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**Analysis of Disclosures, Agency Investigation and Reports,
and Whistleblower Comments**

**OSC File Nos. DI-08-3157, DI-08-2777, and DI-11-0165
(Vincent M. Sugent)**

The allegations in these matters were disclosed by a whistleblower at the Department of Transportation (DOT), Federal Aviation Administration (FAA), Detroit Metropolitan Airport (DTW), Detroit, Michigan. Mr. Vincent Sugent, an Air Traffic Controller who consented to the release of his name, disclosed that FAA employees at DTW engaged in conduct that constituted a violation of law, rule, or regulation, gross mismanagement, and a substantial and specific danger to public safety.

Since 2008, Mr. Sugent has brought multiple disclosures to the Office of Special Counsel (OSC), reporting unsafe procedures in the operation of air traffic at DTW.¹ In March 2008, OSC referred for investigation Mr. Sugent's disclosure that the operation of a departure and arrival procedure known as the Southwest Flow was unsafe. DOT substantiated the allegations after investigation and the procedure was halted. In December 2008, OSC referred for investigation allegations that FAA officials had again operated the Southwest Flow, and that wind instruments used by air traffic controllers to report weather conditions to aircraft were not reliable. Again, DOT substantiated the allegations, the FAA disciplined a manager, and changes to the wind instruments were proposed. In February 2011, Mr. Sugent disclosed to OSC that proposed changes had not occurred. He also reported additional concerns regarding the reporting of operational errors and deviations, and the transmission of standardized routing information to aircraft on certain routes. OSC referred these allegations for investigation.

Specifically, in February 2011, Mr. Sugent disclosed that managers at DTW routinely charged controllers with operational errors or deviations when they violated a local FAA Order, in contravention of stated FAA policy, and contrary to the findings of a DOT investigation conducted in response to the 2008 referral from OSC to the Honorable Ray LaHood, Secretary of Transportation. Mr. Sugent also reported that, contrary to the findings of the same investigation, wind source instruments at DTW were not operating as designed, and presented a danger to safety. Finally, Mr. Sugent reported that controllers were unable to transmit standardized routing information to aircraft on certain routes, which presented a safety concern.

On February 28, 2011, OSC referred Mr. Sugent's allegations to Secretary LaHood to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary delegated the

¹ In January 2011, OSC selected Mr. Sugent as the recipient of its Public Servant Award for 2010, in recognition of his substantial contribution to public service through his disclosures of serious aviation safety hazards and public health risks at DTW.

investigation to the DOT, Office of Inspector General (OIG), who conducted the investigation jointly with FAA's Air Traffic Safety Oversight Service (AOV). OSC received the agency's report on September 23, 2011, and a supplemental report on February 24, 2012.² Mr. Sugent provided comments on the reports pursuant to 5 U.S.C. § 1213(e)(1).

Summary of Agency's Findings in the Current Disclosure

The OIG's investigation did not substantiate Mr. Sugent's allegations. The OIG reported that, in its opinion, Mr. Sugent's allegation that FAA officials improperly attributed operational errors and deviations to DTW controllers for violating local orders or directives was unfounded. The evidence indicated that the facility issued the operational errors and deviations based on definitions provided in FAA Order 7210.56C, a national order. The OIG clarified what constitutes an operational deviation when local orders or directives are implicated.

The OIG also found that the two wind measurement instruments at DTW continue to provide disparate wind measurements. Notwithstanding this finding, the OIG was unable to substantiate that these disparities resulted in an "unsafe and untenable situation for controllers and the flying public." Nonetheless, FAA will complete a safety risk analysis to determine the hazards associated with a proposed change in the primary wind source, and to collect data to isolate any technical reason for the divergent readings of the two devices and help eliminate random differences.

Finally, the OIG investigation was unable to substantiate the allegation that the lack of Standard Instrument Departure (SID) procedures for departures to certain Ohio airports constituted a substantial and specific threat to safety.³ Notwithstanding this finding, FAA intends to "improve the timely release of air traffic from DTW" by changing published SIDs so they can be issued to aircraft departing to the Ohio airports.

Referral History - 2008 Referrals

OSC File No. DI-08-0591 (The Southwest Flow I Referral)

On March 12, 2008, OSC referred to the Honorable Mary E. Peters, then-Secretary, DOT, pursuant to 5 U.S.C. § 1213(c), disclosures from Mr. Sugent concerning the management of air traffic in an operation known as the Southwest Flow (the Southwest Flow I Referral).⁴ The Southwest Flow was an air traffic arrival and departure pattern that occurred when controllers landed flights on runway 27L while departing flights on runway 21R and/or 22L. It was subsequently determined not to be safe and canceled at DTW.

