



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

The Inspector General

Office of Inspector General  
Washington, D.C. 20590

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## INFORMATION MEMORANDUM TO THE DEPUTY SECRETARY

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**Subject:** Office of Inspector General Review of the Department's Analysis of  
the Washington Nationals' Parking Proposal

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### SUMMARY

This Memorandum presents the results of our review of the U.S. Department of Transportation's (DOT) analysis of a proposal by Major League Baseball's Washington Nationals (the Nationals) to obtain game-day parking privileges in DOT Headquarters' underground parking garage, which is approximately two blocks away from the Nationals' new baseball stadium—Nationals Park. Specifically, the Nationals want access to DOT parking spaces<sup>1</sup> during the baseball season to allow selected season ticket holders with valid Federal government identification cards to park 2 hours before and after 81 home games, beginning with the first game on March 30, 2008, and including the playoffs through October, as applicable.<sup>2</sup>

We found that the DOT's Office of Security (DOT/OS) analysis sufficiently addressed risk management-related factors identified by the U.S. Department of Homeland Security (DHS), which focus on assessing threats, vulnerabilities, and consequences. For example, DOT/OS considered two risk assessments—one prepared by the Federal Protective Service (FPS) and the other by a contractor—when considering threats against DOT Headquarters.

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<sup>1</sup> The DOT underground parking garage has marked spaces for 972 vehicles, of which 151 are reserved primarily for government vehicles. This leaves 821 spaces that are used by DOT employees who carpool or pay a monthly or daily fee. An additional 88 vehicles could be parked in the garage if "stacked" (i.e., parked perpendicular directly behind vehicles in the marked spaces).

<sup>2</sup> It was not clear whether the proposal was intended only for the 2008 baseball season or also successive seasons.

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In addition, DOT/OS personnel adequately considered U.S. Department of Justice (DOJ) and other relevant Federal building security criteria and consulted with other Federal agencies, as appropriate, in conducting their analysis of the Nationals' proposal.

According to DOT/OS, its primary day-to-day risk management objective is to minimize any risks to the performance of DOT's essential missions. Its analysis of the Nationals' proposal identified numerous security, logistical, and cost concerns, which the Secretary has the responsibility and authority to determine how best to address and mitigate.

From a security perspective, DOT/OS determined that the proposal was unworkable without significantly increasing guard services<sup>3</sup> and expanding security operations. And even if such measures were implemented, DOT personnel and resources would still face increased risks without any benefit to DOT's missions. Because of limited historical data and the inherent uncertainties in risk assessment, DOT/OS and other Office of the Secretary officials had to apply policy and analytic judgments in reaching their conclusions. We found no basis to take exception with those judgments.

However, we also found that DOT/OS did not fully research and quantify the logistical and cost concerns identified by their analysis because they considered security paramount and did not believe their tasking required or permitted longer term detailed analysis. In our opinion, these concerns, as well as the others we identified, represent significant additional challenges to implementing the proposal—even if security concerns can be addressed and mitigated. For example, increased vehicle congestion in the DOT garage during 54 of 81 games occurring weekdays would almost certainly adversely affect normal DOT day-to-day operations.

Finally, we found that DOT/OS did not consider options for implementing all or part of the Nationals' proposal because, according to DOT/OS personnel, they believed their role was to evaluate the proposal, not develop alternatives to it.

## **BACKGROUND**

On March 23, 2007, Delegate Eleanor Holmes Norton provided the Secretary of Transportation a copy of the Nationals' parking proposal for review and comment. In an April 17, 2007, response, the Secretary informed Delegate Norton that DOT could not agree to the proposal, given the Department's obligation to ensure the safety and security of DOT personnel and resources. The Secretary based her decision in part on the analysis of professionals in DOT/OS, which is responsible for personnel and physical security of DOT Headquarters. DOT/OS identified numerous security, logistical, and cost concerns with the proposal.

On November 20, 2007, you asked the Office of Inspector General (OIG) to perform an independent review of this analysis. Our overall objective was to determine whether DOT/OS had appropriately considered factors relevant to the Nationals' proposal. In

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<sup>3</sup> Guard services for DOT Headquarters are provided by contract.

