Congress of the United States
Washington, DC 20515

September 23, 2010

The Honorable Ray LaHood
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, D.C. 20590

Dear Secretary LaHood:

On June 17, 2009, Fred Weiderhold was forced out as Amtrak Inspector General (IG). Mr. Weiderhold's removal was first described by Amtrak as a voluntary retirement. This was not true. In the weeks leading up to his ouster, Mr. Weiderhold had become increasingly vocal about how the independence and effectiveness of the Office of the Inspector General (OIG) was being substantially impaired by Amtrak management. Shortly after learning of Weiderhold's "retirement," the joint staff for the Senate Committee on Finance and the House Committee on Oversight and Government Reform (Joint Committee staff) commenced an investigation to determine whether Amtrak violated the law in removing its inspector general.

After conducting more than 13 witness interviews and reviewing more than 6,400 pages of documents, Joint Committee staff found that Amtrak Chairman Thomas Carper and Amtrak General Counsel (GC) Eleanor Acheson unlawfully interfered with the independence of the OIG and removed Mr. Weiderhold from his post as IG in violation of the provisions of the Inspector General Act of 1978, as amended (IG Act).[1] The unlawful actions of Chairman Carper and GC Acheson impeded the effectiveness of Amtrak's OIG to such an extent that we intend to ask for their removal pending an independent investigation by the Inspector General for the U.S. Department of Transportation (DOT).

IG Weiderhold was removed unlawfully

In April 2009, Chairman Carper and Amtrak's Board of Directors launched a plan to oust Mr. Weiderhold. Mr. Weiderhold was provided neither notice that the Board was contemplating removing him, nor an opportunity to respond to the Board's concerns. Likewise, Congress received no notice of Amtrak management's intent to remove Mr. Weiderhold, and Amtrak failed to consult with Congress about its concerns, as it could have, and should have done.

[1] Inspector General Act of 1978, as amended by the Inspector General Reform Act of 2008, 5 U.S.C. §§ 1-13 (1978).

PRINTED ON RECYCLED PAPER

Rather than send a statutorily-mandated 30-day letter of notice to Congress stating the Board's intention to remove Mr. Weiderhold and the reasons for taking such action, Chairman Carper merely told Mr. Weiderhold of the existence of a 30-day letter and threatened to send it to Congress if he did not "voluntarily" retire within 24 hours. Chairman Carper also required Mr. Weiderhold to sign a separation agreement which prevented him from discussing Amtrak or the circumstances of his removal with anyone, including Congress. Removal of an IG by ultimatum is unlawful. Section 8G(e) of the IG Act requires the head of a designated federal entity, such as Amtrak, to "communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer."[2]

GC Acheson unlawfully withheld documents from Amtrak OIG

Joint Committee investigators learned that since 2007, under the direction of GC Acheson, the Amtrak Law Department enforced a protocol which restricted OIG access to documents and information. The Law Department relied on the protocol, known as "Exec-1," to withhold documents from OIG and to intercept documents subpoenaed by OIG from third parties. Enforcement of Exec-1 by GC Acheson violated Section 8G(d) of the IG Act, which stipulates that the IG "shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity."[3]

Chairman Carper unlawfully obstructed the IG's hiring authority

Joint Committee investigators also learned that Chairman Carper interfered with Mr. Weiderhold's statutorily-guaranteed hiring authority in at least two cases.[4] According to witnesses, Chairman Carper directed Amtrak Human Resources to rescind an offer to a candidate for Chief Investigator identified by Mr. Weiderhold. Amtrak Human Resources was further instructed by Chairman Carper to post the position for new applicants. Chairman Carper similarly stalled Mr. Weiderhold's attempt to hire an Assistant IG to conduct oversight of Amtrak's use of Stimulus funds. Chairman Carper's interference with the IG's hiring authority violated Section 8G(g) of the IG Act, which authorizes the IG "to select, appoint, and employ such officers and employees as may be necessary for carrying out its functions."[5]

---

[2] 5 U.S.C. § 8(G)(e). Section 8G(e) requires the head of a designated federal entity, such as Amtrak, to "communicate in writing the reasons for any such removal or transfer to both Houses of Congress, not later than 30 days before the removal or transfer."

