



FAA's Office of Audit and Evaluation Adheres to Investigative Practice Standards but Lacks Comprehensive Standard Operating Procedures

Requested by the Federal Aviation Administrator

Federal Aviation Administration | PT2023013 | January 25, 2023

What We Looked At

The Federal Aviation Administration's (FAA) Office of Audit and Evaluation (AAE) investigates alleged lapses in aviation safety and oversight; violations of FAA regulations, orders, standards, or policies; and other whistleblower disclosures. In December 2020, a Senate committee reported that AAE did not necessarily conduct independent, objective, or impartial investigations and evaluations. In January 2021, the Federal Aviation Administrator asked our office to conduct a review of the office's practices. Our objectives were to evaluate whether AAE (1) aligned its practices for investigations of internal whistleblower safety disclosures with applicable investigative standards, benchmarks, or best practices; (2) documented sufficiency reviews of hotline investigations it referred to FAA lines of business (LOB) with best practices; and (3) complied with requirements in the Aircraft Certification, Safety, and Accountability Act of 2020.

What We Found

AAE's investigative practices align with applicable quality standards. However, the office lacks comprehensive written standard operating procedures to reinforce its internal controls. In addition, AAE does not have a method to track and document sufficiency reviews of hotline investigations it referred to FAA's LOBs. Specifically, AAE reviewers did not maintain documentation supporting their sufficiency review conclusions. As a result, AAE cannot demonstrate that its review of investigations it referred to LOBs was of quality and consistent. Finally, FAA has only partially met the Aircraft Certification, Safety, and Accountability Act's requirements for AAE's organizational structure. FAA reorganized AAE in February 2022—renaming one sub-office as the Office of Whistleblower Aviation Safety Investigations and adding an Office of Whistleblower Ombudsman. However, until FAA limits the duties of the AAE Director, which are currently broader, to the specific activities listed in the act, AAE will not have fully implemented the law's requirements.

Our Recommendations

We made four recommendations to improve AAE's compliance with applicable standards and statutory requirements for whistleblower investigations and hotline sufficiency reviews. FAA concurred with all four recommendations and provided appropriate actions and completion dates.

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Memorandum

Date: January 25, 2023

Subject: ACTION: FAA's Office of Audit and Evaluation Adheres to Investigative Practice Standards but Lacks Comprehensive Standard Operating Procedures | Report No. PT20;

From: Charles A. Ward 
Principal Assistant Inspector General for Auditing and Evaluation

To: Federal Aviation Administrator

The Federal Aviation Administration's (FAA) Office of Audit and Evaluation (AAE) investigates alleged lapses in aviation safety and/or oversight; violations of FAA regulations, orders, standards, or policies; and other whistleblower disclosures. Whistleblowers disclose information on violations of law, gross mismanagement and waste of funds, abuse of authority, or substantial and specific dangers to public safety.¹

In 2008, FAA established AAE to provide a central focus for safety-related audits and investigations. A few years later, the FAA Modernization and Reform Act of 2012² created an Aviation Safety Whistleblower Investigation Office within the Agency. FAA decided that AAE would fulfill the role of the office created by Congress. In January 2012, FAA realigned AAE as an independent organization reporting directly to the Federal Aviation Administrator.

In December 2020, a Senate committee reported significant lapses in aviation safety oversight and leadership within FAA.³ Among its findings, the committee concluded that AAE did not necessarily conduct independent, objective, or

¹ Whistleblower Protection Act of 1989, Pub. L. No. 101-12 (1989).

² Pub. L. No. 112-95 § 341 (2012).

³ U.S. Senate Committee on Commerce, Science, and Transportation, Committee Investigation Report, *Aviation Safety Oversight*, December 2020.

impartial investigations and evaluations. AAE often referred whistleblower and other complaints back to the line of business⁴ (LOB) identified in the complaint.

That same month, the Aircraft Certification, Safety, and Accountability Act⁵ of 2020 updated the 2012 law. Among other provisions, this legislation created a whistleblower ombudsman within the newly named Office of Whistleblower Protection and Aviation Safety Investigations. The ombudsman has several responsibilities, including educating and coordinating with Department of Transportation (DOT) officials and external agencies on whistleblower retaliation and serving as a confidential resource for FAA employees disclosing potential retaliation allegations.

The 2020 act also specifically limited the duties of the Director of the Office of Whistleblower Protection and Aviation Safety Investigations to receiving and assessing complaints and information submitted on aviation safety concerns, making recommendations based on assessment findings, receiving complaints of whistleblower retaliation and supporting other agencies' investigations of the complaints, or investigating the complaints if specifically delegated to do so by the other agencies.