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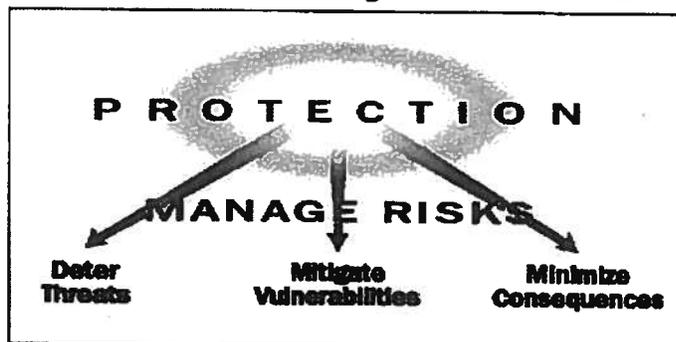
reviewing the concerns identified by DOT/OS, we focused on: (1) the applicability and requirements of current Federal building security criteria; (2) the extent to which the Department consulted with other Federal agencies having expertise on the issues in question; and (3) the sufficiency of the Department's evaluation of available options for implementing all or part of the Nationals' proposal.

Based on a delegation of authority that DHS has provided through FPS, the Secretary of Transportation is solely responsible, without limitation, for protecting DOT Headquarters (including its underground parking garage). This includes identifying building access requirements and procedures and monitoring the use of contract guard services. Exceptions include the conduct of physical security surveys, crime prevention assessments, and awareness programs—and as required by law, Executive order, or regulations.

According to the U.S. Government Accountability Office, risk management has been widely practiced for years in areas such as insurance, construction, and finance. By comparison, its application in homeland security is relatively new. Risk management is an analytical process employed to consider the likelihood that a threat will harm an asset or individuals and to identify actions to reduce the risk and mitigate the consequences of an attack or event. Risk management principles acknowledge that while risk generally cannot be eliminated, enhancing protection from known or potential threats can reduce it.

In reviewing DOT's analysis of the Nationals' proposal, we used a DHS risk management framework, which considers threats, vulnerabilities, and consequences. (See the Figure below). This general approach is used or endorsed by Federal agencies, government commissions, and multi-national corporations.

**Figure: DHS Risk Management Framework**



Source: *DHS National Infrastructure Protection Plan 2006*

## RESULTS

### Security Analysis Adequately Considered Risk Management Principles

The DOT/OS analysis identified numerous concerns with the Nationals' proposed use of the DOT Headquarters garage—concerns that DOT officials believed created unnecessary risks to the performance of DOT's essential missions. In response to your request, we reviewed the extent to which the analysis addressed the DHS risk management-related

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factors of threats, vulnerabilities, and consequences. Specifically, we reviewed Federal guidance on risk management and detailed risk assessments and spoke with DOT officials,<sup>4</sup> FPS personnel, and General Services Administration representatives who could provide substantive feedback on the proposal and analysis.

Assessing and responding to threats, vulnerabilities, and consequences are fundamental to a risk management approach. While the underlying concepts are easy to identify, applying them is difficult in practice. For example, assessing threats is an uncertain process, and limited historical data are available to assess the probability of various types of risk. As a result, assumptions and policy judgments must be used in risk assessment and management. Although the DOT/OS analysis was not summarized using the DHS risk management-related factors of threats, vulnerabilities, and consequences—no requirement exists to do this—we were able to determine through our discussions with responsible officials and review of documentation that the analysis considered these factors. Overall, we concluded that DOT/OS's analysis adequately considered DHS risk management-related factors.

Provided below is a short discussion of DOT/OS's analysis of each DHS risk management factor.

***Deter Threats.*** Threat is the actual or perceived source of an attack. A threat assessment is used to evaluate the likelihood of terrorist or other hostile activity against a given asset. It is a decision-support tool that helps to establish and prioritize security program requirements, planning, and resource allocations. The DOT/OS analysis concluded that allowing selected season ticket holders with valid Federal government identification cards to park in the DOT Headquarters underground parking garage unnecessarily increased threat to the safety and security of DOT personnel and resources while providing no benefit to DOT's essential missions.

We found that DOT/OS personnel adequately considered available threat information in conducting their analysis of the Nationals' proposal. For example, the DOT/OS analysis considered two risk assessments specifically prepared to address, in part, threats against DOT Headquarters. One contractor-prepared assessment included detailed information of the various threats based on a review of available documentation and interviews of key personnel from the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

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The assessment also identified that the area around DOT Headquarters had a high crime index.<sup>5</sup>

<sup>4</sup> These officials were from various DOT offices, including the Offices of Security, General Counsel, and Financial Management and Transit Benefits Programs.

