



U.S. Department of
Transportation

The Inspector General

Office of Inspector General
Washington, DC 20590

March 27, 2015

The Honorable Ron Johnson
Chairman, Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Chairman, Committee on Judiciary
United States Senate
Washington, DC 20510

Dear Chairmen Johnson and Grassley:

Thank you for your February 27, 2015, letter requesting that the Department of Transportation (DOT) Office of Inspector General (OIG) provide information on the status of OIG open audit recommendations.¹ Specifically, you requested the following: (1) the current number of open recommendations, their dates, and cumulative estimated cost savings; (2) a description of all audits and investigations provided to the Agency for comment that did not receive a response within 60 days; (3) a report on each investigation involving GS-15 level employees (or equivalent) and above where misconduct was found but no prosecution resulted; (4) a description of any instances of whistleblower retaliation and any consequences imposed by the Agency; (5) a description of any attempts to interfere with our independence, including restricting our communications with Congress and budgetary constraints designed to limit our capabilities; (6) a description of any instances where the Department restricted or significantly delayed our access to information; and (7) a description of all closed audits and investigations that were not disclosed to the public. Unless otherwise indicated below, the following responses relay information concerning the second semiannual reporting period for fiscal year 2014.²

¹ Open recommendations include those for which the Department or an agency has either (1) concurred and proposed action plans but has yet to complete implementation, (2) completed the planned actions but has yet to provide us with supporting documentation, or (3) nonconcurrent.

² April 1, 2014, through September 30, 2014.

OIG Open Recommendations and Associated Estimated Cost Savings

As of March 1, 2015, we identified 626 open recommendations, which were included in 211 audit reports issued between July 18, 2007, and February 25, 2015. Of these, 41 recommendations (from 33 reports) carry an estimated monetary benefit or cost savings totaling over \$1.1 billion.³ Enclosure 1 provides detailed information on these financial recommendations.

Audits and Investigations Provided to the Agency for Comment Where No Agency Response Was Received Within 60 Days

We work closely with the Department to ensure timely responses to our draft audit reports. Of the 23 audit reports issued in draft for Agency comment during the reporting period, all agency responses were received within 60 calendar days.

It is not our practice to submit OIG investigations for review and comment by the Department. Consequently, we did not refer any closed investigations to DOT for comment during the reporting period.

Investigations Involving GS-15 Level Employees (or Equivalent) and Above Where Misconduct Was Found but No Prosecution Resulted

We closed three investigations (described below) during the reporting period that involved instances of misconduct by a GS-15 level or above employee, but no prosecution resulted.

Operating Administration	Referral Date⁴	Declination Date⁵
Pipelines and Hazardous Materials Safety Administration	January 10, 2012	April 29, 2013

Case Description

In connection with a proactive project to identify DOT employees and contractors who use DOT computers to access and download child pornography from the Internet, we discovered that the [REDACTED] Pipeline and Hazardous Materials Safety Administration (PHMSA), a GS-15, had accessed and viewed child pornography at work and at home. Monitoring of DOT network activity and forensic analysis of his work computer identified Internet search terms associated with child pornography. During an interview, he denied the activity; however, he gave consent for agents to search a personally owned laptop computer (he had at least one other computer he refused to allow agents to search). Forensic analysis of the personal laptop revealed four images that appeared to be child pornography. During a subsequent search warrant of his home, additional electronic media were seized and examined, which identified 39 images of suspected child pornography (including the 4 originally identified) and thousands of adult pornography (and bestiality) images and movie files.

This investigation was presented to the U.S. Department of Justice for criminal prosecution in the District of Columbia and District of Maryland, but the number of images did not meet those districts'

³ This figure includes funds that could be put to better use, questioned costs, and unsupported costs.

⁴ This date represents when the U.S. Department of Justice was initially consulted regarding this investigation.

⁵ This date represents when the U.S. Department of Justice decided not to seek criminal prosecution of the PHMSA employee.

prosecutorial threshold. With assistance from the District of Maryland, we brought the 39 images to the Montgomery County State Attorney's Office who ultimately charged the employee with possession of child pornography.

In July 2013, pursuant to our investigative findings, PHMSA placed the employee on administrative leave. He retired [REDACTED] 2013. With regard to the criminal charges, the employee asserted during plea negotiations that [REDACTED] may have been responsible for the child pornography on his home computer. On February 10, 2014, the State of Maryland entered a *nolle prosequi* in the criminal case, electing not to proceed to trial due to insufficient evidence.

