

**UNDER SECRETARY OF STATE  
FOR MANAGEMENT  
WASHINGTON**

NOV 14 2012

Ms. Carol N. Lerner  
Special Counsel  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4501

Dear Ms. Lerner:

Re: OSC File No. DI-12-2455

The U.S. Office of Special Counsel (OSC) informed the Secretary on May 31 about a whistleblower disclosure about our fleet management personnel's conduct in properly maintaining and repairing our bus fleet. The Secretary of State, via Delegation Authority 198, has delegated to me the authority to respond on this matter. Since this initial communication, (5 USC 1213(c) report), I have provided the OSC with updates on the interim steps we have taken to investigate the matter and verify that appropriate procedures were in place to ensure our bus fleet was maintained and operated in a safe and efficient manner. The Office of Inspector General (OIG) completed its final report on State's shuttle bus fleet operations on September 21 and State's Administrative Bureau responded in detail to the OIG's recommendations on October 17 (attached). With the OIG's investigation now complete and the Administrative Bureau's analysis and response to the issues in hand, in this letter I would like to address your remaining concerns.

In your October 12 email you raise two issues, new allegations from the whistleblower, and issues unresolved from our response to the OIG recommendations. I will first address the new allegations, and then turn to your remaining concerns. I respond to each of the whistleblower's five new allegations below. Overall, I would categorize allegations #1 and #3 as relating to systemic issues we have with leasing vehicles from GSA, and in allegations #2 and #4 I contend that our fleet managers were implementing appropriate safety and maintenance procedures. As for allegation #5, I would need further detail of the incident before we can respond.

**Whistleblower Allegation #1: Bus 1723 broke down last week during the bus's first run after being serviced by a vendor, and had to be towed to a vendor to be serviced again that same day.**

*We confirm that Bus 1723 did break down on September 27, 2012, one day after return to service, but the second breakdown was from a cause unrelated to the first repair. The bus was repaired and returned from the shop on October 10, 2012. Please note that all of the Department's fleet of shuttle buses are leased through the General Services Administration (GSA) and we are working more closely with GSA to improve the performance of our leased fleet (recommendation 4, page 8).*

**Whistleblower Allegation #2: Bus 1723 was returned to the active fleet on October 10, 2012, to replace Bus 273 which had a natural gas leak and needed service. The whistleblower noticed that the retread on the back tire was still falling apart such that she could put her finger through the hole, even though the whistleblower reported this problem to management on September 27, 2012. Fleet Supervisor Shantay Neuman required the whistleblower to drive the bus on October 11, 2012 and, only after the normal route, could the whistleblower take the bus in for service.**

*We investigated this allegation and could not find documentation on file indicating that the whistleblower or any other operator reported a problem with the tire in question prior to October 11, 2012. On October 11, 2012, the whistleblower inspected bus G32-0723 and found a gash in the right rear outside dual tire. Based on the verbal report from the whistleblower that the tire was not flat and that it was one of a set of dual-wheel tires on the same axle providing an added level of safety, the supervisor determined the bus was safe to operate for the remainder of the shift. The supervisor instructed the whistleblower to complete the remaining four shuttle runs of the day. At the end of the shift, the deputy fleet manager and the supervisor inspected the tire and determined the vehicle safe to drive to the tire shop (Rice Tires) for further inspection, which was performed that day. An official from Rice Tires verbally reported to Fleet Management Office (FMO) that the bus was safe to operate with the gashed tire. However, FMO instructed Rice Tires to replace the gashed tire as a precautionary measure. The tire replacement was completed before the bus was returned to service. We believe that the FMO implemented prudent and appropriate actions in this situation.*

**Whistleblower Allegation #3: Bus 393, which was a “new” bus purchase from GSA, broke down the first day it was used.**

*Bus G32-0393, a 2008 model, was acquired from GSA as an excess vehicle from another agency. The bus was serviced and inspected by a GSA repair facility before FMO received it from GSA on September 27, 2012. Bus G32-0393 was driven by FMO operators until it broke down on October 3, 2012, and was towed to Capitol Coachworks for further repair work. The bus was repaired and returned to service. Please note that all of the Department’s fleet of shuttle buses are leased through the General Services Administration (GSA) and the OIG report makes specific recommendations about how to improve the accountability and performance of GSA leased-vehicles (recommendation 4, page 8).*

**Whistleblower Allegation #4: Bus 277 has had a broken rearview mirror with zero visibility for months.**

*This bus was involved in an accident on August 21, 2012, during which the mirror was completely torn off. The bus was taken to the shop for replacement of the broken mirror on August 22, 2012. The bus was repaired and returned to service.*

**Whistleblower Allegation #5: Other buses have continuous problems, such as the ABS light remaining on to indicate a potential problem with the brake system, and the rear exhaust not properly expelling gases.**

*All concerns reported by the motor vehicle operators are immediately addressed by our fleet supervisory team. We have investigated the stated problems and have not been able to identify any specific occurrences or problems of this nature. More specific information is needed to respond to this allegation.*

The second part of your October 12 email outlined some remaining concerns from the OSC about our responses to the OIG recommendations. I respond briefly to your concerns below and you will find more details in our October 17 response to the OIG.