² The September 23, 2011 and February 24, 2012 reports are referred to herein as the Southwest Flow III Report for clarity.

³ A SID is an air traffic control coded departure procedure used to simplify clearance delivery procedures.

⁴ Sugent, Vincent; OSC File No. DI-08-0591 (consolidated with OSC File No. DI-08-1696). A copy is enclosed for your reference. OSC's letter to you, together with the agency reports and whistleblower comments in this matter, are posted online on OSC's public file, available at www.osc.gov.

In response to the Southwest Flow I Referral, then-Secretary Peters tasked the investigation to the OIG. OSC received a report of this investigation dated June 10, 2009, from Secretary LaHood, and two supplemental reports dated September 23, 2009, and February 1, 2010, from DOT's Office of General Counsel, referred to collectively as the Southwest Flow I Reports. OSC found the Southwest Flow I Reports reasonable and transmitted them, together with the whistleblower's comments, to you and to the congressional oversight committees. The Southwest Flow I Reports are implicated in the instant disclosure because they addressed an allegation that was raised by Mr. Sugent in the course of the investigation, but not referred by OSC, involving SID procedures. Mr. Sugent alleged that following a June 2006 reconfiguration at DTW, controllers could no longer provide SID routes to aircraft traveling to certain airports in Ohio. He asserted that the inability to use electronic communications to provide routing information to aircraft constituted a safety issue.

The Southwest Flow I Reports did not substantiate Mr. Sugent's allegations concerning the controllers' inability to use electronic communications to provide routing information to aircraft traveling to several airports in Ohio. According to the Southwest Flow I Reports, the OIG did not find evidence that the inability to issue SIDs electronically posed a safety issue. Notwithstanding this finding, the Southwest Flow I Reports stated that "...DTW staff recently developed a procedure to ensure all departing aircraft, including those traveling to the airports in Ohio at issue, receive SIDs utilizing the electronic communication system." June 10, 2009 Report at 16. The Southwest Flow I Reports further stated that Mr. Sugent reviewed the proposed procedure and expressed satisfaction with it – a statement with which Mr. Sugent disagreed in his comments on the report.

OSC File Nos. DI-08-3157 and DI-08-2777 (the Southwest Flow II Referral)

On December 19, 2008, OSC referred to then-Secretary Peters, then-Secretary, Department of Transportation, allegations made by Mr. Sugent and another Air Traffic Controller, Paul Mueller, that FAA managers again operated a runway pattern known as the Southwest Flow, which resulted in operational errors and deviations, some of which went unreported. They also disclosed that wind source instruments at DTW were unreliable, and that this compromised safety (the Southwest Flow II Referral).⁵

In response to the Southwest Flow II Referral, then-Secretary Peters tasked the investigation to the OIG. OSC received a report of this investigation dated January 14, 2010, from Secretary Ray LaHood, and two supplemental reports dated May 21, 2010, and June 25, 2010, from DOT's Office of General Counsel, referred to collectively as the Southwest Flow II Reports.

⁵ Sugent, Vincent; OSC File No. DI-08-3157 and Mueller, Paul; DI-08-2777. A copy is enclosed for your reference. OSC's letter to you, together with the agency reports and whistleblower comments in this matter, are posted online on OSC's public file, available at www.osc.gov.

The Southwest Flow II Reports substantiated the majority of Mr. Sugent's allegations. According to the Southwest Flow II Reports, the OIG found that on July 21, 2008, a Frontline Manager improperly directed controllers to authorize the departure of three Boeing 747 Jets in a manner contrary to DTW local policy. During the investigation, the OIG found six additional violations of local policy. None of the incidents, according to the OIG, violated national standards regarding minimum separation between aircraft. The implication of this finding was that the incidents did not constitute operational errors or deviations. January 14, 2010 Report at 7.

According to the Southwest Flow II Reports, a violation of a local order is not necessarily an operational error or deviation, unless the same event is also a violation of a national order. DOT and FAA officials concluded that "[i]n order to be classified as an operational error or deviation, the event must be a violation of the national, not local, standard." January 14, 2010 Report at 7. OSC subsequently received information from Mr. Sugent that at DTW, controllers were routinely charged with operational errors and/or deviations for violations of local orders, despite FAA's contention that a violation of a local order does not constitute an operational error or deviation and is not subject to reporting requirements.