[3] 5 U.S.C. § 8(G)(d).

[4] Robert J. Meyer, Willkie Farr & Gallagher, LLP (Willkie Farr), *Report on Matters Impairing the Effectiveness and Independence of the Office of Inspector General of the National Railroad Passenger Corporation*, June 18, 2009, at 48.

[5] 5 U.S.C. § 8(G)(g).

The federal government entrusts Amtrak with billions of taxpayer dollars. Just last year, between fiscal year 2010 capital and operating grants and Stimulus funding, Amtrak was appropriated more than $2.86 billion. Each Amtrak ticket sold is subsidized at an average of $54.78 by the public. This high level of subsidy and total funding makes it imperative that Congress exercise its oversight authority to ensure good management practices are in place. Amtrak must have a strong and independent inspector general. Several investigations have revealed questionable practices, particularly in Amtrak's Law Department, causing concern that federal funds are being wasted or used in an improper manner.

On September 13, 2010, the Joint Committee released a staff report entitled, "The Removal of the Inspector General for the National Railroad Passenger Corporation (Amtrak)." The Democratic staff (Majority) from the House Committee on Oversight and Government Reform participated in the investigation of the removal of Mr. Weiderhold and has expressed no objection to the report's findings. However, in a statement responding to the Joint Committee report, Amtrak declared a "full and fair reading of all the information provided ... confirms important facts and circumstances regarding the retirement of its former IG and demonstrates Amtrak acted appropriately."[6]

It is our belief that the findings of the Joint Committee's investigation are sufficient to warrant the removal of Chairman Carper and GC Acheson. We request that you initiate an independent review of this matter so that we can be confident responsible management is in place at Amtrak. To evaluate the Joint Committee's findings, we request that you tap DOT Inspector General Calvin L. Scovel III for review and disposition of the findings of the Joint Committee. If IG Scovel's independent review confirms that Chairman Carper and GC Acheson acted unlawfully by removing Mr. Weiderhold without notice, enforcing Exec-1, interfering with Mr. Weiderhold's hiring authority, or in any other way, we hereby request that you seek their resignations and/or urge the White House to remove them from their positions at Amtrak.

Congress has an obligation to protect the independence and effectiveness of every Inspector General from impairment by agency management. When agency management interferes with OIG independence to the extent that the protections put in place by Congress through the IG Act are effectively eradicated, there is no remedy but termination of those responsible. In the case of Amtrak, those responsible are Chairman Carper and GC Acheson.

---

[6] Ed O'Keefe, *Report: Amtrak Improperly Removed Its Watchdog*, Wash. Post Online ed., Sept. 14, 2010, available at http://voices.washingtonpost.com/federal-eye/2010/09/amtrak_improperly_removed_its.html (last visited Sept. 17, 2010).

Thank you for your attention to this important matter. Enclosed for your ready reference is a copy of the Joint Committee report. Please contact staff of the House Committee on Oversight and Government Reform at (202) 225-5074, House Committee on Transportation and Infrastructure at (202) 225-9446, or the Senate Committee on Finance at (202) 224-4515 with any questions about this request.

Sincerely,

Darrell Issa
Ranking Member
U.S. House Committee on Oversight
and Government Reform

Charles E. Grassley
Ranking Member
U.S. Senate Committee on Finance

John Mica
Ranking Member
U.S. House Committee on Transportation
and Infrastructure

cc: The Honorable Edolphus Towns, Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
The Honorable James L. Oberstar, Chairman
Committee on Transportation and Infrastructure
U.S. House of Representatives
The Honorable Max Baucus, Chairman
Committee on Finance
U.S. Senate

Enclosure