**OSC Concern #1: State's OIG confirmed that "at least on occasion, driver comments regarding mechanical problems with buses were not acted upon quickly," but no recommendation for fixing this problem was provided to OSC.**

*This concern relates to OIG recommendation #2. Our full response is on page 2 of the attachment. Our fleet management office has updated its standard operating procedures to make the responsibilities and procedures related to fleet maintenance more clear for all stakeholders.*

**OSC Concern #2: State's OIG confirmed that passengers were thrown from their seats during two accidents due to the perimeter seating of the buses, but no remedies were provided to OSC.**

*This relates to OIG recommendation #3 and our full response is given on page 3 of the attachment. We contacted several federal transportation related agencies and offices and could not find regulations governing perimeter seating, nor any empirical evidence to say that buses with perimeter seating were less safe. As buses in our fleet become eligible for replacement, in accordance with GSA's replacement criteria and schedule, we will consider selecting buses without perimeter seating.*

**OSC Concern #3: Although management officials informed motor vehicle operators they are not required to operate vehicles that they perceive to be unsafe, this finding does not address the issue that dispatchers and fleet managers simply assign another driver to that potentially unsafe bus without inspecting the bus or sending it for maintenance.**

*This relates to OIG recommendation #1 and #2, and our full response is on page 1-2 of the attachment. Under no circumstances do dispatchers and fleet managers ignore safety issues raised by motor vehicle operators. The OIG's "Summary of Review Performed in Response to U.S. Office of Special Counsel Findings" (OSC File No. DI-12-2455) indicated that records do not show that drivers are required to drive buses that the operators believe are unsafe. Operators told the OIG inspector that if they felt that a bus was unsafe, they did not drive it. In addition, the FMO director specifically instructs drivers that they are not required to operate a vehicle if they felt it had an issue that rendered it unsafe.*

We agree with the OIG that we need a review of the actual and projected demands on the shuttle bus system (OIG recommendation #5). The Bureau of Administration has initiated a shuttle bus service analysis which is expected to be completed by November 30. This will include a cost analysis to help determine whether we might move from commercially leased buses to in-house operations. I believe the proposed actions and timelines as detailed in the attachment are appropriate and rectify any deficiencies in FMO's safety and maintenance inspection and recording process for vehicles, tracking of maintenance issues, and designation of specific responsibilities associated with vehicle maintenance. I firmly believe that the Department has taken the appropriate steps and actions to satisfy our requirement in addressing the whistleblower's concerns and any other outstanding issues related to the 5 USC 1213(c) report.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Patrick F. Kennedy

Attachment:

Administrative Bureau's Response to the OIG, Memo, October 17, 2012





United States Department of State

*Assistant Secretary of State  
for Administration*

*Washington, D.C. 20520*

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**INFORMATION MEMO FOR UNDER SECRETARY KENNEDY - M**

FROM: A – Joyce A. Barr

SUBJECT: Response to Office of Special Counsel – Outstanding Issues in the 5 USC 1213(c) Report of Shuttle Bus Fleet Operations

The Bureau of Administration was tasked with action on response to an email dated October 12, 2012, from Catherine A. McMullen, U.S. Office of Special Counsel, related to alleged further safety concerns relayed to the Office of Special Counsel (OSC) by the whistleblower as well as bullet points of outstanding issues in the 5 USC 1213(c) report and investigation (U.S. Office of Special Counsel Findings - OSC File No. DI-12-2455).

The whistleblower informed OSC that safety issues involving the bus fleet have continued despite the Section 1213 investigation. The Fleet Management Office (FMO) responses to the alleged continuing and serious safety concerns are as follows:

**Safety Issue 1: Bus 1723 broke down last week during the bus's first run after being serviced by a vendor, and had to be towed to a vendor to be serviced again that same day.**

*Response:* Bus 1723 did break down September 27, 2012, one day after return to service, but the second breakdown was from a cause unrelated to the first repair. The bus was repaired and returned from the shop on October 10, 2012.

