



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

The Inspector General

Office of Inspector General  
Washington, DC 20590

September 25, 2015

The Honorable Jason Chaffetz  
Chairman, Committee on Oversight  
and Government Reform  
United States House of Representatives  
Washington, DC 20515

The Honorable Elijah E. Cummings  
Ranking Member, Committee on Oversight  
and Government Reform  
United States House of Representatives  
Washington, DC 20515

Dear Chairman Chaffetz and Ranking Member Cummings:

Thank you for your August 27, 2015, letter regarding Department of Transportation (DOT) Office of Inspector General (OIG) access to DOT documents, information, and employees. Specifically, you requested that we describe instances within the last two years where DOT has refused, delayed, or improperly conditioned OIG access to agency documents, information, or employees, as well as instances where access was granted but DOT asserted that it was not required to supply such access under the Inspector General Act and may not comply with similar requests in the future.

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.

As we wrote in our March 2015 correspondence<sup>1</sup> and reported in our October 2014 audit on DOT's oversight of long, on-board flight delays,<sup>2</sup> the Department initially denied us access to three items during that audit: (1) a draft notice of proposed rulemaking on enhancing airline passenger protections; (2) a draft contractor's report

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<sup>1</sup> *Letter to Chairman Chaffetz and Ranking Member Cummings on OIG's Open Audit Recommendations* (OIG Correspondence Number CC-2015-005), March 11, 2015.

<sup>2</sup> *Oversight Weaknesses Limit DOT's Ability To Ensure Passenger Protections During Long, On-Board Flight Delays* (OIG Report Number AV-2015-001), October 9, 2014.

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.

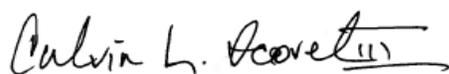
Additionally, as reported in our June 2015 audit on Hurricane Sandy oversight and emergency relief efforts,<sup>3</sup> the Federal Transit Administration (FTA) was not always timely in providing documentation and scheduling interviews between FTA staff and OIG auditors. This caused a minor delay but did not impact the scope of the audit.

On January 23, 2015, Secretary Anthony Foxx transmitted a memorandum to all DOT employees regarding *Ongoing Cooperation with the Office of Inspector General*. The memorandum outlines the Secretary's commitment to Department-wide cooperation with OIG, stating the critical role OIG plays in fulfilling DOT's mission. The Secretary further 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."<sup>4</sup> 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...." Enclosed please find a copy of the Secretary's memorandum.

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 responding timely to our findings and recommendations and the Secretary's commitment to ensuring our access to Departmental 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,



Calvin L. Scovel III  
Inspector General

Enclosure

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<sup>3</sup> *FTA Has Not Fully Implemented Key Internal Controls for Hurricane Sandy Oversight and Future Emergency Relief Efforts*, (OIG Report Number ST-2015-046), June 12, 2015.

<sup>4</sup> 5 U.S.C App. 3 sec. 6(a)(1).



**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

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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.