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November 4, 2010

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-08-2854

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), the Office of Special Counsel (OSC) is forwarding to you agency reports concerning disclosures from Andrew G. Blosser, a whistleblower at the Department of Transportation (DOT), Federal Aviation Administration (FAA), Flight Standards Division, American Airlines Certificate Management Office (American CMO), Fort Worth, Texas. Mr. Blosser, who consented to the release of his name, alleged that FAA officials have failed in their oversight obligation with regard to American Airlines. Specifically, he alleged that FAA officials are unwilling or unable to obtain positive corrective action from American Airlines and that the failure to enforce inspection and maintenance requirements has resulted in a poorly maintained fleet that represents a serious safety concern for the flying public.

Mr. Blosser's allegations were referred to the Honorable Ray LaHood, Secretary of Transportation, to conduct an investigation into these disclosures pursuant to 5 U.S.C. § 1213(c) and (d). Secretary LaHood tasked the investigation of the matter to the Honorable Calvin Scovell, III, DOT Inspector General (OIG). OSC received a report dated May 25, 2010, and a supplemental report dated October 21, 2010, from DOT. Pursuant to 5 U.S.C. § 1213(e)(1), Mr. Blosser provided comments on the reports, copies of which are enclosed.

The agency investigation substantiated four out of six allegations relating to the American CMO's failure to ensure that American Airlines complied with (1) maintenance procedures, (2) Minimum Equipment List (MEL) deferrals; (3) required inspection item (RII) requirements; and (4) Continuing Analysis and Surveillance System (CASS) requirements. MELs contain a list of equipment that may be inoperative without jeopardizing the safety of the aircraft, and the air carrier may continue operations provided repairs are completed within a certain number of days (a deferral). RIIs are mandatory maintenance activities that must be independently inspected by a specially-trained inspector after completion. CASS is used to assess maintenance performed on the aircraft. Air carrier personnel enter data into CASS to monitor the effectiveness of an air carrier's inspection and maintenance programs.

With regard to maintenance procedures, the OIG investigation found that CMO inspector efforts have been ineffective at ensuring that American Airlines' maintenance personnel comply

with the air carrier's established maintenance procedures. Specifically, the investigation revealed that in Fiscal Years (FY) 2008 and 2009, and continuing into the first quarter of FY 2010, a significant number of maintenance-related enforcement cases were initiated as a result of American Airlines personnel failing to follow maintenance procedures/manuals or the requirements of Airworthiness Directives. CMO officials rarely took legal action to encourage compliance; instead working collaboratively with the air carrier to resolve deficiencies, issuing letters of correction to the carrier rather than seeking civil penalties, and accepting incidents in the Aviation Safety Action Program (ASAP), a voluntary self-reporting program. Although the use of letters of correction does not violate FAA enforcement guidance, such letters are not adequate when there is a trend of non-compliance for the same FAA regulation, as in this case. According to the report, "a clear trend existed which should have justified more stringent enforcement action." As of the date of the report, and because CMO officials failed to obtain compliance, incidents of maintenance personnel failing to follow procedures continued to occur.

The investigation also substantiated potential weaknesses in American Airlines' use of MEL deferrals that may increase the risk of airplanes operating with inoperative equipment outside of established MEL procedures. Despite a significant increase in MEL deferrals, FAA failed to track the types of aircraft parts being deferred or the causes of the deferrals. Reviews of MEL procedures identified weaknesses in 15 out of 61 areas reviewed. According to the agency report, in FYs 2008 and 2009, the CMO had initiated 28 enforcement cases related to the improper deferral of equipment, only seven of which resulted in a recommendation for a civil penalty action. Of those seven, six were identified by Mr. Blosser.

Mr. Blosser's allegation that CMO officials were unable to obtain compliance from the air carrier in the use of RIIs was also substantiated. According to the report, the CMO has not held American accountable for complying with the requirements for RIIs. Despite non-compliance dating to 2005, FAA's actions, "have not elicited confidence that its oversight was sufficient." Despite an increase in the number of enforcement cases related to non-compliance with RII procedures, none of the 27 cases initiated in FYs 2008 and 2009 resulted in recommendations for civil penalty or other legal action. The trend continued into the first quarter of FY2010. According to the report, despite some changes, recent incidents indicate that there may still be a problem in ensuring the workforce actually follows established procedures for completing RII tasks.