When OSC requested additional information concerning this apparent discrepancy, DOT responded that "[a] violation of a local order is not necessarily an operational deviation, unless the same event is also a violation of [FAA Order] 7210.56C. Should a controller violate both a local order and 7210.56C during the same event, the controller would be charged with an operational deviation in violation of both the national and local order." May 21, 2010 Report at 3. Finally, the investigation "found no evidence that Detroit officials incorrectly charged controllers with operational deviations for violating local orders." May 21, 2010 Report at 3.

With respect to the wind source instruments, the January 14, 2010 Report did substantiate inconsistent wind speed readings between the two wind detection devices available to controllers in the Air Traffic Control Tower. According to that report, DTW officials were still awaiting higher level approval to fund repair requests. In a Memorandum dated December 14, 2009, enclosed with the January 14, 2010 Report, FAA noted that it concurred, with qualification, in the OIG's finding that the wind instruments had shown contradictory results, explaining that the two wind instruments draw measurements from different locations and heights, and that as a result, discrepancies are to be expected. The FAA Memorandum also stated that, "at DTW, controllers may estimate the wind using the airport windsock if the [primary wind sensor] is not considered reliable." December 14, 2009 Memorandum at 2. Finally, the Memorandum concluded, "[t]he equipment is functioning as designed; therefore no additional funding has been requested." December 14, 2009 Memorandum at 2.

After receipt of the January 14, 2010 Report, OSC received information from Mr. Sugent and the co-whistleblower, Mr. Mueller, indicating that controllers were continuing to experience inconsistencies in the wind readings. Moreover, the whistleblowers reported that the windsocks at DTW, which are primarily directional aids for pilots landing at the airport, are located one to two miles from the tower at runway ends, and are not visible at night. OSC requested additional

information from DOT. DOT responded that the Automated Surface Observing System (ASOS) and the Terminal Doppler Weather Radar (TDWR), the two instruments that provide wind readings, were operating properly, and that any difference in the measurements they provided did not constitute a safety threat.

On August 9, 2010, OSC transmitted the Southwest Flow II Reports and whistleblower's comments to you and to the congressional oversight committees. OSC determined that the Southwest Flow II Reports contained all of the information required by statute, and that the findings of the agency head appeared reasonable, but noted its concern with regard to ongoing reports from the whistleblowers that the wind source instruments were not operating in a manner that enabled controllers to confidently issue wind advisories to aircraft landing and departing at DTW. OSC commented that another evaluation of these essential controller tools may be warranted.

The Whistleblower's Allegations in the Current Disclosure

Violations of local orders treated as operational errors or deviations

As stated above, the Southwest Flow II Reports concluded that “[i]n order to be classified as an operational error or deviation, the event must be a violation of the national, not local, standard.” The Southwest Flow II Reports also concluded that at DTW, there was no evidence that DTW officials incorrectly charged controllers with operational deviations for violating local orders.

In September 2010, based on the findings in the Southwest Flow II Reports, Mr. Sugent, in his capacity as National Air Traffic Controllers Association Facility Representative, formally requested that the facility reclassify any and all operational errors and deviations resulting from local standards, notices, or procedures, as non-events or non-occurrences. Mr. Sugent received a denial of his request from the DTW Air Traffic Manager Gary Ancinec on September 28, 2010. That response stated: “Based on [the definitions of operational error and deviation in FAA Orders] all violations of local and national procedures at DTW were properly classified as operational errors or deviations.” Mr. Sugent asserted that it was unclear whether DTW management agreed with the DOT policy as reflected in the Southwest Flow II Reports.

Mr. Sugent then made the disclosures to OSC that are the subject of this current report. He disclosed that at least since 2007 and continuing up to as late as November 2010, managers at DTW have consistently charged controllers with operational errors or deviations, where the only violation reported was one involving a local, facility order, and not a national FAA order. He supplied copies of Operational Error/Deviation Reports reflecting that incidents resulting from the violation of a local order or letter of agreement, without reference to any national order, were charged to controllers as operational errors and/or deviations on a regular basis. For example, controllers who issued incorrect headings (a violation of a local order or letter of agreement) resulting in no loss of the required separation between aircraft, were charged with operational errors or deviations.

