



**U.S. Department  
of Transportation**

**OFFICE OF THE  
GENERAL COUNSEL**

1200 New Jersey Ave., S.E.  
Washington, D.C. 20590

Office of the Secretary  
of Transportation

December 3, 2024

The Honorable Hampton Dellinger  
Special Counsel  
U.S. Office of Special Counsel  
1730 M Street NW, Suite 218  
Washington, DC 20036

Re: OSC File No. DI-24-000224

Dear Mr. Dellinger:

By letter dated January 4, 2024, the U.S. Office of Special Counsel referred for investigation a whistleblower's allegations related to Federal Aviation Administration (FAA) reviews of applications for medical certificates and medical clearances, received from pilots and air traffic controllers, respectively. The whistleblower alleges that FAA Medical Officer understaffing is causing significant delays in the review process, and that this situation results from gross mismanagement and poses a substantial and specific danger to public safety.

The Secretary of Transportation has delegated responsibility for matters falling under 5 U.S.C. Section 1213(d) to the General Counsel. The FAA prepared the Report of Investigation (ROI) in this matter. I enclose the ROI with this letter.

The investigation did not substantiate the allegations. The investigation found that while there were some delays in the review process, the delays were relatively small in number, and they did not result from gross mismanagement or pose a substantial and specific danger to public safety. Although the allegations were not substantiated, the report recommends that FAA's Office of Aerospace Medicine (AAM) review overall staffing needs to address the continuing increase in applications submitted by prospective pilots and controllers, and continue its work with FAA's Office of Aviation Safety on a recruitment and retention strategy.

We have appreciated the opportunity to review this important matter and the whistleblower's diligence in raising concerns.

Sincerely,

Subash Iyer  
Acting General Counsel

Enclosure

**Federal Aviation Administration**  
**Report of Investigation**  
**To the Office of the Secretary of**  
**Transportation**

**In response to:**

**U.S. Office of Special Counsel (OSC)**  
**OSC File No. DI-24-000224**

**Office of Audit and Evaluation (AAE-1)**  
**Federal Aviation Administration**  
**Washington, D.C.**

**December 3, 2024**

## **Executive Summary**

On January 4, 2024, the U.S. Office of Special Counsel (OSC), Acting Special Counsel Karen Gorman, referred to the Secretary of Transportation for investigation a whistleblower disclosure (OSC File No. DI-24-000224).

On January 23, 2024, the Acting General Counsel, Office of the Secretary of Transportation, delegated the investigation to the Federal Aviation Administration (FAA). FAA's Office of Audit and Evaluation (AAE) investigated the matter and prepared this Report of Investigation. AAE is an independent office with the statutory authority to conduct impartial investigations of aviation-safety related whistleblower disclosures. 46 U.S.C. § 106(t).

The disclosure alleged that FAA leadership engaged in activity that may constitute gross mismanagement and a substantial and specific danger to public safety. The whistleblower alleged that the understaffing of FAA Medical Officers within the Office of Aerospace Medicine (AAM) has led to extraordinary backlogs in the review of medical certificates and clearances, which negatively impacts safety in the National Airspace System (NAS).

More specifically, the whistleblower alleged that: (1) AAM has failed to review medical certificate determinations in a timely manner, as prescribed by 14 CFR § 67.407 and agency policy, resulting in approximately 1,200 airmen holding FAA medical certificates who may not be medically qualified to fly; (2) the agency's lengthy delay in processing medical applications deters airmen from disclosing illness, injury, and medications that may affect their eligibility for a medical certificate; (3) AAM's backlog conducting Air Traffic Controller Specialists' medical clearance examinations may lead to a shortage of employees controlling the NAS; and (4) FAA leadership has failed to implement any recruitment or retention incentives to hire the needed staff despite consistent understaffing and inability to fill Medical Officer positions.

While the investigation confirmed some delays in reviewing medical certificates where anomalies required further review, the investigation did not find either gross mismanagement or a substantial and specific danger to public safety. Therefore, the investigation has not substantiated the allegations.

