

July 2016

## CRITICAL INFRASTRUCTURE PROTECTION

### Improvements Needed for DHS's Chemical Facility Whistleblower Report Process

#### Why GAO Did This Study

The CFATS program is intended to ensure the security of the nation's chemical infrastructure by assessing risks and requiring the implementation of measures to protect high-risk chemical facilities. The CFATS Act of 2014 required DHS to establish a whistleblower process. Employees and contractors at hundreds of thousands of U.S. facilities with hazardous chemicals can play an important role in helping to ensure CFATS compliance by submitting a whistleblower report when they suspect noncompliance. Whistleblowers who disclose wrongdoing at chemical facilities can save lives and help improve public safety and health.

The CFATS Act of 2014 also requires GAO to review the CFATS whistleblower process. This report addresses (1) the number and types of CFATS whistleblower reports DHS received, and any actions DHS took as a result, and (2) the extent to which DHS has implemented and followed a process to address the whistleblower reports, including reports of retaliation against whistleblowers. GAO reviewed laws, regulations, and CFATS program documents; analyzed whistleblower reports DHS received from June 16, 2015 to April 19, 2016; and interviewed officials responsible for vetting the reports and deciding how to address them.

#### What GAO Recommends

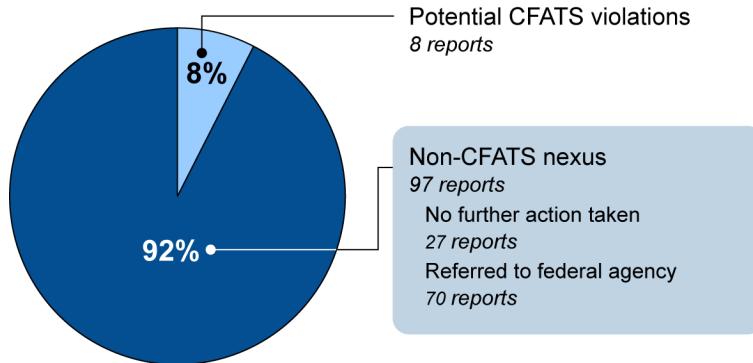
GAO recommends that DHS develop a documented process and procedures to address whistleblower retaliation reports, and provide additional guidance on the DHS whistleblower website and telephone tip line. DHS agreed with GAO's recommendations.

View [GAO-16-572](#). For more information, contact Chris Currie at (404) 679-1875 or [CurrieC@gao.gov](mailto:CurrieC@gao.gov).

#### What GAO Found

Of the 105 reports that the Department of Homeland Security (DHS) received under its interim process for whistleblowers from June 16, 2015 (the date DHS was mandated to begin collecting reports by), to April 19, 2016, DHS closed 97 because they did not pertain to Chemical Facility Anti-Terrorism Standards (CFATS) regulations, and referred 70 of the 97 to other federal agencies with legal authority relevant to the reports. DHS determined that 8 of the 105 reports involved potential CFATS violations, and after further review, that 1 report involved an actual CFATS violation. As a result of this report, DHS required the chemical facility to register with DHS as a CFATS-regulated facility.

Total Reports Received by DHS and Disposition for Reports, June 16, 2015 to April 19, 2016



Source: GAO analysis of Department of Homeland Security (DHS) data. | GAO-16-572

In June 2015, DHS implemented an interim process to respond to whistleblower reports involving CFATS and has followed its process since then; however, DHS does not have a documented process and procedures to investigate whistleblower retaliation reports. The Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (CFATS Act of 2014) prohibits retaliation against whistleblowers. According to DHS, the department has not received a report of whistleblower retaliation that it substantiated since implementing the interim process and any future retaliation reports would be addressed on a case-by-case basis. However, without a documented process and procedures for investigating whistleblower retaliation reports, DHS may not be able to effectively and efficiently investigate any future retaliation reports. In addition, DHS maintains a telephone tip line and a website with an e-mail address to receive CFATS whistleblower reports. However, the tip line greeting provides no guidance and the website provides limited guidance about the type of information that would be most useful to DHS for addressing the reports. GAO's analysis of 105 reports received by DHS from June 16, 2015, to April 19, 2016, identified challenges that DHS experienced in vetting reports due to insufficient information, such as the name or location of the chemical facility. Additional guidance explaining the detailed information that DHS needs to review reports could help reduce the amount of follow-up time to obtain this information.