In January 2021, the Federal Aviation Administrator asked the Office of Inspector General (OIG) to review both AAE and the Security and Hazardous Materials Safety Office of Investigations' (AXI) policies, procedures, and practices for conducting investigations. Our review was limited to AAE, and we are also conducting a separate review of AXI. In light of the facts described above and the Administrator's request, our objectives for this review were to evaluate whether AAE (1) aligned its practices for investigations of internal whistleblower safety disclosures with applicable investigative standards, benchmarks, or best practices; (2) documented sufficiency reviews of hotline investigations referred to FAA lines of business with best practices; and (3) complied with requirements in the Aircraft Certification, Safety, and Accountability Act of 2020.

We conducted this review in accordance with generally accepted Government auditing standards. To address our objectives, we selected and evaluated 4 of 15⁶ investigations of whistleblower safety disclosures that AAE closed—2 each from fiscal years 2020 and 2021. Specifically, we evaluated AAE's practices for conducting interviews and taking witness statements; gathering evidence and collecting data; maintaining records; preparing reports of investigation; following

⁴ A line of business (LOB) is an FAA organization with a primary function of providing a safe and efficient aerospace system. The Agency's LOBs include: Air Traffic Organization, Airports, Aviation Safety, and Commercial Space Transportation.

⁵ Pub. L. No. 116-260, § 133 (a) and (b) (2020); 49 U.S. Code (U.S.C.) § 106(t).

⁶ We relied on AAE's representation that it completed 15 investigations during fiscal years 2020 and 2021. We did not verify these data.

up; overseeing investigator qualifications; maintaining confidentiality, discretion, and objectivity; and complying with internal controls. We also reviewed three AAE sufficiency reviews of hotline investigations referred to LOBs. Our audit scope did not include validating the results of AAE investigations of whistleblower safety disclosures or LOB hotline investigations. Exhibit A details our scope and methodology. Exhibit B lists the organizations we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of DOT representatives during this audit. If you have any questions concerning this report, please contact me or Kerry R. Barras, Program Director.

cc: The Secretary
DOT Audit Liaison, M-1
FAA Office of Chief Counsel, AGC

Background

AAE established an intake process for hotline complaints and other information that may result in whistleblower safety investigations. Based on administrative practices that AAE adopted, the office can conduct investigations in-house, forward them to the OIG, or refer them to an LOB. AAE conducts multiple in-house investigations of whistleblower safety disclosures each fiscal year and closed 15 of these investigations in fiscal years 2020 and 2021. AAE has 17 employees, including a Director, Ombudsman, investigators, and support staff.

AAE's in-house investigations make up a fraction of the approximately 3,000 hotline complaints the office receives each fiscal year. Because AAE has only three investigative staff and two investigative managers, it refers almost all hotline complaints to LOBs. These LOBs are required to document their investigations of complaints through Investigative Results Reports (IRR). AAE supervisors and senior investigators conduct sufficiency reviews of IRRs. Referring investigations to other entities is an accepted practice in the whistleblower and hotline investigation community.

According to AAE, investigations of whistleblower safety disclosures generally follow in principle and practice the *Quality Standards for Investigations* (QSI) developed by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). The QSI comprises three general standards—Qualifications, Independence, and Due Professional Care—and four qualitative standards—Planning, Execution, Reporting, and Information Management. Although the QSI are not a requirement for AAE, they provide a framework to evaluate adherence to foundational practices within investigative processes.⁷

CIGIE's *Quality Assessment Review Guidelines for Investigative Operations of Federal Offices of Inspector General* (QAR) provides methodology for evaluating compliance with the QSI. While AAE is not an OIG, the QAR includes guidelines, questionnaires, and checklists for reviewing investigative processes and maintaining records that any organization can use to conduct investigations. The QAR includes two tools for evaluating compliance with the QSI.

- QAR Appendix C-1, *Assessment of Compliance with the CIGIE Quality Standards for Investigations*, provides a tool for assessing compliance with the QSI. The checklist examines the existence and implementation of adequate policies, procedures, and practices related to a variety of investigative case types, including criminal, civil, and administrative.

⁷ AAE follows FAA's Human Resources Policy Manual and Management Inquiry guidelines.

- QAR Appendix D-1, *CIGIE Investigations Quality Assessment Review: Individual Closed Case Review Checklist*, provides a tool for reviewing closed case files to assess conformity with the QSI. This checklist has 35 questions based on 6 of 7 standards: Independence, Due Professional Care, Planning, Execution, Reporting, and Information Management.

