. Government (employees).

³ During our review, we found that some NDAs did not include one portion of the required provisions language (numeral 3 of the provisions), more specifically, “or the Office of Special Counsel.” We noted that omission of this element of the provisions does not render the NDAs non-compliant due to the Office of Special Counsel's lack of jurisdiction to review matters involving disclosure of counterintelligence or foreign intelligence information.

NSA uses both NDAs that it developed internally as well as NDAs developed externally. For example, when conducting indoctrination to NSA, NSA uses NDAs developed both internally and by the Office of the Director of National Intelligence (ODNI). We learned that no single office controls NDAs nor is there a process to account for all NDAs at NSA. Without a full listing or single source of record for NDAs, the OIG could not conduct a full review of all NDAs at NSA. As a result, in an effort to address NSA's compliance with inclusion of the required whistleblower protection provisions, we focused the scope of our evaluation on NSA policy and NSA-developed NDAs governing employees.⁴ However, the OIG's findings may also impact NSA affiliates, which includes employees. These affiliates may not be aware of their whistleblower protections or responsibilities if they enter into an NDA that does not contain appropriate whistleblower provisions.

For more information about the evaluation objective, scope and methodology, refer to Appendix A, "About the Evaluation."

⁴ Section 743 of Division E of the Consolidated Appropriations Act 2026, Public Law 119-75, 140 Stat. 173 (2026) allows for agencies to tailor nondisclosure agreements for individuals involved in intelligence who are not government employees.

II. Results of the Evaluation

FINDING 1: NSA has not fully incorporated required whistleblower protection provisions in every NSA-developed nondisclosure policy, form, and agreement.

Because NSA lacks a development process and central point of accountability for nondisclosure policies, forms, and agreements, NSA has not fully incorporated the required whistleblower protection provisions in every NSA-developed NDA. As a result, NSA is not in compliance with the statutory requirements.

NDA Development Process

NSA has not defined a process to ensure whistleblower protection requirements are included in all NSA-developed NDAs.

In order to determine the population of NDAs that exist at NSA, the OIG met with multiple offices involved in NDA development and tracking and reviewed NSA policy documents. We met with subject matter experts (SMEs) from the Office of General Counsel (OGC), Security and Counterintelligence (S&CI), Engagement and Policy Directorate (E&P), and Directorate of Operations (DO). We learned from these meetings that NSA has not established an approval or review process for NSA-developed NDAs.

According to OGC, OGC legal practice groups may be consulted regarding the content of NDAs, but there is no single OGC entity that manages NDAs, nor a process or requirement for OGC to review NDAs. According to S&CI, E&P, and DO SMEs, NDAs are managed across several NSA organizations. In addition, Agency organizations rely on NDAs authored by external entities, such as DoW and ODNI, which are not under NSA's control for modification.

The definition of an NDA, according to NSA policies, is as follows:

[A] lifetime obligation to safeguard all protected information, to submit all information intended for publication and/or public release for prepublication review, and to report any unauthorized disclosure of protected information. NSA/CSS affiliates are legally bound and obligated by any NDAs they sign for access to NSA/CSS information. They shall not confirm or deny information about NSA/CSS that appears in the public domain without prior approval through the classification or prepublication process.

In order to understand if NSA has a policy or policies that establish requirements related to NDA development, the OIG requested any information the Agency had related to efforts to develop, track,

and update NDAs. The Chief of Engagement and Workforce Policy provided the OIG with eleven NSA policy documents that included the term “nondisclosure.” Upon review, we noted that none of these policy documents stated requirements on how to develop NDAs, nor included the required whistleblower protection provisions. We found that four of the eleven policy documents established information about NDAs pertinent to our review, including a definition for NDAs, types of NDAs, and responsibilities related to signing and handling NDAs. Of the four policies, three, described below, reference NSA-developed NDAs related to initial access to NSA information and further access to compartmented information.