<sup>5</sup> Crime indexes are used to analyze crime statistics for selected offenses, including murder, forcible rape, robbery, aggravated assault, burglary, and larceny-theft, and gauge fluctuations in the volume and rate of crime reported to law enforcement in a particular locality.

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FPS prepared the other assessment, which examined the risks of a vehicle bombing/terrorist attack against DOT.

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In considering possible threats related to the Nationals' proposal, DOT/OS personnel also coordinated with FPS and the FBI to ensure they considered current threat information.

**Mitigate Vulnerabilities.** Vulnerability is the degree to which a facility is susceptible to a threat. A vulnerability assessment is a process that identifies weaknesses in physical structures, personnel protection systems, processes, or other areas that may be exploited by terrorists or others and may suggest options to eliminate or mitigate those weaknesses. Although DOT/OS did not conduct a vulnerability assessment specific to the Nationals' proposal, it did use a DOJ vulnerability assessment<sup>6</sup>—as well as other federally recognized security design criteria—to consider what vulnerabilities might be introduced by allowing non-DOT employees access to the DOT Headquarters underground parking garage to attend Nationals baseball games.

We found that DOT/OS personnel adequately considered the DHS risk management-related factor of vulnerabilities in analyzing the Nationals' proposal. For example, the DOJ vulnerability assessment study DOT/OS used is relied on as a government-wide security standard for Federal facilities. This study identifies five different security levels for assessing security needs, with Level V facilities requiring the strictest security standards.<sup>7</sup> DOT Headquarters is considered a Level IV facility because it has more than 450 Federal employees and is more than 150,000 square feet in size.<sup>8</sup> Per these criteria, satisfying the *minimum* security requirements for Level IV facilities includes controlling facility parking by limiting parking where possible to Federal government vehicles and personnel.

DOT/OS also considered security design criteria<sup>9</sup> promulgated by the U.S. Interagency Security Committee (ISC),<sup>10</sup> which establishes construction and other standards for Federal government facilities requiring blast resistance or other specialized security measures. For

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<sup>6</sup> Reference "Vulnerability Assessment of Federal Facilities," U.S. Department of Justice, June 28, 1995.

<sup>7</sup> These are facilities, such as the Pentagon and Central Intelligence Agency Headquarters, that contain mission functions critical to national security.

<sup>8</sup> Nearly 6,000 people work at DOT Headquarters, and the buildings are approximately 1.4 million square feet in size.

<sup>9</sup> Reference "ISC Security Design Criteria for New Federal Office Buildings and Major Modernization Projects," ISC, updated September 29, 2004.

<sup>10</sup> ISC was created after the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, and the first bombing of the World Trade Center in 1993. The committee operates within the Federal government's executive branch and consists of the President and heads of nearly 20 major departments and agencies of the U.S. government. The committee is chaired by the Director of FPS; DOT is one of the member departments.

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In its risk assessment of DOT Headquarters, FPS recommended that the ISC EDACTE protection criteria be used. DOT strives to maintain this level of protection by only allowing individuals who work at DOT Headquarters to park in the garage. In fact, with rare exceptions, even visitors to Headquarters with a valid DOT business purpose are not allowed to park in the garage. Our discussions with FPS personnel confirmed the appropriateness of DOT/OS using the aforementioned DOJ and ISC criteria in assessing the Nationals' proposal.

In addition, DOT/OS's analysis noted that limiting baseball-related parking to "season ticket holders who have valid Federal government identification cards" would not necessarily guarantee adequate security,

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***Minimize Consequences.*** Consequences, in the context of homeland security, are the negative effects of an attack. They include death, injury, economic impacts, loss of public confidence, and loss of government capability. The DOT/OS analysis of the Nationals' proposal concluded that even if the *probability* of an occurrence was low from the increased threat the plan introduced, the *consequences* to the safety and security of DOT personnel and resources and consequently the performance of DOT's missions remained high.

We found that DOT/OS personnel adequately considered the DHS risk management-related factor of consequences when analyzing the Nationals' proposal. For example, DOT/OS relied, in part, on a contractor-prepared risk assessment of DOT Headquarters. This assessment assigned criticality ratings<sup>11</sup>

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<sup>11</sup> These ratings provide a means by which to assess the impact that damage or loss would have on a facility's or organization's capability to perform its missions.