The Government Accountability Office's (GAO) Internal Control Standards⁸ provide criteria for designing, implementing, and operating an effective internal control system through 5 components and 17 principles. These standards are integral to an entity's internal control system and clarify processes management should consider to be part of internal control. One internal control component is control activities—policies, procedures, techniques, and mechanisms that enforce management's directives to achieve objectives and address related risks. The standards require entities to document these control activities to demonstrate the effectiveness of their internal control systems.

Results in Brief

While AAE's investigative practices align with CIGIE quality standards, the office lacks comprehensive written procedures to reinforce compliance.

AAE's Office of Internal Disclosures and Whistleblower Safety Investigations substantially met in practice the quality standards outlined in the QSI and QAR developed by CIGIE, including those for independence and due professional care. We evaluated a sample of 4 of the 15 investigations of whistleblower safety disclosures that AAE closed in fiscal years 2020 and 2021. For those 4 investigations, AAE complied with 27 of 35 QAR Appendix D-1 checklist items in 2 cases and 25 of 35 checklist items in the other 2 cases. Based on our assessment, the remaining D-1 checklist items were not applicable to AAE investigations. However, while investigative practices align with quality standards, AAE lacked comprehensive written standard operating procedures to reinforce its controls in line with GAO's Internal Control Standards and the QSI. Specifically, we determined that AAE's procedures did not fully comply with 6 of the Internal Control Standards' 17 principles. In regards to the 55 applicable QAR Appendix C-1 checklist items, AAE complied with 8 items, had limited or partial compliance with 11 items, and lacked any procedures for 24 items. The remaining 12 items did not apply to AAE investigations. Due to these internal control weaknesses, although we found AAE's investigations of whistleblower safety disclosures in

⁸ *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 10, 2014.

compliance, the lack of procedures puts AAE at risk of not being able to ensure its work will always meet CIGIE standards.

AAE does not have a method to track and document its sufficiency reviews of LOB investigation reports.

AAE's Office of External Whistleblower Disclosures and Safety Hotlines conducts sufficiency reviews as independent quality control evaluations of LOB Investigative Results Reports.⁹ While AAE tracks hotline complaints in its electronic system, it cannot readily track the number of sufficiency reviews it completed because the office does not have a method to track them. AAE reviewers also did not maintain documentation of the sufficiency reviews, such as information to support their conclusions. Instead, we noted that AAE reviewers simply placed a brief note on the investigative results in the electronic case file. Without sufficient tracking and documentation to support its conduct and completion of sufficiency reviews, AAE cannot demonstrate that its review of hotline investigations referred to LOBs is conducted with quality and is consistent.

FAA has not yet fully met statutory requirements for AAE's organizational structure.

FAA has not yet fully implemented the requirements of the Aircraft Certification, Safety, and Accountability Act of 2020. FAA reorganized AAE in February 2022. Specifically, it renamed one sub-office as the Office of Whistleblower Aviation Safety Investigations and added an Office of Whistleblower Ombudsman. In doing so, the Agency named an Ombudsman and has hired one of the three additional positions designated for this office. FAA plans to fill the remaining two slots in fiscal year 2023. However, FAA is considering whether to limit the duties of the AAE Director to the specific activities listed in the act; until this occurs, AAE will not have fully implemented the act's requirements.

We are making recommendations to improve AAE's compliance with applicable standards and statutory requirements for whistleblower investigations and hotline sufficiency reviews.

⁹ An Investigative Results Report is a summary of LOB investigation results, which can include a description of allegations, information on the office which conducted the investigation, and a response to each allegation.

While AAE’s Investigative Practices Align With CIGIE Quality Standards, the Office Lacks Comprehensive Written Procedures To Reinforce Compliance

The AAE Office of Internal Disclosures and Whistleblower Safety Investigations’ practices for conducting investigations of whistleblower safety disclosures met investigative quality standards outlined in the QSI and QAR. However, AAE lacks comprehensive written standard operating procedures to reinforce its investigators’ compliance with GAO’s Internal Control Standards and the QSI.

AAE Investigative Practices Substantially Adhere to CIGIE Quality Standards

AAE’s Office of Internal Disclosures and Whistleblower Safety Investigations substantially met in practice the quality standards outlined in the QSI and QAR developed by CIGIE, including those for independence and due professional care. Table 1 identifies the quality standards covered by the 35 D-1 checklist questions and how many of each applied to AAE’s compliance with the standards.¹⁰ We selected the investigations—2 each from fiscal years 2020 and 2021—from a list of 15 completed cases that AAE provided to us. To evaluate AAE’s compliance with the quality standards, we applied the QAR Appendix D-1 checklist to the AAE case file documentation for each of the four selected investigations.¹¹

We determined that AAE complied with the appendix D-1 checklist and the associated QSI for each of the four investigations we evaluated.¹² Specifically, AAE complied with 27 of 35 checklist items in 2 cases and 25 of 35 checklist items in 2 other cases.