Operating Administration	Referral Date	Declination Date
Pipelines and Hazardous Materials Safety Administration	N/A	N/A

Case Description

In a separate investigation into allegations of illegal computer use, examination of the emails of the GS-15 [REDACTED] PHMSA, indicated that he may have engaged in a prohibited personnel practice. Specifically, emails revealed that he encouraged a PHMSA [REDACTED] to apply for an upcoming PHMSA job vacancy and told her that he would "restrict [the vacancy] to a relatively few candidates" and "Since it is a promotion we need to pray a vet doesn't get the cert. Otherwise, I have to resubmit the job." We also discovered that he provided her a draft of the vacancy announcement and the criteria for selecting an applicant for the vacancy, including the questions to be answered by applicants and the weighting of each question. These actions gave the PHMSA [REDACTED] an unfair advantage over other applicants as she had more time to prepare her application and knowledge of which questions mattered most. Also, the evidence indicated that, as the selecting official, the [REDACTED] reviewed her resume for her before she submitted it as part of her application. The [REDACTED] was ultimately selected for the position.

The facts of this investigation did not indicate a criminal violation, so we referred it to PHMSA in September 2013 for appropriate action. Before PHMSA could propose disciplinary action against the [REDACTED] he retired in [REDACTED] 2013. With regard to the [REDACTED] PHMSA counseled her and re-advertised the position. After the second announcement, the [REDACTED] was selected for the position not by the [REDACTED] but by a different official.

Operating Administration	Referral Date	Declination Date
Federal Aviation Administration	N/A	N/A

Case Description

We conducted an investigation into allegations that a Federal Aviation Administration (FAA) K band Air Traffic Control Specialist (ATCS) from FAA's Philadelphia ATC Tower/Terminal Radar Approach Control violated Federal standards of ethical conduct when he displayed the FAA logo and listed FAA as an affiliate on his personal, consulting services Web site. We confirmed that the ATCS maintains a Web site on which he offers air traffic control "consulting and education services." We also confirmed that the Web site displayed the FAA logo and listed FAA as an "affiliate," which may have made it appear that FAA endorsed the ATCS's services.

The facts of this investigation did not indicate a criminal violation occurred, so we referred it to FAA in January 2014 for appropriate action. FAA concluded that there were no "outward" violations, other than the misuse of the Agency logo, which it requested that the ATCS remove from his Web site. FAA also issued general guidance to the ATCS on outside employment.

Whistleblower Retaliation and Agency Action

We did not close any investigations during the reporting period in which a DOT employee had been retaliated against for protected whistleblowing.

Interference with OIG Independence

We did not encounter any instances during the reporting period where DOT attempted to interfere with OIG independence, including either restricting communications between OIG and Congress or imposing budgetary constraints designed to limit the capabilities of OIG.

Delays and Access to Information

As we reported in our October 2014 audit on DOT's oversight of long, on-board flight delays,⁶ the Department initially denied us access to three items during the audit: (1) a draft notice of proposed rulemaking on enhancing airline passenger protections; (2) a draft contractor's report on the impact of tarmac delay regulations on flight cancellations and delays; and (3) DOT case files on open tarmac delay investigations. We were granted access to these items after the issue was elevated to the Secretary. This caused a minor delay but did not impact the scope of the audit. When we encounter delays and lack of timeliness in obtaining Agency documents, we work with Department officials at the proper level to resolve them. When appropriate, access and delay issues and their impact on the scope of our work are documented in our reports.

On January 23, 2015, Secretary Anthony Foxx issued *Ongoing Cooperation with the Office of Inspector General*, a memorandum transmitted to all DOT employees that outlines the Secretary's commitment to departmentwide cooperation with OIG and the critical role OIG plays in fulfilling DOT's mission. The Secretary emphasized OIG's authority to access "all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department relating to its programs and operations."⁷ The memorandum also reminds employees that information to which OIG has access includes "information that may be privileged, confidential, or otherwise exempt from disclosure under the law...." Enclosure 2 contains a copy of the Secretary's memorandum.

Closed Audits and Investigations Not Disclosed to the Public

It is our practice to post all closed non-sensitive audits and evaluations on our public Web site.⁸ Consequently, we have no previously undisclosed audits and evaluations to report. Additionally, due to continued congressional interest in information

⁶ *Oversight Weaknesses Limit DOT's Ability To Ensure Passenger Protections During Long, On-Board Flight Delays* (OIG Report Number AV-2015-001), Oct. 9, 2014.

⁷ 5 U.S.C. App. 3 sec. 6(a)(1).