National Security Agency Advisory Board (NSAAB) NDAs. NSA/CSS Policy 1-21, *The National Security Agency Advisory Board*, issued 30 October 2023, updated 28 February 2025, requires that NSAAB members, who are special government employees, file with OGC “an NSAAB Confidentiality and Non-Disclosure Agreement (CNdA) before beginning NSAAB work and annually thereafter.” The CNdA form is an NSA-developed form.⁵

Security Indoctrination NDAs. NSA/CSS Policy 5-7, *Badge Identification System*, issued 26 October 2007, updated 6 March 2026, identifies responsibilities of the S&CI organization to ensure new employees sign onboarding NDAs. The policy requires that NSA employees sign NSA’s Security Agreement form.

The Counterintelligence office noted they oversee and ensure all new hires complete NSA’s Security Agreement and two related NDAs: Classified Information Nondisclosure Agreement (Form SF312) and Sensitive Compartmented Information Nondisclosure Agreement (Form FM4414).⁶ The SF312 and FM4414 are ODNI forms, while NSA’s Security Agreement is an NSA-developed form.⁷

Compartmented Access NDAs. NSA/CSS Policy Manual 1-41, issued 31 January 2023, provides guidance for gaining access to certain compartmented information, including how NDAs are executed based on users’ situational needs. The policy requires that those that need and are eligible for electronic access must (once approved) “read and sign the electronic acknowledgement, which serves as a non-disclosure agreement (NDA).” The policy also notes situations that require hard copy NDAs.

The OIG’s review of policy and discussions with NSA stakeholders did not identify one standard NDA development process or an office of primary interest with ownership of the process to ensure whistleblower protection requirements are included in all NSA-developed NDAs.

⁵ At the time of our evaluation, the NSAAB was stood down.

⁶ NSA/CSS Policy 5-13, *Initial Access to NSA/CSS Protected Information and/or Facilities*, issued 10 March 2025, states that the Counterintelligence office is responsible for ensuring that NSA/CSS affiliates who have recently been approved for initial access complete the ODNI nondisclosure security agreement.

⁷ The OIG noted two NDAs, the ODNI SF312 and FM4414, incorporated the most current version of required whistleblower protection provisions.

RECOMMENDATION EV-25-0005-1

Develop, document, and promulgate a process to ensure all whistleblower protection requirements are included and remain current in any nondisclosure policies, forms, and agreements.

Lead Action: Director, E&P

Management Response: AGREE

OIG Analysis: The planned action in Appendix B meets the intent of the recommendation.

RECOMMENDATION EV-25-0005-2

Identify and document the party responsible for ensuring that all required whistleblower protections are included in any nondisclosure policies, forms, and agreements.

Lead Action: NSA Chief of Staff

Secondary: Directorate-level Chiefs of Staff

Management Response: AGREE

OIG Analysis: The planned action in Appendix B meets the intent of the recommendation.

Incorporating Whistleblower Protection Provisions in NDAs

NSA has not fully incorporated required whistleblower protection provisions in every NSA-developed NDA.

Below are instances of NSA-developed NDAs that lacked required whistleblower protection provisions. As noted above, the OIG was not able to obtain a full listing or single source of record for all NDAs; therefore, the OIG could not ensure a complete review of all NDAs at NSA for compliance with the required whistleblower protection provisions.

Forms and Agreements. The OIG searched NSA repositories for terms including “disclosure,” “nondisclosure,” and “NDA,” and reviewed the results. We identified five unique NSA-developed NDAs. One of the five NDAs, NSA’s Security Agreement, did not include the current required whistleblower provisions but did include language related to whistleblower protections and had some statutory references. The remaining four NDAs made no mention of whistleblower protections. The four NDAs that entirely lacked whistleblower protection provisions included those for test proctors, individuals performing system testing and certification of testing materials, and the CNdA for NSAAB members.⁸ Additionally, the OIG identified another five agreements that were not titled or identified as nondisclosure agreements but implied nondisclosure obligations and did not include the required whistleblower protection provisions. The lack of required language in the forms and agreements reduces the OIG’s assurance of employees’ awareness of whistleblower protections.