¹⁰ Appendix D-1 addresses six of the seven QSI Standards. The remaining standard, Qualifications, was not incorporated into the checklist, as it is a tool for evaluating case files rather than an investigator’s qualifications. Appendix C-1 includes identification of policies related to investigator qualifications.

¹¹ In general, we reviewed interview notes, listened to recorded interviews, reviewed policies and procedures identified in case files, and compared original complaints to reports of investigation and associated documentation.

¹² Appendix D-1 states that when answers to certain questions are not readily available or apparent, the review team should assess whether there is clear, specific, and articulable information in the case file to suggest the standard was violated. The D-1 checklist applies to agency practices conducted on a closed investigation, and the C-1 checklist is more global/policy related. We encountered three questions on the D-1 checklist that asked whether the investigator followed agency procedures for certain areas; however, AAE did not have written procedures for those areas. Therefore, we concluded that it would be more appropriate to address the general lack of written procedures in reference to the C-1 checklist rather than the D-1 checklist.

Table 1. Quality Standards and Areas Covered by the Appendix D-1 Checklist

Quality Standards	D-1 Checklist Number of Questions Covered	Areas Covered by the Appendix D-1 Checklist
Independence	1	Objectivity
Due Professional Care	6	Following up, confidentiality and discretion, objectivity, preparing reports of investigation, evidence gathering and data collection
Planning	4	Internal controls
Execution	15	Objectivity, conducting interviews and taking witness statements, records maintenance, internal controls, evidence gathering and data collection
Reporting	6	Preparing reports of investigation, evidence gathering and data collection, objectivity, following up, internal controls
Information Management	3	Internal controls, records maintenance

Source: OIG analysis of appendix D-1

Based on our assessment, the remaining checklist items were not applicable to AAE investigations. Five questions applied to criminal investigations, which AAE does not conduct. Three questions applied to following Agency-specific policies and procedures covering multiple topics related to internal controls, records maintenance, reporting, and conducting interviews. Since AAE did not have specific policies and procedures that governed those three questions, we could not evaluate AAE's compliance.

For the 2 investigations with 25 compliant items, 2 additional questions did not apply as the case file did not contain the specific items requested in the checklist. For example, one case file lacked a documented investigative plan.

In summary, our review did not disclose any instances in which AAE did not comply with the CIGIE standards, including those for independence and due professional care.

AAE Lacks Comprehensive Standard Operating Procedures for Investigations of Whistleblower Safety Disclosures

AAE lacks comprehensive written standard operating procedures to ensure its investigations of whistleblower safety disclosures follow GAO's Internal Control Standards and the QSI.

GAO states that documentation is necessary to demonstrate the design, implementation, and operating effectiveness of an internal control system. We identified weaknesses in AAE’s compliance with 6 of 17 principles in the Internal Control Standards caused by a lack of documentation (see table 2).

Table 2. OIG Assessment of AAE’s Internal Control Weaknesses

GAO’s Internal Control Standard Number	Internal Control Weaknesses Resulting From a Lack of Documentation
2	Unable to ensure the oversight body oversees the entity’s internal control system.*
6	Unable to ensure management defines objectives clearly to enable risk identification and definition of risk tolerances.
10	Unable to ensure that management designs control activities to achieve objectives and respond to risks.
11	Unable to ensure that management designs the entity’s information system and related control activities to achieve objectives and respond to risks.
12	Unable to implement control activities through policies.
16	Unable to establish and monitor activities to observe and evaluate the control system effectively.

*AAE did not have detailed written standard operating procedures to guide its investigations of whistleblower safety disclosures.

Source: OIG analysis

The QSI states that to facilitate due professional care, organizations should establish written policies and procedures via a handbook, manual, directive, or similar mechanism that is revised regularly in accordance with evolving laws, regulations, and Executive Orders.

AAE investigators follow FAA Order 1100.167B, which provides an organizational structure and defines AAE’s functions and responsibilities. However, the Order is not comprehensive in guiding AAE’s day-to-day operations. As table 3 shows, of 55 QAR Appendix C-1 checklist questions, AAE complied with 8 items, had limited or partial compliance with 11 items, and lacked any procedures for 24 items. The remaining 12 items did not apply to AAE investigations.

Despite a lack of comprehensive written standard operating procedures, AAE investigators follow the QSI in principle and practice. However, the internal control weaknesses we identified include the lack of fully documented and up-to-date policies and procedures. Due to these internal control weaknesses, AAE’s investigations of whistleblower safety disclosures may not ensure compliance with the CIGIE standards.

