



**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**

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Chairman

Washington, DC 20515

Nick J. Rahall, III  
Ranking Member

November 13, 2012

James W. Coon II, Chief of Staff

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**MEMORANDUM**

**TO:** Members, Committee on Transportation and Infrastructure

**FROM:** The Honorable John L. Mica, Chairman

**SUBJECT:** Hearing on “Metropolitan Washington Airports Authority (MWAA): A Review of the Department of Transportation Inspector General’s Findings and Recommendations”

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**PURPOSE**

On November 16, 2012, at 9:00 a.m., in room 2167 of the Rayburn House Office building, the Committee on Transportation and Infrastructure will receive testimony on the Department of Transportation Inspector General’s (DOT IG) November 1, 2012 report on the policies, practices and programs of the MWAA.

**BACKGROUND**

The Metropolitan Washington Airports Authority (MWAA) was created through an interstate compact between the Commonwealth of Virginia and the District of Columbia, and approved by Congress in the Metropolitan Washington Airports Act of 1986 (Airports Act).<sup>1</sup> The MWAA is a public body which is governed by a Board of Directors and employs nearly 1,400 individuals. As originally designed by the Airports Act, MWAA was governed by a 13-member Board of Directors. However, in October 2012, Board membership increased to 17 members, including seven appointed by the Governor of Virginia, four by the Mayor of the District of Columbia, three by the Governor of Maryland, and three by the President of the United States.<sup>2</sup> Board members serve six-year terms without compensation. The Board is responsible for establishing policy and providing direction to the MWAA’s President and Chief Executive Officer (CEO).

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<sup>1</sup> P.L. 99-591

<sup>2</sup> In October 2012, the District of Columbia passed legislation to amend the interstate compact to complete the implementation of changes to the Board’s composition mandated by the Consolidated and Further Continuing Appropriations Act of 2012 (P.L. 112-55, Div. C, Title I, § 191). Congress passed this Act in November 2011 to expand the MWAA Board from 13 to 17 members.

In 1987, Dulles International Airport (IAD) and Ronald Reagan Washington National Airport were transferred to the MWAA under a 50-year lease authorized by law.<sup>3</sup> Control of the airports was transferred to the Authority, but the Federal government continues to own most of the airport property. In April 2003, the term of the lease was extended an additional 30 years. Prior to the transfer, the airports were owned and operated by the U.S. Department of Transportation (DOT), Federal Aviation Administration.<sup>4</sup> In 2008, the MWAA assumed control of the daily operation and maintenance of the Dulles Toll Road, including managing a project to extend the Metrorail on the Orange line to IAD. Construction of this project began in 2009.

The Airports Act and the lease established the MWAA as an independent public body. As such, the Authority is not subject to Federal or State laws that govern procurement, ethics, civil service, and transparency. However, it must abide by the provisions and terms of the Airports Act, the lease, and the interstate compact, as well as its own internal policies and processes. The lease established the terms and conditions of the Authority's control of the Airports, and most significantly, that the property be used only for "airport purposes."

### **DOT Inspector General's November 2012 MWAA Report Findings**

Due to their responsibility over two major federally-owned airports and a multi-billion dollar public transit project, the MWAA has recently been the subject of significant interest. At the request of Congress, the DOT Inspector General (DOT IG) reviewed the management practices and policies at the Authority, including its accountability, transparency, and governance. The final report was transmitted to Congress on November 1, 2012.<sup>5</sup>

The DOT IG assessed the MWAA's (1) contract award and procurement practices, including compliance with relevant laws, (2) code of ethics for employees, (3) hiring and compensation practices, and (4) accountability and transparency of its Board of Director activities. In each case, the DOT IG uncovered significant issues of concern. These issues are outlined on the following pages:

#### *DOT IG Review of the MWAA Contract Award and Procurement Practices*

The Airports Act and the lease agreement between DOT and the MWAA require the Authority to award contracts over \$200,000 competitively. However, the DOT IG concluded that the MWAA's contracting policies and practices do not encourage competition.

Between January 2009 and June 2011, the Authority awarded 190 contracts that exceeded \$200,000 – only 68 of which were awarded with full and open competition. Of these 190 contracts, five were sole source awards with a combined value of \$6 million. The MWAA also awarded these five contracts without Board approval which the Airports Act, lease agreement, and the Authority's Contracting Manual require. The remaining 117 contracts were awarded

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<sup>3</sup> Metropolitan Washington Airports Act of 1986, Title VI of P.L. 99-500

<sup>4</sup> <http://www.mwaa.com/263.htm>

<sup>5</sup> Report No. AV-2013-006

using categorical exceptions without providing adequate justification – amounting to \$225 million, or 40 percent of the total value of the Authority’s contracts over \$200,000.<sup>6</sup>

#### *DOT IG Review of the MWAA’s Code of Ethics*

As required by the lease agreement with DOT, the MWAA created a code of ethics. However, according to the DOT IG, the Authority’s code of ethics and related processes have not been sufficient to prevent actual and perceived conflicts of interest and other violations.<sup>7</sup> As a result, the MWAA has been unable to ensure compliance with ethics provisions. The DOT IG report highlights known examples of ethical violations, which include employees accepting gifts from contractors – some with major contracts with the Authority – including:

- Two tickets to the 2009 Super Bowl, associated travel, and accommodations in Tampa, FL, valued at almost \$5,000;
- Four trips to golf tournaments, including one trip to the 2009 U.S. Open Golf Tournament in Long Island, NY, and three all-expense paid trips to Hilton Head, SC;
- A trip to New York City to attend a major league baseball game;
- Nineteen other major sporting events, such as professional basketball and hockey games;
- Three concerts, including performances by famous pop artists;
- A fishing trip, including food and drinks; and
- Seventeen social events with food and beverages.