## **BACKGROUND**

### **14 Code of Federal Regulation (CFR) Part 67, *Medical Standards and Certification***

AAM manages the medical certification program that issues medical certificates to pilots and medical clearances to controllers.

## Pilot Medical Certifications

AAM designates Airmen Medical Examiners (AME)<sup>1</sup> who may issue, defer,<sup>2</sup> or deny<sup>3</sup> applications for medical certificates. Applications deferred or denied by an AME are then reviewed by AAM's Medical Certification Division (AMCD) (AAM-300)<sup>4</sup> or a Regional Flight Surgeon (RFS). An applicant with a significant medical history may be referred by AMCD (AAM-300) to the Medical Specialties Division (AAM-200)<sup>5</sup> to determine the applicant's qualifications on behalf of the Federal Air Surgeon. The length of time the medical certification process takes varies on a case-by-case-basis; however, AAM prioritizes the medical certification of Airline Transport Pilots (ATPs) and commercial pilots.

### *Classes and Types of Medical Certificates*

Federal regulations establish three classes of medical certification corresponding to the types of operations that pilots perform:

- ATPs who exercise the privileges of their ATP certificates must also hold a first-class medical certificate.
- Commercial pilots who fly for compensation or hire generally hold second-class medical certificates.
- Private pilots generally hold third-class medical certificates.

An unrestricted medical certificate is for pilots who have no disqualifying medical conditions. It does not routinely require additional medical documentation after issuance, and therefore does not carry any limitations other than the normal expiration date of the certificate class (see below).

A Special Issuance<sup>6</sup> (SI) Certificate is granted in situations where an applicant's medical condition is considered disqualifying for—and therefore would not support—an unrestricted airman medical certificate: however, the condition is considered static or non-progressive and the applicant was found capable of performing airmen duties without endangering public safety. An SI may only be issued by an FAA Medical Officer. An SI certificate contains limitations and exclusions which protect public safety and limit the circumstances where a pilot may operate while holding an SI medical certificate.

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<sup>1</sup> AMEs are private physicians designated by the FAA to perform medical examinations of applicants pursuant to 14 CFR § 67.407(a) and issue aviation medical certificates.

<sup>2</sup> An AME will defer to the FAA the issuance of a medical certificate when the applicant appears not to meet the medical standards but is not clearly ineligible; there are unresolved questions about the applicant's medical history, medical findings, qualification standards, or agency policy; the examination was incomplete; further evaluation is necessary; or the FAA has directed the AME to defer.

<sup>3</sup> 14 CFR § 67.409 - *Denial of Medical Certificate*.

<sup>4</sup> The AMCD processes all medical applications and Special Issuance medical certificates. The Federal Air Surgeon's office may also become involved in certain pilot medical certification decisions.

<sup>5</sup> AAM's Medical Specialties Division administers the medical policies and standards that the AMCD and regional offices carry out. The Medical Specialties Division will thoroughly review a case and work with the Federal Air Surgeon (FAS) for resolution. AAM-200 also reviews information for appeal processing /reconsideration, recommends further medical evaluation of disqualified ATCSs, and makes recommendations on medically disqualified applicants to the FAS.

<sup>6</sup> 14 CFR § 67.401 - *Special Issuance of Medical Certificates*.

*First-Class Medical Certificate:* A first class medical certificate is valid for the remainder of the month of issue; plus,

- 6 calendar months for operations requiring a first-class medical certificate if the airman is age 40 or over on or before the date of the examination, or
- 12 calendar months for operations requiring a first-class medical certificate if the airman has not reached age 40 on or before the date of examination, or
- 12 calendar months for operations requiring a second-class medical certificate, or
- 24 calendar months for operations requiring a third-class medical certificate if the airman is age 40 or over on or before the date of the examination, or
- 60 calendar months for operations requiring a third-class medical certificate if the airman has not reached age 40 on or before the date of examination.

*Second-Class Medical Certificate:* A second class medical certificate is valid for the remainder of the month of issue; plus,

- 12 calendar months for operations requiring a second-class medical certificate, or
- 24 calendar months for operations requiring a third-class medical certificate, if the airman is age 40 or over on or before the date of the examination, or
- 60 calendar months for operations requiring a third-class medical certificate if the airman has not reached age 40 on or before the date of examination.