Table 3. OIG’s Evaluation of AAE’s Compliance With Appendix C-1 Categories and Areas Covered by AAE Investigations

Appendix C-1 Categories	# of Questions Covered	Scope Areas Covered by AAE Investigations	Procedures	Partial Procedures	No Procedures	Did Not Apply
Qualifications	4	Investigator training and qualifications	1	0	1	2
Independence	10	Objectivity	3	0	7	0
Due Professional Care	13	Following up, confidentiality and discretion, objectivity, preparing reports of investigation, evidence gathering and data collection, records maintenance.	0	3	5	5
Planning	4	Internal controls	1	0	3	0
Execution	8	Objectivity, conducting interviews, witness statements, records maintenance, internal controls, evidence gathering, data collection	2	0	2	4
Reporting	4	Preparing reports of investigation, evidence gathering and data collection, objectivity, following up, internal controls	1	0	3	0
Information Management	12	Internal controls, records maintenance	0	8	3	1
Total	55	7	8	11	24	12

Source: OIG analysis

AAE Does Not Have a Method To Track and Document Its Sufficiency Reviews of LOB Investigation Reports

AAE has established an intake process for hotline complaints and other information that may result in whistleblower safety investigations. Based on administrative practices that AAE adopted, the office can conduct investigations in-house, forward them to OIG, or refer them to an LOB. AAE's in-house investigations make up a fraction of the approximately 3,000 hotline complaints the office receives each fiscal year. Due to resource constraints, AAE refers almost all hotline complaints to LOBs, which are required to document their investigations of complaints through IRRs. AAE supervisors and senior investigators conduct sufficiency reviews of IRRs. Referring investigations to other entities is an accepted practice in the whistleblower and hotline investigation community and is not prohibited by the QSI.

However, AAE does not have a method to track and document sufficiency reviews of IRRs it receives from LOBs conducting hotline investigations. AAE supervisors and senior investigators conduct these sufficiency reviews as independent quality control evaluations of the IRRs. The sufficiency review determines whether IRRs contain certain elements, such as whether the LOB addressed each allegation in the hotline report.

According to AAE, the office tracks hotline investigations through the FAA Hotline Information System—its electronic case management system—and assigned over 3,000 hotline investigations for action in fiscal year 2020. However, AAE does not have a similar method for tracking the number of sufficiency reviews it conducts.

Furthermore, AAE did not maintain full documentation to support the conduct and outcome of sufficiency reviews. GAO's Internal Control Standards state that effective documentation assists in management's design of internal controls by establishing and communicating the who, what, when, where, and why of internal control execution to personnel and provides a means to communicate that knowledge as needed to external parties, such as auditors.

We randomly selected sufficiency reviews of hotline investigations to determine if AAE followed its policies, procedures, processes, and best practices.¹³ We found that AAE lacked best practice elements for documenting information regarding

¹³ OIG's Complaint Center Operation's Closing Sheet provides a best practice for documenting quality control reviews.

who reviewed the investigation results, the allegation, the LOB finding, a review of the results, and timeliness.

Due to the lack of supporting documentation, we evaluated only three sufficiency reviews before we discontinued our analysis. For two of the three reviews, AAE recorded a comment that documented the hotline investigation could be closed and placed that note in the electronic case file. However, the third review lacked details to support the closed comment. Table 4 shows the results of our limited evaluations associated with the three sufficiency reviews.

Table 4. OIG’s Evaluation of Three Sufficiency Reviews

Investigation Closed	Case Summary	Case Disposition	Sufficiency Review Details
April 2020	Improper parts documentation; shipping bad parts.	Unsubstantiated	OK to close
July 2020	Information technology and the potential impact on aviation safety.	Substantiated (in part)	None
November 2020	Unacceptable controller behavior.	Substantiated (in full)	OK to close

Source: OIG analysis

Following completion of our review, AAE provided us with another sufficiency review of a specific subset of investigations related to external whistleblower safety disclosures. Although this example was more adequately aligned with best practices, AAE conducts this review on average 150 times a year, which represents less than 5 percent of all sufficiency reviews.

Without sufficient tracking and documentation to support its conduct and completion of all sufficiency reviews, AAE cannot demonstrate that it has quality and consistent reviews of hotline investigations referred to LOBs.

FAA Has Not Yet Fully Met Statutory Requirements for AAE’s Organizational Structure

The Aircraft Certification, Safety, and Accountability Act of 2020 created a whistleblower ombudsman with several responsibilities, including educating and coordinating with DOT officials and external agencies on whistleblower retaliation and serving as a confidential resource for FAA employees disclosing potential retaliation allegations. The 2020 act also specifically limited the duties of the Director of the Office of Whistleblower Protection and Aviation Safety

Investigations to receiving and assessing complaints and information submitted on aviation safety concerns, making recommendations based on assessment findings, receiving complaints of whistleblower retaliation and supporting other agencies' investigation of the complaints, or investigating the complaints if specifically delegated to do so by the other agencies. See table 5.