*Note: All of the Department's fleet of shuttle buses are leased through the General Services Administration (GSA).*

**Safety Issue 2: Bus 1723 was returned to the active fleet on October 10, 2012, to replace Bus 273 which had a natural gas leak and needed service. The whistleblower noticed that the retread on the back tire was still falling apart such that she could put her finger through the hole, even though the**

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**whistleblower reported this problem to management on September 27, 2012. Fleet Supervisor Shantay Neuman required the whistleblower to drive the bus on October 11, 2012 and, only after the normal route, could the whistleblower take the bus in for service.**

*Response:* There is no documentation on file indicating that the whistleblower or any other operator reported a problem with the tire in question prior to October 11, 2012. On October 11, 2012, the whistleblower inspected bus G32-0723 and found a gash in the right rear outside dual tire. Based on the verbal report from the whistleblower that the tire was not flat and that it was one of a set of dual-wheel tires on the same axle providing an added level of safety, the supervisor determined the bus was safe to operate for the remainder of the shift. The supervisor instructed the whistleblower to complete the remaining four shuttle runs of the day. At the end of the shift, the deputy fleet manager and the supervisor inspected the tire and determined the vehicle safe to drive to the tire shop (Rice Tires) for further inspection, which was performed that day. An official from Rice Tires verbally reported to FMO that the bus was safe to operate with the gashed tire. However, FMO instructed Rice Tires to replace the gashed tire as a precautionary measure. The tire replacement was completed before the bus was returned to service.

**Safety Issue 3: Bus 393, which was a “new” bus purchase from GSA, broke down the first day it was used.**

*Response:* Bus G32-0393, a 2008 model, was acquired from GSA as an excess vehicle from another agency. The bus was serviced and inspected by a GSA repair facility before FMO received it from GSA on September 27, 2012. Bus G32-0393 was driven by FMO operators until it broke down on October 3, 2012, and was towed to Capitol Coachworks for further repair work. The bus was repaired and returned to service.

**Safety Issue 4: Bus 277 has had a broken rearview mirror with zero visibility for months.**

*Response:* This bus was involved in an accident on August 21, 2012, during which the mirror was completely torn off. The bus was taken to the shop for replacement of the broken mirror on August 22, 2012. The bus was repaired and returned to service.



**Safety Issue 5: Other buses have continuous problems, such as the ABS light remaining on to indicate a potential problem with the brake system, and the rear exhaust not properly expelling gases.**

*Response:* All concerns reported by the motor vehicle operators are immediately addressed by our fleet supervisory team. We have investigated the stated problems and have not been able to identify any specific occurrences or problems of this nature. More specific information is needed to help us respond to this allegation.

Further, specific issues were brought to our attention by the OSC related to your response letter dated October 10, 2012. Specific issues relayed by the OSC to your office and FMO responses to these specific issues are as follows:

**Issue 1: The cover letter from the Under Secretary must specifically state that the Secretary delegated authority to him to sign the report.**

*Response:* The Secretary delegated authority to Patrick F. Kennedy, Under Secretary for Management to sign the report (See Tab 1)

**Issue 2: Page 1 of the response references an OIG report which details recommendations designed to improve the process of inspecting and recording problems with the shuttle vehicles, tracking maintenance issues, and designating responsibilities associated with vehicle maintenance, but these recommendations were not attached to State's response.**

*Response:* The referenced OIG report (See Tab 2) detailed findings of the OIG's investigation into the whistleblower disclosure. The Office of Operations (A/OPR) was formally tasked with action on recommendations provided in the OIG Inspection Report of DOS Shuttle Bus Fleet Operations, A/OPR/GSM/FMO, ISP-I-12-50, dated September 21, 2012. A/OPR responded to the OIG on October 17, 2012, with formal remedies and solutions that have already been implemented and/or initiated. The OIG inspection report with recommendations and the A/OPR response memorandum (See Tab 4) with formal remedies and solutions are attached.

**Issue 3: State's OIG confirmed that "at least on occasion, driver comments regarding mechanical problems with buses were not acted upon quickly," but no recommendation for fixing this problem was provided to OSC.**

*Response:* The recommendation by the OIG and the corrective actions taken by FMO are addressed in the A/OPR response memorandum to the OIG as outlined under recommendations numbered 1 and 2. (See Tab 4)

**Issue 4: State's OIG confirmed that passengers were thrown from their seats during two accidents due to the perimeter seating of the buses, but no remedies were provided to OSC.**

*Response:* The recommendation by the OIG and both the response and proposed remedies by FMO are addressed in the A/OPR response memorandum to the OIG as outlined under recommendation numbered 3. (See Tab 4)