Compartmented Access NDAs. Our review of the electronic acknowledgement process used for compartmented accesses found that NSA has not implemented the required whistleblower protection provisions. The SMEs we spoke with explained that individual offices develop their own access agreement brief sheets using a template, and an affiliate’s acknowledgment of one of these electronic brief sheets serves as the nondisclosure agreement. In interviews with SMEs, two opened brief sheets of their own and noted that the required provisions were not present. We reviewed the template and noted that it lacked inclusion of the required whistleblower protection provisions. We also reviewed the process for the system that manages NSA compartmented accesses and did not find any mention of the required whistleblower protection provisions. In circumstances when a hard copy NDA is needed, the ODNI Form FM4414 is used. The Form FM4414 contains the required statutory language.

Without ensuring that the required whistleblower protection provisions are included in the template, completed brief sheets, or electronic acknowledgement process, affiliates who electronically acknowledge a compartmented access may not realize that they retain the ability to report whistleblower concerns.⁹

⁸ Our review returned two Department of War (DoW) nondisclosure forms from the NSA’s Electronic Forms Directory that we referred to the DoW OIG for their review.

⁹ The Agency issued NSA/CSS Policy 1-62, *Whistleblower Protection*, on 24 June 2015, updated on 15 March 2021. Additionally, employees are required to annually take OIG whistleblower training that defines who is a whistleblower, defines the “protected disclosure,” and identifies how to make a protected disclosure of wrongdoing. Further, the OIG conducts outreach and training for employees about whistleblower protections and has a whistleblower coordinator.



RECOMMENDATION EV-25-0005-3

Identify and revise all existing NSA-developed nondisclosure policies, forms, or agreements to include required whistleblower protection provisions.

Lead Action: Director, E&P

Secondary: Agency Directorates

Management Response: AGREE

OIG Analysis: The planned action in Appendix B meets the intent of the recommendation.



Appendices

APPENDIX A: About the Evaluation

Objectives

To determine if NSA has implemented required whistleblower protection provisions in NSA nondisclosure policies, forms, and agreements.

Scope and Methodology

Fieldwork for this evaluation was conducted from August 2025 through February 2026. The evaluation focused on NSA's implementation of required whistleblower protection provisions in NSA nondisclosure policies, forms, and agreements. We limited our scope to NSA policy and NSA-developed NDAs governing employees. NDAs exclusively for non-employee affiliates were excluded from the scope of our evaluation.

We reviewed written processes, procedures, and other documentation for adequate controls. We conducted interviews of relevant personnel in OGC, DO, S&CI, and E&P.

We conducted this evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*. Those standards require that we plan and perform this evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our evaluation objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our evaluation objectives.

APPENDIX B: Summary of Management Responses

Engagement and Policy Response

IG Recommendation EV-25-0005-1: Develop, document, and promulgate a process to ensure all whistleblower protection requirements are included and remain current in any nondisclosure policies, forms, and agreements.

Management's Response: Agree

Corrective Action Plan:

E&P concurs with this recommendation and will develop, document, and promulgate a process to ensure whistleblower requirement language is included and remain current in all nondisclosure policies, forms, and agreements.

Implementing Organization: Enterprise Guidance Services

Secondary: N/A

IG Recommendation EV-25-0005-3: Identify and revise all existing NSA-developed nondisclosure policies, forms, or agreements to include required whistleblower protection provisions.

Management's Response: Agree

Corrective Action Plan:

E&P concurs with this recommendation and will work with all of the Directorates to identify and revise all existing NSA-developed NDA policies, forms, and agreements to ensure that whistleblower protection provisions are included.

Implementing Organization: Enterprise Guidance Services

Secondary: Agency Directorates

Chief of Staff Response

IG Recommendation EV-25-0005-2: Identify and document the party responsible for ensuring that all required whistleblower protections are included in any nondisclosure policies, forms, and agreements.

Management's Response: Agree

Corrective Action Plan:

The NSA Chief of Staff will lead and hold Directorate-level Chiefs of Staff accountable for their respective areas of responsibility to ensure all required whistleblower protections are included in any nondisclosure policies, forms, and agreements.

Implementing Organization: NSA Chief of Staff

Secondary: Directorate-level Chiefs of Staff

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