In response to the Aircraft Certification, Safety, and Accountability Act, in February 2022, FAA reorganized AAE's organizational structure (see figure below). The Office of the Director consists of the Director, Senior Technical Advisor, and Audit Liaison. Additionally, AAE is comprised of the Office of Whistleblower Aviation Safety Investigations and the Office of Whistleblower Ombudsman.

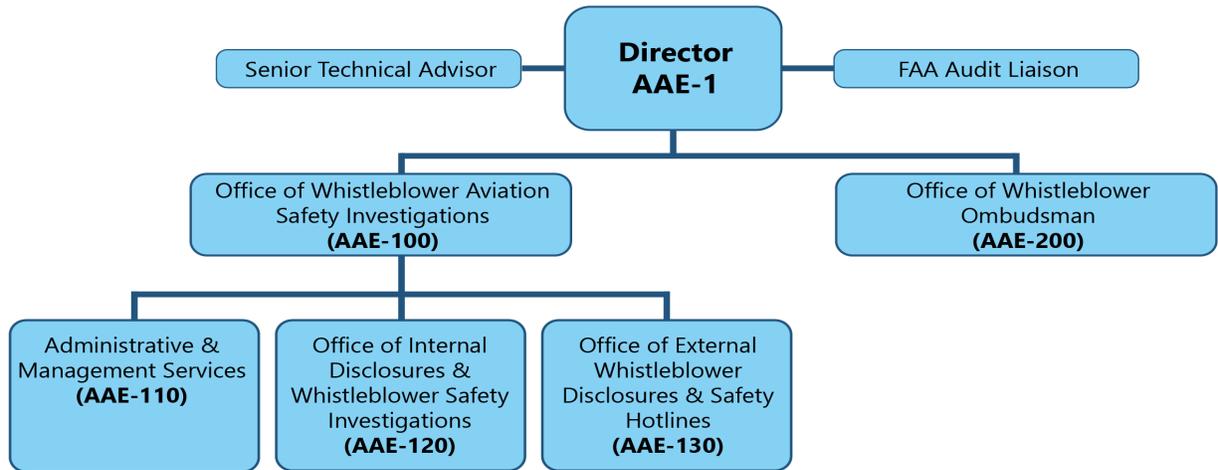
The Office of Whistleblower Aviation Safety Investigations (AAE-100) comprises 3 sub-offices, with a total of 17 staff, including the Division Manager, who is considered the Chief Investigator.

- Administrative and Management Services (AAE-110) handles general administrative and managerial duties, such as responding to Freedom of Information Act requests, handling human resources issues, among other duties. This sub-office has four staff.
- Internal Disclosures and Whistleblower Safety Investigations (AAE-120) is responsible for the Internal Hotline Program, Internal Whistleblower Disclosure Investigations Program, and other special investigations. This sub-office has four staff, three of whom are investigators.
- External Whistleblower Disclosures and Safety Hotlines (AAE-130) manages the AIR21 Whistleblower Program¹⁴ and the External Hotline Program. This sub-office has eight staff, including a manager and two vacancies.

The Office of Whistleblower Ombudsman (AAE-200) consults with employees, coordinates retaliation investigations with external stakeholders, and educates about whistleblower protection. FAA named an Ombudsman and has hired one of the three additional positions designated for this office. FAA plans to fill two positions in fiscal year 2023.

¹⁴ The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21) prohibits discrimination against employees of the United States air carrier industry and United States manufacturers who report information related to air carrier safety.

Figure. AAE Reorganized Structure, as of February 2022



Source: FAA

While FAA has not fully staffed the Office of Whistleblower Ombudsman, it deployed a new Hotline and Whistleblower Information System in August 2022. AAE worked with FAA’s Office of Flight Standards to add an investigations module—deployed in late September 2022—that houses all hotline and external whistleblower investigation records for cases assigned to Flight Standards.

However, we found that AAE’s current and planned operations do not align with Congress’ specific limitation on the duties of the Director. Table 5 presents the limited statutory duties the Director can perform. Based on our review, the Director’s duties encompass more responsibilities than those established by the Aircraft Certification, Safety, and Accountability Act. Table 6 presents the duties performed by AAE under FAA Order 1100.167B that may exceed the statutory limitations on the Director’s duties imposed by the act.