**Issue 4: Although management officials informed motor vehicle operators they are not required to operate vehicles that they perceive to be unsafe, this finding does not address the issue that dispatchers and fleet managers simply assign another driver to that potentially unsafe bus without inspecting the bus or sending it for maintenance.**

*Response:* Under no circumstances do dispatchers and fleet managers ignore safety issues raised by motor vehicle operators. The OIG's "Summary of Review Performed in Response to U.S. Office of Special Counsel Findings" (OSC File No. DI-12-2455) indicated that records do not show that drivers are required to drive buses that the operators believe are unsafe. Operators told the OIG inspector that if they felt that a bus was unsafe, they did not drive it. In addition, the FMO director specifically instructed the drivers that they were not required to operate a vehicle if they felt it had an issue that rendered it unsafe. (See Tab 5)

Additionally, as outlined in the OIG inspection response (A/OPR response to OIG recommendations 4 and 5), FMO is taking proactive measures to improve the communication and interaction process with the GSA related to the Department's fleet of vehicles. The improvements in this process will address specific OIG recommendations related to the fleet of buses that the Department of State leases, maintains and repairs through GSA contractual obligations. The FMO process improvements will focus on future vehicle replacement, vehicle maintenance providers and services, quality control of the Department's shuttle bus program and potential cost reduction measures.





United States Department of State

Washington, D.C. 20520

October 17, 2012

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**MEMORANDUM**

TO: OIG – Mr. Robert B. Peterson

FROM: A/OPR – Keith D. Miller ↙

SUBJECT: Inspection Report of DOS Shuttle Bus Fleet Operations  
(A/OPR/GSM/FMO) (ISP-I-12-50)

The Bureau of Administration was tasked with action on recommendations 1-5 of the aforementioned inspection report. James Goodwin, Chief of the Fleet Management Office (A/OPR/GSM/FMO) is the point of contact and can be reached on extension 7-3159. Per your memorandum of September 21, 2012, recommendations and responses are as follows:

**Recommendation 1: The Bureau of Administration should institute a comprehensive record keeping system to track maintenance of the shuttle buses. (Action: A)**

*Response:* The following solutions have been implemented or initiated by the Fleet Management Office (FMO):

- FMO is requesting and receiving completed repair invoices from the repair vendors.
- All repair and maintenance invoices and preventative maintenance schedules have been, and will continue to be, entered and/or updated in the Fleet Management Information System (FMIS) for comprehensive record keeping to track the maintenance of the shuttle buses.
- FMO has instituted a vehicle repair status chart to monitor the daily vehicle status. FMO's Inventory Management Specialist is responsible for maintaining the chart, which is also available on each FMO staff member's desktop.

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**Recommendation 2: The Bureau of Administration should develop and implement procedures for maintenance of shuttle buses, including identifying an employee responsible for the fleet's maintenance. (Action: A)**

*Response:* FMO is currently updating its Standard Operating Procedures with an anticipated completion date of October 31, 2012. The new updates will establish responsibilities and procedures related to fleet maintenance. The FMO staff will be provided guidance and instruction on the responsibilities and procedures and adherence will be mandatory. Compliance will be monitored by the Quality Assurance staff. The delegated responsibilities and procedures are outlined below:

The **Inventory Management Specialist (IMS)** will be responsible for:

- Oversight of the FMO vehicle maintenance program, which entails tracking all FMO-controlled vehicle preventative maintenance, scheduled maintenance, unscheduled maintenance and accident damage repairs in FMIS.

The **Motor Vehicle Operators (MVOs)** will be responsible for:

- Identifying unscheduled vehicle maintenance discrepancies and reporting them to the Dispatchers and/or the MVO supervisor.
- Delivering the vehicle to the repair facility and explaining the discrepancy to the repair facility representative.
  - If the vehicle is towed to the repair facility, the IMS will ensure the repair facility representative has all necessary information, such as the vehicle discrepancy and the GSA and FMO points of contact.
- Retrieving the vehicle once repairs are completed, including inspecting the vehicle to ensure identified repairs were accomplished.

The **Dispatchers and/or Supervisors** will be responsible for:

- Determining the severity of vehicle discrepancies reported by MVOs.
  - If the discrepancy is safety related, the vehicle will be removed from service immediately and necessary repairs scheduled.
  - If the discrepancy is not safety related and will not cause additional damage to the vehicle, the vehicle will be placed back in service and scheduled for delivery to the repair shop within 48 hours.
- Assigning MVOs to drop off and pick up vehicles from repair facilities.
- Ensuring that all documentation is accurate and submitted to the IMS.
- Ensuring that the IMS is notified when vehicles are delivered to the repair shop and again when returned to service.