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DOT/OS also considered the impact of an explosives blast from within the garage and

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### **Logistical and Cost Challenges Complicate Implementation of Nationals' Proposal**

In addition to security concerns, DOT/OS personnel identified numerous logistical and cost concerns with the Nationals' parking proposal. However, DOT/OS did not fully research or quantify these concerns because they considered security paramount and did not believe their tasking required or permitted longer term detailed analysis. In our opinion, these concerns and others we identified represent significant additional challenges to implementing the proposal if a decision should ever be made to revisit the use of the DOT Headquarters underground garage for baseball-related parking.

For example, the issue of whether, and to what extent, DOT might be liable for the actions of the selected season ticket holders who would be allowed to park at DOT Headquarters is unclear. We noted that the Nationals' proposal did not specifically address liability and indemnification in the event that a Nationals season ticket holder using the garage commits a tort or criminal infraction, such as an accident that injures people or damages private or government vehicles. In addition, allowing use of the garage for a non-DOT business purpose may also subject DOT to potential litigation resulting from any adverse consequences of that use or from allegations of disparate, preferential treatment by other third parties also wanting to use the garage. Several other significant logistical and cost concerns are outlined below.

***Ability to Accommodate Increased Vehicle Congestion in the Garage Would Affect DOT Operations.*** DOT/OS analysis identified parking garage access and traffic management issues as a logistics concern but did not full research or quantify these issues. The Nationals' proposal envisions use of DOT Headquarters parking for 81 home games, 54 of which occur during weekdays and would almost certainly negatively affect normal DOT day-to-day operations. We found there is only one vehicle entry and exit point for the 1,060 space garage, and DOT core weekday working hours—6:30 a.m. until 6:30 p.m.—directly conflict with the times the Nationals sought use of the garage for these games.

Specifically, the Nationals' proposal sought use of the garage 2 hours before and after games. Most of the 54 games that occur during weekdays are scheduled to begin at 7:10 p.m., which means that baseball fans parking at DOT Headquarters would start arriving at 5:10 p.m. We also noted three weekday afternoon games on the Nationals schedule that

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would have fans arriving to use the garage as early as 11:35 a.m., 1:05 p.m., and 2:35 p.m., respectively.

In addition, we found that the DOT Parking Office has already received more employee applications to park in the garage than they can approve—1,628 applications received with 1,350 parking permits issued<sup>12</sup> as of January 16, 2008—which means the garage will likely be full most weekdays. Performing security inspections of nearly 1,000 vehicles for baseball fans trying to access the parking garage with possibly the same number of DOT employees trying to exit the garage—at the same time through the same entrance—would almost assuredly create a tremendous strain on garage operations and possibly result in “gridlock.” This would especially be true when parking garage valets were needed to retrieve “tandem” or “stacked” vehicles.<sup>13</sup>

In addition, DOT/OS’s analysis of the Nationals’ proposal noted that the presence of non-DOT personnel in the parking garage could adversely affect DOT mission-critical activities during increased national security threat levels and other times when the Department’s Crisis Management Center may be activated, which could occur at any time on weekdays or weekends.

***Ability to Use Existing Security Contract for Increased Guard Services Unclear and Alternatives Have Not Been Explored.*** DOT/OS analysis identified the need to increase guard services but did not fully research or quantify the issue. Our review identified that the DOT contract for Headquarters security services may require modification, renegotiation, or recompetition should DOT later decide to implement the National’s proposal. Specifically, it is unclear under what circumstances this contract could be used to provide and pay for increased security services related to the proposal, and alternatives have not been identified nor the costs quantified.

For example, the contract states that the contractor will provide “temporary additional service” for special duties and events at the request of DOT officials and that DOT shall reimburse the contractor for services associated with such “non-recurring requirements” using a government purchase card. It is not clear what additional security services, such as those needed for vehicle inspections or to secure the many pedestrian entry points into DOT Headquarters from the garage, may be required or whether the contract’s non-recurring requirements language would apply to security services that may be needed to facilitate parking for 81 Nationals home games. Further, it may not be appropriate to use government funds or a government purchase card to pay for such services, which arguably are not government-related.