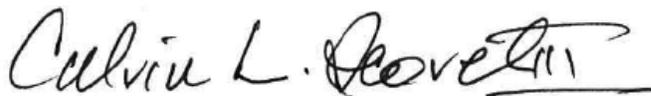
⁸ OIG reports are available on our Web site: <https://www.oig.dot.gov>.

concerning closed, non-public investigations, we now include these data in our Semiannual Reports to Congress, beginning with the Semiannual Report for the period April 1, 2014, through September 30, 2014. We can provide additional information on any of these closed investigations upon request.

We remain committed to supporting the Department through our objective and independent audits and investigations to improve the management and execution of programs and protect resources from fraud, waste, abuse, and violations of law. We appreciate the Department's responsiveness to our findings and recommendations and the Secretary's commitment to ensuring our access to Department information.

If you have any questions or need further information, please contact me at (202) 366-1959 or Nathan Richmond, Director and Counsel for Congressional and External Affairs, at (202) 493-0422.

Sincerely,

A handwritten signature in black ink that reads "Calvin L. Scovel III". The signature is written in a cursive style with a horizontal line underneath the name.

Calvin L. Scovel III
Inspector General

Enclosures (2)

***Department of Transportation, Office of Inspector General
Open Recommendations with Financial Benefits
as of March 1, 2015***

Audits				
Report Number: Title, Date	Recommendation	Funds Put to Better Use	Questioned Costs	Unsupported Costs
<i>Department-wide</i>				
QC2014015: Quality Control Review of Audited Financial Statements for Fiscal Years 2013 and 2012, DOT 12/16/2013	Continue to enforce the Department-wide requirement for the periodic operating administration certification of the open obligation balance that is inactive for 12 or more months.	\$518,000,000	\$0	\$0
QC2015011: Quality Control Review of Audited Consolidated Financial Statements for Fiscal Years 2014 and 2013, DOT 11/17/2014	KPMG recommend that all other OAs continue to timely review and monitor grant and non-grant undelivered orders to ensure that the recorded undelivered orders represent goods and services ordered and obligated, but not yet received, or potential amounts still to be claimed.	\$358,500,000		

Report Number: Title, Date	Recommendation	Funds Put to Better Use	Questioned Costs	Unsupported Costs
<i>Federal Aviation Administration</i>				
ZA2014018: FAA Needs To Improve ATCOTS Contract Management To Achieve Its Air Traffic Controller Training Goals 12/18/2013	Determine whether FAA should eliminate the cost incentive fee and modify the contract to a cost-plus-award-fee type.	\$14,100,000	\$0	\$0
AV2014035: FAA Oversight Is Inadequate To Ensure Proper Use of Los Angeles International Airport Revenue for Police Services and Maximization of Resources 04/08/2014	Determine the amount of Airport Improvement Program funds used for unsupported administrative fees that are recoverable and require Los Angeles World Airports to repay these costs to the Federal Government, if appropriate.	\$360,000	\$0	\$0
<i>Federal Highway Administration</i>				
ZA2009033: Oversight of Design and Engineering Firms' Indirect Costs Claimed on Federal-Aid Grants 02/05/2009	By implementing the recommendations in this report, FHWA could put approximately \$30.2 million in future Federal-aid funds to better use.	\$30,200,000	\$0	\$0

Report Number: Title, Date	Recommendation	Funds Put to Better Use	Questioned Costs	Unsupported Costs
ZA2009033: Oversight of Design and Engineering Firms' Indirect Costs Claimed on Federal-Aid Grants 02/05/2009	Recover \$2.8 million in unallowable executive compensation and \$1.6 million in other unallowable indirect charges.	\$0	\$4,400,000	\$0
ZA2012084: Lessons Learned From ARRA: Improved FHWA Oversight Can Enhance States' Use of Federal-Aid Funds 04/05/2012	Complete a nationwide assessment to determine current levels of competition for Federal-aid contracts; evaluate factors affecting competition; identify State DOT contract award practices that may need improvement; and address perceived barriers to State DOT implementation of FHWA, AASHTO, and other best practices for improving competition.	\$179,000,000	\$0	\$0

Single Audits				
Report Number: Title, Date	Recommendation	Funds Put to Better Use	Questioned Costs	Unsupported Costs
<i>Federal Aviation Administration</i>				
SA2013133: Federated States of Micronesia National Government 09/13/2013	We recommend FAA recover \$377,757 of Questioned Costs from the Micronesia National Government.	\$0	\$377,757	\$0
SA2013133: Federated States of Micronesia National Government 09/13/2013	We recommend FAA recover \$37,094 from the Micronesia National Government.	\$0	\$37,094	\$0
SA2014075: Town of Kentland, Indiana 08/01/2014	We recommend FAA recover \$105,200 from the Town, if applicable.	\$0	\$105,200	\$0
SA2014102: Federated States of Micronesia 09/10/2014	We recommend FAA recover \$203,683 from the Federated States, if applicable.	\$0	\$203,683	\$0
SA2014104: Gary Chicago International Airport Authority, Lake County, Indiana 09/10/2014	We recommend FAA recover \$ 9,329,501 from the Authority, if applicable.	\$0	\$9,329,501	\$0