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**Recommendation 3: The Bureau of Administration should coordinate with the General Services Administration to resolve concerns about buses with perimeter seating or exchange the buses for models without perimeter seating. (Action: A)**

*Response:* FMO has coordinated with the General Services Administration (GSA) Vehicle Engineering Branch to resolve concerns about buses with perimeter seating. GSA Engineering stated that they "are not aware of any regulations regarding side facing seating on buses, or of related safety research" and did not provide any recommendations. FMO also contacted the Department of Transportation (DOT), National Highway Traffic Safety Administration via email, which did not provide any additional comment or recommendation. In addition, FMO staff conducted an internal and comprehensive analysis of on-line research on the safety of perimeter seating buses. The only reference to the safety of buses with perimeter seating that GSA, DOS and DOT were able to obtain is in a study of bus accidents from 1999-2003 conducted by Wichita State University (Report 09-0427, <http://www-nrd.nhtsa.dot.gov/pdf/esv/esv21/09-0427.pdf>). The report addresses passenger injuries in both traverse/forward-facing and longitudinal/side-facing/perimeter seating configurations. The report does not indicate that more injuries or more severe injuries occur in buses with perimeter seating, or that such buses are unsafe or even less-safe than forward seating buses.

FMO also queried GSA in regards to changing the seats or replacing the existing perimeter seating buses. GSA Fleet responded and indicated that the perimeter seating buses:

1. Cannot be *retrofitted* by either turning the seats to forward-facing or installing armrests between the side-facing seats.
2. Are not eligible for *replacement* with new buses in the near-term, because the buses will not meet the GSA replacement criteria for several years. The possibility of acquiring leased replacements through new GSA procurement is virtually impossible, because GSA has not budgeted to replace them for several years.

Since there is no empirical evidence of perimeter seating buses being any more dangerous than bus models without perimeter seating, the only long-term solution is that FMO will consider not ordering perimeter seating buses when the current fleet of buses become eligible for replacement in accordance with GSA's replacement criteria/schedule.

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**Recommendation 4: The Bureau of Administration should develop and implement a communication and interaction process with the General Services Administration that involves determination of specifications for future replacement vehicles, notification of regional General Services Administration staff when a vehicle is sent to a vendor for service, and implementation of a credit process when a vehicle is out of service for an extended period of time. (Action: A)**

*Response:* FMO consistently communicates with GSA Fleet Service representatives almost daily on various vehicle issues. In addition, FMO meets with the GSA Office of Motor Vehicle Management annually to discuss DOS Fleet operation issues, such as the Annual Vehicle Replacement Cycle, during which FMO submits their leased vehicle order to GSA to fill new requirements and/or to replace current vehicles that meet GSA replacement criteria.

GSA informed the OIG that "FMO should develop a list of specifications for future replacement buses" and further that "GSA does not dictate what kind of leased vehicles the Department would get". The information provided to the OIG by GSA is a new development in the GSA process for leasing vehicles as FMO has historically been directed to select from among specific vehicles and options identified in GSA's Federal Vehicle Standards, [www.gsa.gov/vehiclestandards](http://www.gsa.gov/vehiclestandards). FMO will now provide GSA with a list of specifications for future replacement buses.

FMO staff has been directed to notify the GSA Fleet Service representative when a vehicle is sent to a vendor for service. FMO staff will also ensure that the IMS is notified for tracking purposes, and pursue lease cost reimbursement for vehicles out of service for extended periods of time.

**Recommendation 5: The Bureau of Administration should review the actual and projected demands on the shuttle bus system, the cost of leasing and contracting for shuttle buses, the number of days lost to the system when vehicles are out of service, and the number of shuttle vehicles, and should prepare written documentation that the shuttle bus program can meet its mission in a reasonable manner, and that the General Services Administration is the best source of vehicles for the shuttle operation. (Action: A)**

*Response:* FMO, in cooperation with the Bureau of Administration Working Capital Fund Manager, is in the process of conducting a shuttle bus cost analysis,

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which is projected to be completed by November 30, 2012. The analysis will cover the following:

- Actual and projected demands on the shuttle bus system.
- Current cost of performing the shuttle service in-house, including contracting services due to equipment unavailability.
- Adequacy of bus inventory to perform services.
- Cost of GSA leased buses and FMO labor vs. commercially leased buses and labor.
- Cost of contracting some or all shuttle bus services.
- Other issues as required.

All of the planned solutions will be incorporated into the FMO Standard Operating Procedures (SOP) for compliance and reference. The suspense date for completion of the SOP is October 31, 2012.

cc:

A/EX/MGT – Joseph McGuire  
A – Judith Johnson  
A – Renee Bemish

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