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<sup>12</sup> DOT Office of Financial Management and Transit Benefits Program personnel told us they issue more parking permits than they ostensibly have available spaces for to help ensure maximum parking utilization, given employee alternative work schedules, etc.

<sup>13</sup> “Tandem” refers to a vehicle parked bumper-to-bumper directly behind another, while “stacked” refers to a vehicle parked perpendicular behind one or more vehicles. Both situations require the assistance of a valet to retrieve the blocked vehicle(s).

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**Reimbursement for Increased Costs.** DOT/OS analysis identified cost recovery concerns regarding DOT's authority and ability to receive and use reimbursement for increased costs resulting from implementation of the Nationals' proposal. Specifically, the proposal envisioned the team reimbursing DOT for increased costs resulting from the proposal, such as those associated with additional security personnel. We confirmed that DOT does not have the authority and ability to receive and retain these funds because Federal law and government financial accounting requirements dictate that any money DOT might collect be deposited directly into the U.S. Treasury General Fund account, not a DOT account. The only exception is where there is specific statutory authority to do otherwise. Violating this statute results in an improper augmentation of the agency's appropriation, and the responsible official may be removed from office.<sup>14</sup>

**Federal Ethics Principles and Standards May Be Compromised.** DOT/OS's analysis noted that allowing only federally employed Nationals season ticket holders to use the DOT Headquarters garage may unintentionally result in or create the appearance of Federal employees using their public office for private gain. Federal employees are held to high standards to ensure that the American people can have confidence in the integrity of the government and its operations. A core concept underlying Federal ethics principles and standards is that employees shall not use public office for private gain or even create the appearance of doing so. If implementation of the Nationals' proposal is ever reconsidered, DOT's Designated Agency Ethics Officer would need to determine whether the parking privileges could be considered an allowable "gift" or would be viewed as being given because of the Federal employee's official position, thus resulting in a violation of Federal ethics requirements.

**Conduct of Security-Related Background Checks.** DOT/OS analysis identified administrative and legal concerns associated with security-related background checks proposed by the Nationals—concerns that our review provided additional insights on. Specifically, the Nationals' proposal envisioned DOT using available law enforcement and commercial databases and other governmental and international agencies' records to perform background checks of the selected season ticket holders who would be allowed to use the DOT Headquarters garage. The DOT/OS analysis concluded, in part, that this would be an inappropriate use of appropriated funds (i.e., DOT employees' time), as this would be done for a *non-DOT business purpose*. We found that DOT policy only allows access to the garage with a DOT identification card (i.e., building pass). This card is only issued to persons assigned to work at Headquarters on a regular basis or who require frequent, unescorted access for DOT business purposes (e.g., contractors). These individuals must successfully complete a security-related background investigation<sup>15</sup> to obtain a card.

To implement the Nationals' proposal, DOT personnel would have to determine whether the selected season ticket holders had valid Federal identification cards and did not have

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<sup>14</sup> See 31 U.S.C. § 3302(b).

<sup>15</sup> This could include the use of other Federal agency background investigations, subject to DOT confirmation that these investigations met DOT requirements.

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suitability issues<sup>16</sup> that would prohibit them from gaining access to DOT Headquarters. In addition, DOT would possibly have to create processes with an unknown number of other Federal agencies to ensure it was notified about events such as resignation, retirement, or disciplinary actions of non-DOT employees, as such events may affect eligibility for recurring access to DOT Headquarters.

The Nationals' proposal also envisioned DOT conducting criminal history checks on Nationals' personnel or contractors who might need access to DOT Headquarters to help ensure security in conjunction with use of the garage. DOT/OS coordinated with the FBI and determined it would be inappropriate to run National Crime Information Center (NCIC) checks on Nationals personnel for a non-DOT business purpose. We reviewed Federal regulations<sup>17</sup> that delineate how NCIC information is shared and determined no provision exists that allows the FBI to disclose NCIC information on Nationals personnel for this purpose.

If you have any questions or require further assistance on this or any other matter, please feel free to contact me at x61959 or the Deputy Inspector General, Theodore Alves, at x66767.

cc: Assistant Secretary for Administration  
Director, Office of Security

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<sup>16</sup> Suitability refers to identifiable character traits and conduct sufficient to decide whether an individual is likely to handle the privileges granted to him or her with appropriate integrity, efficiency, and effectiveness.

<sup>17</sup> See 28 C.F.R. § 20.33 (2007).

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