

United States Senate
WASHINGTON, DC 20510

April 4, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Gary Gensler
Chairman
Securities and Exchange Commission

Dear Chairman Gensler:

I'm proud to have helped create the U.S. Securities and Exchange Commission (SEC) whistleblower program in 2010. Since then, it has achieved tremendous success and helped boost accountability. For example, whistleblower tips have increased year-to-year: in Fiscal Year (FY) 2023, the SEC received more than 18,000 whistleblower tips, as compared to over 12,300 in FY 2022 and over 12,200 in FY 2021.¹ However, concerns have been raised about the SEC's delay in paying whistleblower awards and a lack of transparency about the resources the SEC has dedicated to review whistleblower tips and award determinations.² Accordingly, given the recent lower than anticipated number of whistleblower awards and the increased number of whistleblower tips, I write today to gather more information with respect to the resources dedicated by the SEC to processing whistleblower tips and claims.

According to the SEC's FY 2022 Annual Report, whistleblowers have helped the SEC recover more than \$6.3 billion in monetary sanctions.³ Additionally, according to the SEC's FY 2023 Annual Report, since the beginning of the program the SEC has distributed more than \$1.9 billion in whistleblower awards to 397 individuals.⁴ Specifically, in FY 2023 the SEC distributed \$600 million in awards; however, the awards were made to only 68 whistleblowers.⁵ This is contrasted with more than 100 awards being made in each of the two prior fiscal years and while the whistleblower office received a record amount of whistleblower tips in FY 2023 (more than 18,000).⁶

¹ U.S. Securities and Exchange Commission, *SEC Whistleblower Office Annual report FY 2023*, at 1 (Nov. 14, 2023) <https://www.sec.gov/files/fy23-annual-report.pdf>; U.S. Securities and Exchange Commission, *SEC Whistleblower Office Annual report FY 2022* at 1, (Nov. 15, 2022) https://www.sec.gov/files/2022_ow_ar.pdf; U.S. Securities and Exchange Commission, *SEC Whistleblower Office Annual report FY 2021* at 28, (Nov. 15, 2021) <https://www.sec.gov/files/owb-2021-annual-report.pdf>.

² John Holland, *SEC Payouts to Whistleblowers Plummet Amid Record Surge in Tips*, Bloomberg Law (Dec. 26, 2023) <https://news.bloomberglaw.com/securities-law/sec-payouts-to-whistleblowers-plummet-amid-record-surge-in-tips>.

³ SEC Whistleblower Office FY 2022 Annual report at 1.

⁴ SEC Whistleblower Office FY 2023 Annual Report at 1.

⁵ *Id.*

⁶ *Id.*; Holland *supra* note 2.

The SEC Office of the Whistleblower is housed within the SEC's Division of Enforcement (ENF) and the Office of General Counsel (OGC) "provides independent legal analysis and advice to the Chair, Commissioners, and operating divisions on all aspects of Commission activities."⁷ The SEC's FY 2025 and FY 2024 Congressional Budget Justifications do not provide sufficient details with respect to how the joint resources of ENF and OGC are used to staff the SEC whistleblower office. For example, in the SEC's FY 2025 budget request, OGC requested additional positions to staff the whistleblower office, but ENF did not.⁸ Yet in the SEC's FY 2024 budget request, ENF requested additional resources for the whistleblower office, but OGC did not.⁹ Further, reports indicate that the SEC "won't release the number of attorneys working in the whistleblower office" making it difficult for potential whistleblowers and Congress to know whether the SEC has assigned the appropriate resources to ensure whistleblower claims are reviewed and processed in a timely and efficient manner.¹⁰

It's unclear how many of the 1,512 ENF and 173 OGC positions were dedicated to reviewing whistleblower claims in FY 2023, and increased transparency will help inform Congress and the public on whether the SEC's current resources are efficiently and effectively used to process whistleblower claims and awards.¹¹ Accordingly, so Congress may conduct independent oversight and better understand how the SEC allocates its current resources to process whistleblower tips and claims, please provide answers to the following questions no later than April 18, 2024:

1. For each fiscal year from FY 2021 to the date of this letter, please provide the number of SEC positions assigned to review whistleblower tips and process award claims. For each position, please identify:
 - a. If it is assigned to ENF, OGC, the whistleblower office, or another SEC office;
 - b. If it is full time equivalent (FTE) or not an FTE;
 - c. Title and job description;
 - d. If it is an attorney position; and
 - e. Average hours per month assigned and performed on whistleblower matters.
2. For each fiscal year, and organized by month, from FY 2021 to the date of this letter provide the number of whistleblower:
 - a. Tips received;
 - b. Tips pending review;
 - c. Tips reviewed;

⁷ U.S. Securities and Exchange Commission, *FY 2023 SEC Agency Financial Report*, (Nov. 9, 2023) <https://www.sec.gov/files/sec-2023-agency-financial-report.pdf#chairmessage>.

⁸ U.S. Securities and Exchange Commission, *FY2025 Congressional Budget Justification* at 19, 37, (Mar. 11, 2024) <https://www.sec.gov/files/fy-2025-congressional-budget-justification.pdf>.

⁹ U.S. Securities and Exchange Commission, *FY2024 Congressional Budget Justification* at 19, 38, (Mar. 13, 2023) https://www.sec.gov/files/fy-2024-congressional-budget-justification_final-3-10.pdf.

¹⁰ Holland *supra* note 2.

¹¹ U.S. Securities and Exchange Commission, *Fiscal Year 2025 Congressional Budget Justification and Annual Performance Plan: FY 2025 Budget Tables*, <https://www.sec.gov/files/fy25-position-fte-table.csv>.

- d. Tips denied investigation;
 - e. Notices of covered action posted;
 - f. Claims filed;
 - g. Claims reviewed and pending review;
 - h. Claims which have had preliminary determinations issued;
 - i. Record and reconsideration requests made; and
 - j. Final orders issued/resolution of appeals.
3. Please provide the status of the implementation of the SEC Inspector General recommendations made in its December 19, 2022, report entitled “SEC’s Whistleblower Program: Additional Actions Are Needed to Better Prepare for Future Program Growth, Increase Efficiencies, and Enhance Program Management.”¹²

Thank you for your attention to this important matter. If you have any questions, please contact Brian Randolph or Jace Pimentel of my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget

¹² U.S. Securities and Exchange Commission, Office of the Inspector General, *SEC’s Whistleblower Program: Additional Actions Are Needed to Better Prepare for Future Program Growth, Increase Efficiencies, and Enhance Program Management*, Rep. No. 575, (Dec. 19, 2022) <https://www.sec.gov/files/secs-whistleblower-program-additional-actions-needed-report-no-575.pdf>.