#### *DOT IG Review of the MWAA’s Hiring and Compensation Practices*

Under the MWAA’s standard hiring process, applicants typically undergo a competitive interview process by a panel, which makes a recommendation to the hiring official based on the candidates’ qualifications. However the DOT IG discovered multiple instances where MWAA officials either circumvented or ignored the competitive interview process in order to place a candidate they preferred into a position.<sup>8</sup> This led to senior officials improperly filling vacancies and awarding excessive salaries, unjustified hiring bonuses, questionable cash awards, and ineligible benefits.

In one case uncovered by the DOT IG, the CEO created an advisory position for a former Board member without specifying what the job entailed or establishing market salary and benefits. In February 2012, the former Board member was hired by the Authority one day after resigning from the Board. The compensation for this advisory position included a salary of \$180,000. Subsequently, key MWAA stakeholders questioned the appointment, and the former Board member was terminated—with a year’s severance pay.<sup>9</sup>

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<sup>6</sup> Report No. AV-2013-006, Pages 8-9

<sup>7</sup> Report No. AV-2013-006, Page 19

<sup>8</sup> Report No. AV-2013-006, Page 25

<sup>9</sup> Report No. AV-2013-006, Pages 26-27

## *DOT IG Review of Accountability and Transparency of the MWAA's Board of Directors*

According to the DOT IG, weak ethics and travel policies, a lack of oversight, and significant gaps in transparency have greatly diminished the Board's accountability.<sup>10</sup> While the Board has made interim changes, some issues remain to be addressed.

Highlighted in the report, one Board member's recommendation led the MWAA to initiate a \$100,000 contract with a law firm that employed the member's spouse. At the very least, this created the appearance of a conflict of interest. At the time of the audit, the Board's code of ethics did not include a provision prohibiting nepotism and the Authority hired the grandchildren of two Board members. In particular, one Board member had at least two grandchildren working at the Authority. The same Board member also insisted that the MWAA hire an immediate family member of his close friend.<sup>11</sup> Although the Authority's recently revised Board code of ethics contains a new provision preventing this type of influence, they have lost tremendous credibility.

### **DOT Inspector General's Initial Findings And Interim Reforms To MWAA Practices**

In May 2012, the DOT IG reported its initial findings, which led to Virginia, Maryland, and District of Columbia officials mandating immediate reforms of MWAA practices. The Authority was required to terminate all contracts with former Board members and employees that were not competitively bid, strengthen its ethics code, provide recurrent training to all Board members and employees, and tighten Board travel procedures to eliminate wasteful spending. The MWAA has subsequently revised the Board's Freedom of Information policy, suspended the use of categorical exceptions for hiring, and enhanced screening to detect and prevent nepotism. The Secretary of DOT is likely to pursue an amendment to the Authority's lease to provide greater oversight.

### **DOT Inspector General's November 2012 MWAA Report Recommendations**

The DOT IG remains concerned with MWAA practices and policies and their interim reforms. Specifically, the interim reforms have not been independently reviewed or fully implemented and further actions are needed to adequately address the weaknesses uncovered by the IG's review.

The DOT IG set forth a number of recommendations to promote integrity and accountability in the MWAA's management and governance. They include:

- Provide quarterly acquisition reports to the Board and DOT;
- Implement a plan with milestones to revise contracting policies and procedures to reflect Federal and other best practices;
- Clarify and enforce its current contracting policies and procedures;
- Define and assess the size and skills of the acquisition workforce and implement an appropriate acquisition certification program;

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<sup>10</sup> Report No. AV-2013-006, Page 33

<sup>11</sup> Report No. AV-2013-006, Page 35

- Establish policies and procedures for procurement integrity;
- Fully implement formal ethics policies and procedures for Board members and employees;
- Ensure the review process for financial interest forms emphasizes verification and documentation;
- Fully implement a robust ethics training program;
- Establish priorities for implementing the new Board and employee ethics codes, including procedures to oversee and enforce them;
- Implement and enforce human resources policies and practices;
- Further revise the travel policy; and
- Further enhance the accountability and transparency of the Board of Directors.

The DOT IG provided a draft report to the Secretary of Transportation in October 2012. In response, the Secretary indicated that the Department is exercising the full extent of its authority to help the MWAA address the serious problems raised in the report. The Secretary also formally transmitted the report to the MWAA with a clear expectation that the Authority produce a detailed response within 30 days addressing each recommendation. Pending that detailed response from the Authority, the DOT IG's 12 recommendations and 30 specific sub-recommendations remain open and unresolved.

#### WITNESSES

##### Panel I -- Members' Panel:

The Honorable Gerald E. Connolly

##### Panel II:

The Honorable Ray LaHood  
Secretary  
U.S. Department of Transportation

##### Panel III:

The Honorable Calvin L. Scovel, III  
Inspector General  
U.S. Department of Transportation

The Honorable Michael A. Curto  
Chairman of the Airports Authority Board  
Metropolitan Washington Airport Authority

##### *Accompanied by:*

John E. Potter  
President and Chief Executive Officer  
Metropolitan Washington Airport Authority