Report Number: Title, Date	Recommendation	Funds Put to Better Use	Questioned Costs	Unsupported Costs
<i>Federal Highway Administration</i>				
SA2013105: Pueblo of Pojoaque, New Mexico 07/12/2013	We recommend FHWA recover \$233,610 from the Pueblo, if applicable.	\$0	\$233,610	\$0
SA2013111: Cheyenne River Sioux Tribe, South Dakota 07/12/2013	We recommend FHWA recover \$199,333 from the Tribe, if applicable.	\$0	\$199,333	\$0
SA2014045: Spirit Lake Tribe, North Dakota 05/21/2014	We recommend FHWA recover \$17,190 from the Tribe, if applicable.	\$0	\$17,190	\$0
SA2014073: Commonwealth of the Northern Mariana Island 08/01/2014	We recommend FHWA recover \$12,515 from the Commonwealth, if applicable.	\$0	\$12,515	\$0
SA2014099: State of Hawaii Department of Transportation Highway Division 09/10/2014	We recommend FHWA ensure the Division complies with Allowable Costs/Cost Principles Requirements and recover \$111,284 from the Division, if applicable.	\$0	\$111,284	\$0
SA2014115: State of Texas 09/12/2014	We recommend FHWA ensure the State complies with Special Tests and Provisions Requirements and recover \$13,700 from the State, if applicable.	\$0	\$13,700	\$0

Report Number: Title, Date	Recommendation	Funds Put to Better Use	Questioned Costs	Unsupported Costs
SA2014128: Cheyenne River Sioux Tribe, South Dakota 09/17/2014	We recommend FHWA recover \$152,057 from the Tribe, if applicable.	\$0	\$152,057	\$0
SA2015021: Klawock Cooperative Association, Klawock, Alaska 02/06/2015	We recommend FHWA recover \$16,653 from the Association, if applicable.	\$0	\$16,653	\$0
SA2015021: Klawock Cooperative Association, Klawock, Alaska 02/06/2015	We recommend FHWA recover \$13,869 from the Association, if applicable.	\$0	\$13,869	\$0
SA2015021: Klawock Cooperative Association, Klawock, Alaska 02/06/2015	We recommend FHWA recover \$19,004 from the Association, if applicable	\$0	\$19,004	\$0
<i>Federal Transit Administration</i>				
SA2010078: City of Roanoke, Virginia 07/22/2010	We recommend that FTA ensure the City abides by Federal and City procurement requirements and recover \$543,307 from the City, if applicable.	\$0	\$543,307	\$0
SA2011124: State of Tennessee 06/13/2011	We recommend that FTA determine the allowability of the reimbursement requests and recover \$79,021 from the State, if applicable.	\$0	\$79,021	\$0

Report Number: Title, Date	Recommendation	Funds Put to Better Use	Questioned Costs	Unsupported Costs
SA2011124: State of Tennessee 06/13/2011	We recommend that FTA recover \$452,370 from the State.	\$0	\$452,370	\$0
SA2011124: State of Tennessee 06/13/2011	We recommend FTA recover \$23,511 from the State.	\$0	\$23,511	\$0
SA2012103: State of Tennessee 05/02/2012	We recommend FTA recover \$17,867 from the State.	\$0	\$17,867	\$0
SA2013015: Commuter Rail Division of the Regional Transportation Authority and the Northeast Illinois Regional Commuter Railroad Corporation METRA 11/15/2012	Work with MOHS to develop an action plan, with milestones.	\$0	\$1,267,845	\$0
SA2013126: Metropolitan Transportation Authority, New York 09/13/2013	We recommend FTA recover \$365,775 from the Authority, if applicable.	\$0	\$365,775	\$0
SA2013131: City of Middletown, Ohio 09/13/2013	We recommend FTA recover \$70,795 from the City, if applicable.	\$0	\$70,795	\$0