As such, Mr. Sugent maintained that the Southwest Flow II Reports concluding that DTW officials did not incorrectly charge controllers with operational errors or deviations for violations of local orders only, could not have been correct at the time they were issued, or at any time thereafter, based on the Operational Error/Deviation reports he obtained from DTW management. He further maintained that DTW continued to charge controllers with operational errors and/or deviations for violations of local orders, notwithstanding FAA's stated position with respect to this issue.

Mr. Sugent also noted that the Frontline Manager at DTW who was found to have improperly directed controllers to depart three Boeing 747 jets in a manner contrary to DTW local policy (the subject of the Southwest Flow II Reports) was initially charged with operational errors in connection with these events. January 14, 2010 Report at 4. FAA Headquarters officials later reclassified these events, at DTW's request, as non-occurrences, based on the determination that they were not operational errors or deviations. Mr. Sugent disclosed that the determination to reclassify these events based on the fact that the Frontline Manager violated local, and not national, policy is inconsistent with the regular and ongoing practice at DTW of charging controllers with operational errors and/or deviations where local, and not national, policy has been violated.

Mr. Sugent further noted that an air traffic controller was charged with an operational error in connection with an event that occurred on October 17, 2007, referenced as DTW-T-07-E-003. In that instance, the controller was charged with the same violation as that charged to the Frontline Manager in the events described above; nevertheless, the request to reclassify that event was denied.

Based on the above, Mr. Sugent maintained that, 1) DTW policy is inconsistent with and in contravention to the stated DOT policy regarding the reporting of operational errors and/or deviations, thus artificially inflating the number of errors and/or deviations attributed to the facility; 2) DOT's investigative reports did not accurately reflect DTW's practices with respect to violations of local orders; and 3) controllers who violated local orders only were improperly charged with operational errors and/or deviations, which should be reclassified as non-occurrences. In the alternative, Mr. Sugent proposed that FAA revise its national policy and communicate the revised policy to facilities throughout FAA in order to ensure accurate and consistent reporting of errors and deviations throughout the agency.

Wind Source Instruments

Mr. Sugent disclosed that the wind source instruments continue to provide inconsistent readings and that the inconsistency presents a substantial and specific danger to public safety. He reported that on October 27, 2010, FAA conducted further assessments of the wind source instruments, which resulted in a determination that the height and location of the equipment impedes its accuracy and safety. Moreover, the assessment found that "[g]iven the height and location of [nearby aircraft hangars], the DTW ASOS is in violation of the ASOS Siting Order." Based on this assessment, a report dated December 6, 2010 recommended that the wind source

instruments be relocated. Mr. Sugent disclosed that the facility had taken no action to relocate or replace the equipment, despite continuing reports of inconsistent readings and the failure of the equipment to record wind gusts. In addition, Mr. Sugent stated that in the event that the TDWR, the primary wind source instrument, is non-functioning or inoperative due to routine maintenance, controllers must rely on the ASOS equipment. According to Mr. Sugent, although the ASOS equipment is the secondary source pursuant to DTW Standard Operating Procedures, the equipment is intended to be for information only, and is not certified by FAA for use by controllers in issuing wind advisories to aircraft.

Based on the above, Mr. Sugent disclosed that there has been no change in the status of the wind source instruments since his original disclosures to OSC, and that more recent evaluations have confirmed the inaccuracies in the readings provided by these instruments. As such, the equipment is not sufficient to provide controllers with the essential tools they require to issue wind advisories to aircraft landing and departing at DTW, or to safely control air traffic in periods of heavy wind or when there are wind gusts. He maintained that FAA's insistence since prior to his first disclosures that the wind instruments are working as designed, contributed to this unsafe and untenable situation for controllers and the flying public.

Standard Instrument Departure Procedures

Mr. Sugent again disclosed that the lack of an electronic system for use by controllers in issuing Standard Instrument Departure Procedures to aircraft departing for Ohio airports constituted a substantial and specific danger to public safety. As noted in the Southwest Flow I Reports, "...the SID provides the aircraft with a safe route for departing from the airport, as well as the waypoints to the air corridor in which it will travel." September 23, 2009 Report at 26. The Southwest Flow I Reports highlight a disagreement between facility management and controllers regarding whether the need to verbally transmit SID routes to aircraft traveling to the Ohio airports at issue compromises safety, as the controllers maintain, or presents an additional workload burden for controllers, as facility managers maintain. Mr. Sugent asserts that verbal transmission increases the risk that incorrect information could be transmitted or received.