FAA is considering whether to limit the duties of the AAE Director to the specific activities listed in the act. Other duties not explicitly assigned to the revised organization, such as conducting trend analysis and reporting, may remain in AAE pending further evaluation. Furthermore, the Agency has not yet initiated a re-write of FAA Order 1100.167B to reflect the new office organization, nomenclature, and associated responsibilities. Consequently, FAA’s implementation of the act is incomplete.

Table 5. Federal Statutory Duties for the AAE Director

Under the Authority of the Aircraft Certification, Safety, and Accountability Act, the AAE Director shall:
Receive complaints and information submitted by employees of persons holding certificates issued under Title 14, Code of Federal Regulations (if the certificate holder does not have a similar in-house whistleblower or safety and regulatory noncompliance reporting process established under or pursuant to a safety management system) and employees of the Agency concerning the possible existence of an activity relating to a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety.
Assess complaints and information to determine whether a substantial likelihood exists that a violation of an order, a regulation, or any other provision of Federal law relating to aviation safety has occurred.
Make recommendations to the Federal Aviation Administrator, in writing, regarding further investigation or corrective actions.
Receive allegations of whistleblower retaliation by employees of the Agency.
Coordinate with and provide all necessary assistance to the Office of Investigations and Professional Responsibility, the Inspector General of the Department of Transportation, and the Office of Special Counsel on investigations relating to whistleblower retaliation by employees of the Agency.
Investigate allegations of whistleblower retaliation by employees of the Agency that have been delegated to the Office by the Office of Investigations and Professional Responsibility, the Inspector General of the Department of Transportation, or the Office of Special Counsel.

Source: 49 U.S.C. § 106(t)(3)(A)

Table 6. AAE Director Duties That May Exceed the Statutory Limitation

Examples of AAE Director Duties From FAA Order 1100.167B
Audit and analysis staff serve as the focal point for the coordination and evaluation of FAA to all OIG, GAO audits.
AAE tracks the implementation of all corrective actions identified in the course of both internal and external audits.
Analyze data from FAA and OIG hotlines, and other whistleblower disclosures, to identify trends and issue reports to the Administrator, Office of the Chief Counsel, and the appropriate LOB designators based on these analyses.

Source: OIG analysis

Conclusion

Whistleblowers play an important role in the Federal Government by disclosing information on violations of law, gross mismanagement and waste of funds, abuse of authority, or substantial and specific danger to public safety. At FAA, the task of investigating internal whistleblower safety disclosures falls under AAE; however, AAE lacks comprehensive standard operating procedures for investigations of whistleblower safety disclosures, does not sufficiently document its review of Hotline investigations referred to LOBs and has not fully implemented statutory requirements for its organizational structure. Addressing gaps in its Orders and other guidance will enable FAA to have better assurance that its investigations of whistleblower safety disclosures and sufficiency reviews of hotline investigations are conducted in an independent, objective, and impartial manner.

Recommendations

To improve the Office of Audit and Evaluation's (AAE) compliance with applicable standards and statutory requirements for whistleblower investigations and hotline sufficiency reviews, we recommend that the Federal Aviation Administrator direct that AAE:

1. Establish and implement comprehensive written investigative policies and procedures for whistleblower investigations conducted by AAE that address best practice investigation standards in the areas of Qualifications, Independence, Due Professional Care, Planning, Execution, Reporting, and Information Management
2. Establish and implement a methodology for sufficiency reviews that provides greater tracking and documentation controls.
3. Hire additional staff, as planned, for the Office of Whistleblower Ombudsman.
4. Revise FAA Order 1100.167B to readjust duties that are inconsistent with the limitations established by the Aircraft Certification, Safety, and Accountability Act of 2020.

Agency Comments and OIG Response

We provided FAA our draft report on November 9, 2022, and received its response, dated December 28, 2022, which is included as an appendix to this report. FAA concurred with our four recommendations and provided appropriate actions and completion dates. Accordingly, we consider all recommendations resolved but open pending completion of the planned actions.

Actions Required

We consider recommendations 1 through 4 resolved but open pending completion of planned actions.

Exhibit A. Scope and Methodology

This performance audit was conducted between October 2021 and November 2022. We conducted this audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report responds to a request from the Federal Aviation Administrator to review AAE's policies, procedures, and practices for conducting investigations. Our objectives for this review were to evaluate whether AAE (1) aligned its practices for investigations of internal whistleblower safety disclosures with applicable investigative standards, benchmarks, or best practices; (2) documented sufficiency reviews of hotline investigations referred to FAA lines of business with best practices; and (3) complied with requirements in the Aircraft Certification, Safety, and Accountability Act of 2020.