Report Number: Title, Date	Recommendation	Funds Put to Better Use	Questioned Costs	Unsupported Costs
SA2014047: State of Maryland 05/21/2014	We recommend FTA recover \$140,428 from the State, if applicable.	\$0	\$140,428	\$0
SA2014051: Southeast Michigan Council of Governments 05/21/2014	We recommend FTA recover \$16,105 from the Council, if applicable.	\$0	\$16,105	\$0
SA2014071: Metropolitan Transit Authority of Harris County, Texas 08/01/2014	We recommend FTA recover \$22,238 from the Authority, if applicable.	\$0	\$22,238	\$0
SA2014095: State of Tennessee 09/08/2014	We recommend FTA ensure the State complies with Allowable Costs/Cost Principles Requirements and recover \$46,167 from the State; if applicable.	\$0	\$46,167	\$0
SA2014096: State of Connecticut 09/08/2014	We recommend FTA determine the allowability of the transaction and recover \$1,179,304 from the State, if applicable.	\$0	\$1,179,304	\$0
SA2014101: City of Fort Smith, Arkansas 09/10/2014	We recommend FTA ensure the City complies with Cash Management Requirements and recovers \$53,625 from the City, if applicable.	\$0	\$53,625	\$0
SA2014103: State of Nebraska 09/10/2014	We recommend FTA ensure the State complies with Allowability, Suspension and Debarment, and Subrecipient Monitoring Requirements and recover \$108,169 from the State, if applicable.	\$0	\$108,169	\$0

Report Number: Title, Date	Recommendation	Funds Put to Better Use	Questioned Costs	Unsupported Costs
SA2014121: Livingston County, Michigan 09/17/2014	We recommend FTA recover \$128,931 from the County, if applicable.	\$0	\$128,931	\$0
SA2014121: Livingston County, Michigan 09/17/2014	We recommend FTA recover \$60,292 from the County, if applicable.	\$0	\$60,292	\$0
SA2014127: Utah Transit Authority 09/17/2014	We recommend FTA ensure the Authority complies with Cash Management Requirements and recovers \$10,862 from the Authority, if applicable.	\$0	\$10,862	\$0
<i>National Highway Traffic Safety Administration</i>				
SA2014103: State of Nebraska 09/10/2014	We recommend NHTSA ensure the State complies with Allowable Costs/Cost Principles Requirements and recover \$16,719 from the State, if applicable.	\$0	\$16,719	\$0
Total		\$1,100,160,000	\$19,845,781	\$0
GRAND TOTAL: Funds Put to Better Use, Questioned Costs, Unsupported Costs				\$1,120,005,781



THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

January 23, 2015

MEMORANDUM

To: All U.S. Department of Transportation Employees
From: Anthony R. Foxx 
Subject: Ongoing Cooperation with the Office of Inspector General

The mission of the U.S. Department of Transportation (DOT) is to serve the United States by ensuring a fast, safe, efficient, accessible, and convenient transportation system that meets our vital national interests and enhances the quality of life of the American people, today and into the future. As employees of DOT, each of us, including the Inspector General, plays a critical role in fulfilling this mission. The Office of Inspector General (OIG) is a crucial and valued part of the Department and is responsible for pursuing economy, efficiency, and effectiveness in Departmental programs and operations, as well as for preventing and detecting waste, fraud, abuse, and mismanagement.

Consistent with law and the Department's longstanding practice of supporting the work of the Inspector General, I want to remind you that the Department and its employees have a duty to cooperate with the OIG, as that office fulfills its responsibilities under the Inspector General Act (the IG Act). Cooperation includes, but is not limited to, providing information and assistance consistent with the terms of the IG Act, 5 U.S.C. App. 3 § 6, in a timely manner. Among other things, the IG Act authorizes "the Inspector General... to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Department relating to its programs and operations." 5 U.S.C. App. 3 § 6(a)(1).

Information to which the Inspector General has access may include information that may be privileged, confidential, or otherwise exempt from disclosure under the law, such as the Freedom of Information Act or the Privacy Act. In providing privileged or confidential information to the Inspector General's office, Department employees should identify and clearly mark such information. The OIG will treat such information in accordance with applicable statutes and regulations. Providing such information to the OIG will not constitute a waiver of any privileges that may attach to the information. In addition to the IG Act, DOT Orders 8000.6B, 8000.5A, and 8000.8 provide a summary of the policies and procedures applicable to OIG audits, investigations, and other reviews, including interaction between the OIG and Departmental offices.

Finally, as a reminder, reprisals against employees who provide such information or report allegations of waste, fraud, and abuse to OIG are against the law and Departmental policy. If you have any questions about your obligations to cooperate with requests by authorized representatives of the OIG or regarding the OIG's legal authority, you may contact your supervisor, the Department's Office of Audit Relations, the Office of General Counsel, or your Operating Administration's Audit Liaison or Chief Counsel's Office.

I sincerely thank you for your invaluable contributions to this Department and for continuing to ensure that the OIG is able to carry out its responsibilities for the benefit of the Department, the Federal Government, and the American people.