Mr. Sugent also clarified that his concerns did not solely involve the use of an electronic communication system to issue a SID, but also included concerns that routes to certain airports for which aircraft departing DTW are bound are not covered by any SID. If an aircraft is capable of receiving information via an electronic communication system, but the route to the destination airport is not formalized as a SID, then controllers must contact the pilot and issue a step-by-step clearance via radio containing the information that would be in the SID, if one existed. This would include a number of waypoints or fixes, which may be given by their geographical coordinates, or which may be defined by radio beacons such as VOR or NDB and radial headings, or radial headings with a DME distance.⁶ It may also include a climb profile,

⁶ VOR, or VHF omnidirectional radio range, is a type of [radio navigation](#) system for [aircraft](#). A NDB, or non-directional radio beacon, is a radio transmitter at a known location, used as a navigational aid. DME, or distance measuring equipment, provides distance information to the aircraft.

instructing the pilot to cross certain points at or above certain altitudes. Whether or not DTW has an electronic communications system is not the issue in cases where aircraft are departing for airports not on a SID. Mr. Sugent maintained that it is clearly safer to send a message to an aircraft that prints out in the cockpit with standardized routing, than to send a message via voice transmission that could be misunderstood or copied in error. Moreover, issuing standard departures that are depicted on charts is preferable to listing instructions step-by-step. Mr. Sugent pointed out that in a busy airport such as DTW, the primary asset of a busy controller is frequency time, and anything that safely reduces time spent on the frequency by both the controller and the pilot is beneficial to the operation.

According to the Southwest Flow I Reports, DTW staff had drafted a procedure to ensure that all departing aircraft, including those traveling to the Ohio airports at issue, receive SIDs utilizing the electronic communication system. Mr. Sugent asserted that he was unaware of any procedure developed by DTW officials to ensure that all departing aircraft, including those traveling to the airports in Ohio at issue, receive SIDs utilizing the electronic communication system as stated in the Southwest Flow I Reports. He further stated that he has neither reviewed nor expressed satisfaction with any such proposed procedure, as the Southwest Flow I Reports state. He maintained that the failure to provide SIDs for specified routes currently lacking them or to adjust controller requirements for transmission of instructions, as well as the lack of electronic communication systems for currently published SIDs, constituted a substantial and specific danger to public safety.

The Agency's Findings in the Current Disclosure

The allegation that FAA officials improperly attributed operational errors and deviations to air traffic controllers at DTW for violating local orders was unfounded.

The September 23, 2011 agency report (Southwest Flow III Report) states that “in our opinion,” Mr. Sugent’s allegation that FAA officials improperly attributed operational errors and deviations to DTW controllers for violating local order or directives is unfounded. The Southwest Flow III Report cites the Southwest Flow II Report dated December 14, 2009, in which the OIG stated that an operational error or deviation must be a violation of the “national, not local, standard.” It explains that the “national standard” is FAA Order JO 7110.65, “Air Traffic Control.” Paragraph 2-1-14.a. of this Order requires controllers to “[e]nsure that the necessary coordination has been accomplished before you allow an aircraft under your control to enter another controller’s area of jurisdiction.”

The Southwest Flow III Report further explains that what constitutes “necessary coordination” is generally found in the specific requirements of FAA Order JO 7110.65. In some cases, however, the “necessary coordination” is found in FAA Order 7210.56C, “Air Traffic Quality Assurance.” Paragraph 5-1-1.d.(3) of this Order defines coordination as “direct coordination or as specified in a [letter of agreement], pre-coordination, or internal procedure”

involved in a specific aircraft operation. Because a letter of agreement exists between the Detroit Air Traffic Control Tower and the Detroit Terminal Radar Approach Control (TRACON) facility, requirements for coordination within the meaning of FAA Order 7210.56C are imposed on controllers in both facilities. The letter of agreement states that under certain specific conditions, Detroit Tower controllers will assign specific headings to aircraft departing DTW. If a Detroit Tower controller failed to assign the departure heading required by the letter of agreement to an aircraft, and if that aircraft subsequently entered Detroit TRACON jurisdiction without the TRACON controller knowing the heading was not assigned, an operational deviation, as defined by FAA Order 7210.56C, would have occurred.