To evaluate whether AAE aligned its practices for investigating internal whistleblower safety disclosures with applicable investigative standards, benchmarks, or best practices, we identified three sets of criteria. We relied on CIGIE's QSI as a framework to assess AAE's investigation practices. Additionally, we used CIGIE's QAR to check AAE's compliance with the QSI. We subsequently identified two tools, QAR Appendix C-1 and QAR Appendix D-1, which provided questionnaires and checklists for reviewing AAE's compliance to investigation best practices. Finally, we used GAO's *Standards for Internal Control in the Federal Government* to assess AAE's internal control activities. We developed a judgmental selection of AAE's closed investigations from the years 2020–2021 to assess the office's investigative process. We selected four closed cases, two from 2020 and two from 2021. To assess AAE's compliance with investigative best practices, we applied the QAR Appendix D-1 Checklist to the four selected investigations. We evaluated each case with supporting documentation provided by AAE. When it was appropriate, we incorporated advice from a CIGIE QSI subject matter expert to support our assessment. Finally, we used QAR Appendix C-1 to review AAE's documented procedures for investigation practices against quality standards for investigation categories. In addition, we incorporated advice from OIG Hotline subject matter experts to support our assessment.

To evaluate whether AAE documented sufficiency reviews of hotline investigations referred to FAA lines of business with best practices, we reviewed FAA Order 1100.167B and FAA Order 1070.1A to determine whether AAE conducted their review of sufficiency reviews in accordance with their policies, procedures, and processes, or best practices. Next, we judgmentally selected

three closed hotline cases AAE designated to LOBs. Each of these sufficiency reviews were compared to OIG documentation of quality control reviews. We also corresponded with AAE officials to further assess the hotline investigation referral and IRR sufficiency review process.

We assessed AAE's compliance with the Aircraft Certification, Safety, and Accountability Act, particularly related to the office's reorganization. We also reviewed AAE's organizational structure and corresponded with officials about the current and future progress of fulfilling legislative instructions.

Exhibit B. Organizations Visited or Contacted

Federal Aviation Administration Facilities

FAA Office of Audit and Evaluation

FAA Office of Chief Counsel

Other Organizations

Council of the Inspectors General on Integrity and Efficiency

Exhibit C. List of Acronyms

AAE	Office of Audit and Evaluation
AXI	Security and Hazardous Materials Safety Office of Investigations
CIGIE	Council of the Inspectors General on Integrity and Efficiency
DOT	Department of Transportation
FAA	Federal Aviation Administration
GAO	Government Accountability Office
IRR	Investigative Results Reports
LOB	Line of Business
OIG	Office of Inspector General
QAR	Quality Assessment Review Guidelines for Investigative Operations of Federal Offices of Inspector General
QSI	Quality Standards for Investigations
U.S.C.	U.S. Code

Exhibit D. Major Contributors to This Report

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Appendix. Agency Comments



Federal Aviation Administration

Memorandum

Date: December 28, 2022

To: Charles A. Ward, Assistant Inspector General for Audit Operations and Special Reviews

From: Erika Vincent, Acting Director, Office of Audit and Evaluation, AAE-1 ERIKA S VINCENT Digitally signed by ERIKA S VINCENT Date: 2022.01.03 11:25:31 -0500

Subject: Federal Aviation Administration's (FAA) Response to Office of Inspector General (OIG) Draft Report: FAA's Office of Audit and Evaluation Adheres to Investigative Practice Standards

Whistleblowers make important contributions to the FAA's safety oversight mission by disclosing information about alleged violations of law, gross mismanagement, abuse of authority, and substantial and specific dangers to public safety. As an independent organization that reports to the FAA Administrator, the Office of Audit and Evaluation (AAE) investigates whistleblower disclosures of alleged lapses in aviation safety oversight and provides recommendations to the Administrator to address deficiencies. These contributions from AAE have led to considerable improvements throughout the FAA, including revisions of orders, policies, guidance, and procedures, leadership changes, and comprehensive reorganization of internal programs. To ensure alignment with the statutory requirements related to the Whistleblower Ombudsman, the FAA is actively increasing its workforce to manage mandated workload.

Upon review of the draft report, the FAA concurs with OIG's four recommendations to improve AAE's compliance with applicable standards and statutory requirements for whistleblower investigations and hotline sufficiency reviews. The FAA plans to complete actions to address recommendations 1 and 4 by December 31, 2023; recommendation 2 by September 30, 2023; and recommendation 3 by March 31, 2023.

We have appreciated the opportunity to review the OIG draft report. Please contact Erika Vincent at Erika.Vincent@faa.gov if you have any questions or require additional information.

U.S. Department of Transportation
Office of Inspector General

Fraud & Safety Hotline

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