The investigation substantiated Mr. Blosser's allegations that the CMO has not taken appropriate regulatory measures to address American Airlines' failure to comply with requirements for a CASS program. The CMO had not performed comprehensive surveillance of American Airlines' CASS program. Between 2005 and 2007, CMO inspectors failed to perform the required semi-annual inspections, but rather conducted a policy review. That review revealed a lack of procedures within the CASS program to identify root causes of identified maintenance problems, as well as inconsistencies in internal guidance. Although the policies and procedures were reviewed, the CMO did not determine whether the carrier actually followed the policies and procedures. In April 2009, NTSB determined that American Airlines' CASS failed to detect repeated maintenance discrepancies, which contributed to the September 2007 in-flight

engine fire on American Airlines Flight 1400. The OIG investigation further revealed that only two enforcement actions, both of which were closed with letters of correction, had been opened against American Airlines for its CASS program between FY2008 and the first quarter of FY 2010. Finally, only 15 inspections of the CASS program had been conducted compared to the MEL and RII programs, in which 139 and 152 inspections, respectively, had been completed.

The investigation did not substantiate “by a preponderance of evidence” that the CMO continued to issue letters of correction inappropriately as repair stations continued to violate requirements to perform training needs assessments (TNA). Although there were incidents of non-compliance, according to the report, the extent of TNA discrepancies did not warrant more stringent action at the time of the report. Although the investigation did not substantiate Mr. Blosser’s allegation that the Principal Avionics Inspector authorized the operation of the MD-80 fleet knowing that it did not meet the Fuel Tank System (FTS) maintenance program requirements of federal regulations and an Airworthiness Directive, the report found that poor guidance contributed to inspector confusion regarding whether the program met requirements.

The FAA pledged to take action to address the deficiencies. The CMO will work with American Airlines to improve its compliance with maintenance procedures by adding new controls. American Airlines established a review board to address the failure to follow maintenance procedures, to include a root cause analysis. The CMO is to keep the CASS program at an elevated risk level and will target maintenance procedures in surveillance. The CMO is also working with American Airlines to improve training, controls, and guidance. The CMO will trend MEL-related data. The CMO will continue to conduct surveillance to ensure compliance with RII requirements, assess trends, and take appropriate action to correct systemic problems and non-compliance. The CMO scheduled two performance assessments in 2010 to review American Airlines’ CASS and will conduct a design assessment after American Airlines completes its CASS manual re-write. FAA will also correct inspector guidance and its Operations Specifications relevant to FTS maintenance programs.

At OSC’s request, the agency submitted a supplemental report dated October 21, 2010. The supplemental report attributed the primary cause of the CMO’s oversight failures to past FAA policies which viewed and treated airlines as FAA’s “customer” and encouraged inspectors to work collaboratively with the airlines to resolve deficiencies. The OIG investigation found that the Principal Inspectors at the CMO were aware of the issues identified in the report; however, to address the issues, they attempted to work collaboratively as FAA policy encouraged.

As stated in the supplemental report, “FAA did not hold any one person or persons accountable for the failures identified in this particular OIG report,” but indicated that actions have been taken to improve procedures and policies; personnel actions were taken to remove/reassign FAA managers based on other investigations, and American Airlines replaced several senior level personnel. FAA further indicated that it plans to have outside offices provide oversight of the CMO to ensure corrective actions are taken. By March 2011, inspectors from outside the region will conduct an independent audit to assess the effectiveness of the corrective

actions, and in July 2011, the FAA's Flight Standards Quality Assurance Division will conduct an independent Flight Standards Evaluation Program evaluation of the CMO.

Mr. Blosser provided comments on the reports. He noted that the overriding issue is the failure of the FAA to adequately execute their duties in the best interest of the flying public, and that failure is allowing an unnecessary degradation in the level of safety to occur. He believes that the environment at the American Airlines CMO does not place in high regard aviation safety. In his view, it is not clear if this has been the result of the actions of the CMO management, or if the culture in the FAA created an environment where management officials have had little choice in how to conduct themselves. He notes that the report fails to address why the FAA Principal Inspectors failed to act when they were in full knowledge of problem areas at the airline; the FAA response to the OIG report appears to suggest that no one acted inappropriately. He questions whether the FAA is an organization committed to serving the best interests of the nation, or the best interest of themselves.

In his comments on the supplemental report, Mr. Blosser states that he does not dispute the value of the collaborative approach, but cautions that both the regulator and the airline must share a mutual desire that all aircraft operated are safe and in compliance with federal regulations. He believes that the lapses in oversight occurred due to FAA culture that directs inspectors to collaborate, but when that does not achieve compliance, go no further; that effectively results in regulators becoming advisors, and the public pays the price.

OSC has reviewed the original disclosures, the agency's report and supplemental report, and Mr. Blosser's comments. Based on that review, OSC has determined that the agency reports contain all of the information required by statute, and that the findings of the agency head appear reasonable.

As required by law, 5 U.S.C. § 1213(e)(3), we have sent copies of the reports and Mr. Blosser's comments to the Chairman and Ranking Member of the Senate Committee on Commerce, Science and Transportation and the Chairman and Ranking Member of the House Committee on Transportation and Infrastructure. We have also filed copies of the reports and Mr. Blosser's comments in our public file, which is available online at www.osc.gov, and closed the matter.

Respectfully,



William E. Reukauf
Associate Special Counsel

Enclosures