Mr. Sugent asserted that the Final Operational Error/Deviation Reports identified only the specific requirements of the local order, from the letters of agreement, internal directives, or standard operating procedures, as the requirements that were violated. The Southwest Flow III Report reflects Mr. Sugent's position that the events fell within the definition of an operational deviation set forth in FAA Order 7210.56C. He did not dispute that the events should be classified as operational deviations, but asserted only that based on FAA's affirmative statements in the Southwest Flow II Reports, the violation of such a local order could not result in the assignment of an operational error or deviation to the controller.

The Southwest Flow III Report argues that for operational deviations, the overarching national standard "may be paragraph 2-1-14 of Order 7110.65; however, little value would be gained by citing this paragraph in Block 48 and elsewhere throughout the report." Rather, management's citation of the specific local violation enables the reports to be used to determine operational trends. Although determining that operational safety events involve misapplication or failure to apply paragraph 2-1-14 is "useful," according to the OIG, it is more beneficial to know that the safety events involve the misapplication or failure to apply the specific requirement found in the facility's letter of agreement, directive, or standard operating procedures. On these grounds, the OIG determined that Mr. Sugent's "assertion that the reported events were not operational deviations because their associated 'Final Operational Error/Deviation Reports' did not specifically reference a national order is false."

Mr. Sugent cited FAA's failure to assign an operational deviation to the then-DTW Frontline Manager in July 2008, when he improperly directed controllers to depart three Boeing 747 jets in a manner contrary to DTW local policy. The local policies at issue in that incident were local directives, DTW Notices 7110.156 and 7110.159. The official involved "failed to coordinate departure gaps for aircraft landing runway 27L, while coordinating for gaps with arrival aircraft on runway 27R."⁷

The Southwest Flow III Report responded to this allegation by asserting that because there is no requirement to coordinate runway 22L departures with the Detroit TRACON runway 27L final approach controller, the AOV officials reviewing the specifics of these events determined

⁷ This language is taken directly from a copy of the Notice of Proposed Disciplinary Action dated August 6, 2008, obtained by Mr. Sugent via a request under the Freedom of Information Act, and included in his comments.

that the official's actions did not meet the definition of an operational deviation. No further explanation is provided, although the OIG does note that there may have been some disagreement among AOV employees regarding whether or not these events constituted an operational error or deviation. The OIG does not explain inconsistencies in the documents proposing discipline against the official for his failure to coordinate departure gaps, which specifically cites local orders and a failure to provide necessary coordination, and its position in the Southwest Flow III Report.

Wind Measurements are disparate, but are not unsafe.

The OIG reiterated the finding that the two wind measurement systems record different wind measurements, and that Mr. Sugent and other controllers continue to report significantly different wind speed and direction readings from both. The ASOS is the facility's primary wind instrument for air traffic control purposes. The TDWR is primarily responsible for reporting microbursts and wind shears. The Wind Measuring Equipment (WME) is a mechanical anemometer that provides wind speed measurements on a display screen called the TDWR-Integrated Terminal Weather System, located in the DTW Air Traffic Control Tower. The Southwest Flow III report refers to the secondary wind instrument as the WME.

The OIG related that in 2010, FAA regional officials requested that FAA Technical Operations personnel examine the ASOS and WME. After a site visit, a Technical Operations Weather Sensors Meteorologist provided the December 6, 2010 Report referenced in Mr. Sugent's current disclosures. That report found that the ASOS wind sensor location violated the ASOS siting standard because of sheltering from nearby buildings, and recommended relocation. According to the Southwest Flow III Report, the Technical Operations personnel have since informed the OIG that ASOS *does* meet the relevant siting standard. Because the standard uses the phrase "if practical" in regard to the height of the sensor, there is no *requirement* to relocate the sensor. As such, the ASOS meets the siting criteria. Nevertheless, the Technical Operations personnel maintain that although the ASOS meets the siting criteria, the ASOS is indeed affected by the sheltering and consequently, they recommend that the ASOS and the WME be moved to a mutual location near runway 4R.

The Meteorologist also informed the OIG that the ASOS and WME continue to report significantly different measurements, including the direction of the wind. The OIG observed the difference in directional readings during their site visit. The OIG also observed the proximity of the hangars that are likely causing sheltering.

Sometime after the December 6, 2010 Report, DTW Technical Operations officials updated a Needs Assessment Program request to fund the relocation of the ASOS to a site nearer the WME. FAA Officials from DTW, the Central Service Area, Technical Operations, and FAA Headquarters, along with officials from the National Weather Service, which owns the ASOS, have discussed the discrepancy and the need for funding to address the issue. The OIG also met with and provided relevant findings to the office of the Vice President of Safety for FAA's Air Traffic Control Organization (ATO-Safety), the FAA's Senior Advisor for Technical Operations

Safety and Operations Support, and the FAA's Director of Technical Operations for the Central Service Area. Thereafter, ATO-Safety officials analyzed data from the ASOS and WME, concluding that although the two devices sometimes provide significantly divergent measurements, this discrepancy "would rarely affect DTW's selection of air traffic control flow." Consequently, they are unable to conclude that the ASOS and WME discrepancies have resulted in an unsafe and untenable situation for controllers and the flying public.

According to the Southwest Flow III Report, FAA officials are considering action that would reduce the number of discrepancies and increase air traffic controller confidence in the instruments. In an attempt to address the current distance, FAA officials are considering the recommendation to co-locate the ASOS and WME. According to ATO-Safety's Senior Analyst, however, co-location may not provide accurate wind measurements for all runway thresholds, particularly during periods of rapidly changing weather. Another consideration would be to designate the WME as the airport's primary wind-measuring device. FAA officials believe this would reduce controller concerns because the WME has been inspected and found to be operating and sited correctly, it is more centrally located without sheltering, it provides six wind readings per minute for every one reading provided by the ASOS, and all other major airports with multiple wind sensors use the WME as their primary wind measuring device. The Southwest Flow III Report states that "DTW is considering a Safety Risk Management analysis panel to study the hazards and safety actions that may result from changing the facility's primary wind sensor from the ASOS to the WME and to devise potentially necessary mitigations."

On August 26, 2011, the OIG requested that FAA's Audit and Evaluation Office track FAA action to reduce the number of wind measurement discrepancies and report back to the OIG. At OSC's request, DOT provided an update on FAA's actions, by supplemental report dated February 24, 2012. According to the report, deployment of the WME software update did not occur in January 2012 as planned, due to personnel changes at the facility. The report stated that "the project is running about 30-days behind its January 2012 expected release date."

As of the date of this letter, the whistleblower reported that the software update has not been completed.

The Controller's lack of ability to electronically issue Standard Instrument Departures to aircraft departing Detroit for airports in Ohio is not unsafe, but the use of SIDs would be safer.

Mr. Sugent asserted that controllers at DTW currently provide departure information verbally to pilots travelling to certain Ohio airports who, in turn, manually input the information into their aircraft and read the information back to the controller to confirm accuracy. The lack of SIDs for departures to those airports, and the corresponding inability to transmit that departure information using the electronic system, creates a safety risk. The OIG indicated that during interviews, no witness described the lack of SIDs as unsafe, but all agreed that the use of SIDs and the electronic system of transmittal was safer.

According to the Southwest Flow III Report, at least since 2008, DTW has been attempting to address the lack of SIDs for departures to the Ohio airports. The OIG stated that DTW did not adopt a 2008 proposal that was referenced in the Southwest Flow I Reports. The Southwest Flow III Report does not detail FAA's actions between the 2008 proposal and current efforts underway to develop test language for SIDs that can be issued to departures to Cincinnati. If approved, DTW controllers will issue the amended SID to pilots during a test period. If successful, the proposed SID amendment would be submitted to and reviewed by the Operations Support Group, as well as the Regional Airspace and Procedures Team (RAPT). The RAPT, comprised of interested stakeholders within the region, reviews changes to published air traffic procedures such as SIDs. If all agree, the SID will be officially amended, flight checked, and published.

On August 26, 2011, the OIG formally requested that FAA's Audit and Evaluation Office track FAA action on the SID issue and report back to the OIG. According to the supplemental report dated February 24, 2012, testing of the new SID was deemed unnecessary and the procedure is being processed for publication. The report stated that the procedure would be implemented on February 27, 2012.

As of the date of this letter, Mr. Sugent reported that the SID has been placed on hold and has not yet been implemented.

The Whistleblower's Comments

Pursuant to 5 U.S.C. § 1213(e)(1), Mr. Sugent provided comments on the report. In his comments, Mr. Sugent addressed his concerns primarily toward the inconsistency in FAA's position with respect to the use of the definitional order, FAA Order 7210.56C, in reference to the series of operational errors and/or deviations he challenged, and the failure to assign an operational error to the Frontline Manager in the incident that was the subject of the Southwest Flow II Referral. In that event, the Frontline Manager, Mr. Sugent asserted, failed to comply with local DTW Order 7110.156. He pointed out that it is not possible to comply with DTW Local Order 7110.156 without coordination with the Detroit TRACON, and the Frontline Manager's actions therefore fell within the definition of an operational deviation.

Mr. Sugent commented that officials and controllers have been in agreement since the outset that there are issues with the wind instruments and a lack of confidence in both the site locations and reliability of readings. He noted that the wind measuring equipment is a tool used by air traffic staff and pilots to ensure that the flying public moves safely from point to point. Equipment issues should be responsibly and timely corrected by those charged with maintaining them, not by air traffic control tower personnel. He noted that to date, no proposal has been implemented. While he agrees that the WME should be made the primary wind source, he is concerned that this is not possible under FAA Order 7110.65, which mandates that the ASOS be considered the primary source of wind direction and velocity. Moreover, he commented that the interim proposal currently in place puts the burden on controllers to augment the information provided by ASOS by referencing additional information being reported from the TDWR and

reported on a ribbon display terminal in the tower, and by using the wind socks as necessary. Mr. Sugent pointed out that the National Weather Service and FAA should provide appropriate solutions, and not place the burden on controllers to augment their systems.

He also noted the findings of a National Transportation Safety Board (NTSB) Aviation Accident Report on an incident that occurred in 2008 when a Boeing 737-500 slid off of the runway. The NTSB report found as contributory to the accident, “an air traffic control system that did not require or facilitate the dissemination of key, available wind information to the air traffic controllers and pilots.” Nearly four full years from the time Mr. Sugent first brought the allegations to OSC, no progress has been made to ensure the provision of safe, accurate, and consistent wind measurements.

He provided a summary of a recent incident at DTW in which the wind instruments were inaccurate at a time when controllers and pilots needed more reliable equipment. On January 29, 2012, an aircraft slid off the end of the runway. At the time of the incident, the wind measurements on the ASOS and WME were showing significantly different readings. He also notes that the aircraft was traveling faster than normal on final approach to the airport, which leads him to conclude that there was more of a tailwind than what the equipment was showing. A problem report was submitted by controllers on that date, and remains unresolved.

Mr. Sugent also commented on the agency’s finding that the use of SIDs would be safer, but the lack of SIDs is not unsafe. He provided to the OIG a copy of a voice recording demonstrating the risks involved when an electronic system is not utilized. The recording was not addressed in the Southwest Flow III Report. He noted that for over six years, the agency has been attempting to make what should be a simple change in the procedures, without success. He attributed this to poor regional and national managerial performance and oversight.

The Special Counsel's Comments

I have reviewed the original disclosure, the agency’s reports, and Mr. Sugent’s comments. The reports reflect that very slow progress has been made in two critical areas, both of which all interested parties agree could benefit from important aviation safety improvements. Air traffic control could be made safer by implementing standard instrument departure procedures to improve communications between the air traffic control tower and aircraft flying to airports in Ohio. Relocation of the wind instruments at DTW to an area where they would be unaffected by sheltering from nearby buildings is recommended by experts and could improve safety through better dissemination of key wind information to air traffic controllers and pilots.

It appears that FAA has initiated some corrective action in these two areas, yet the most recent information available from FAA suggests that the agency is still far from accomplishing the stated goals. Although the latest information my office has received from FAA indicates that standard instrument departure procedures for aircraft departing to airports in Ohio would be implemented in February, Mr. Sugent reported that this has not been accomplished. I also understand that FAA proposes to conduct a safety risk analysis to aid in the decision to make a

Analysis of Disclosures

OSC File Nos. DI-08-3157, DI-08-2777, and DI-11-0165

Page 14

change in the designation of specific wind instruments as either primary or secondary, avoiding a more costly, but recommended improvement. This stop-gap measure appears to be one of many the agency has proposed since Mr. Sugent first came to OSC four years ago, none of which have adequately resolved the concerns and some of which, despite representations in the agency's reports, have not been implemented to date. For these reasons, I have determined that the agency's findings do not appear reasonable.

I remain troubled that FAA has left controllers and pilots without adequate tools to perform their jobs, or to support FAA's stated mission -- to provide the safest, most efficient aerospace system in the world. I intend to request an update from the agency monthly until corrective actions are completed.