*Third-Class Medical Certificate:* A third-class medical certificate is valid for the remainder of the month of issue; plus,

- 24 calendar months for operations requiring a third-class medical certificate, if the airman is age 40 or over on or before the date of the examination, or
- 60 calendar months for operations requiring a third-class medical certificate if the airman has not reached age 40 on or before the date of examination.

For example, commercial pilots, generally those needing a first- or second-class medical certificate, must have their medical certificates updated more frequently than private pilots. After obtaining a medical certificate, and between renewal periods, pilots are prohibited from performing pilot operations when they know or have reason to know of a medical deficiency that would make them unable to fulfill their pilot duties. 14 CFR § 61.53 (*Prohibition on Operations During Medical Deficiency*).

### *Steps to Obtain a Medical Certificate*

An airman must follow these steps to apply for and obtain a medical certificate:

- Fill out an application in FAA MedXPress. MedXPress is a web application pilots must use to submit their certification applicant information.
- Schedule an appointment with an AME in their area.

The FAA requires airmen to submit accurate and truthful information when applying for a certificate.<sup>7</sup> The FAA will suspend or revoke a previously issued medical certificate if it learns medical information supplied by the applicant was incomplete, untruthful, or inaccurate. If the required medical standards<sup>8</sup> are met, the AME will issue a medical certificate. If the required medical standards are not met, the AME will forward the application to the AMCD for further evaluation (a “deferral” to FAA) or, if the airman is clearly ineligible, deny the application.

### **Air Traffic Control Specialist (ATCS) Health Program<sup>9</sup>**

Similarly, air traffic controllers engaged in the active separation of air traffic and engineers working on Air Traffic Organization (ATO) equipment are required to obtain and maintain an FAA Medical Clearance, and for those working in the ATO, it is a condition of their employment.

Medical examinations for ATCSs are performed at FAA medical offices by a Flight Surgeon (FS) or an Aviation Medical Examiner-Employee Examiner (AME-EE).<sup>10</sup> The FS or AME-EE will import the medical history from MedXPress. This information will be entered along with any relevant supplementary information into the computerized ATCS medical database, via the AMCS. The AME-EE promptly sends all other related information to the appropriate Regional Aerospace Medical Office for review and determination of medical status. For applicants for hire, the information is sent to the Virtual Hiring Team (VHT).

The frequency of medical examinations for ATCSs are as follows:

- Age 39 and below must be examined every 2 years.
- Age 40 and over must be examined every year.

As with pilots, if the FAA learns an ATCS medical application is incomplete, or contains untruthful, or inaccurate information, it will suspend a previously issued medical certificate.

### **Findings and Details**

#### **Allegation 1:**

*AAM has failed to review medical certificate determinations in a timely manner, as prescribed by 14 CFR § 67.407 and agency policy, resulting in approximately 1,200<sup>11</sup> airmen holding FAA medical certificates who may not be medically qualified to fly.*

**Finding:** Not Substantiated.

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<sup>7</sup> 14 CFR § 67.403 - *Applications, certificates, logbooks, reports, and records: Falsification, reproduction, or alteration; incorrect statements.*

<sup>8</sup> 14 CFR § 67.403, § 67.101 – *Eligibility.*

<sup>9</sup> FAA Order 3930.3C, *Air Traffic Control Specialist Health Program.*

<sup>10</sup> When the capability does not exist within an FAA facility, the FS may authorize an AME-EE (non-FAA employee) within the local commuting area of the ATCS’s duty station to perform the required examination.

The whistleblower clarified in an interview that the 1,200 airmen figure referenced in the allegation is derived from certificates issued by AMEs which were identified by the System Performance Analysis (SPA) computer program that pulls any type of anomalies for SPA review. In 2023, there were 445,613 certificates issued by AMEs.

The investigation did not substantiate this allegation. 14 CFR § 67.407 relates to medical certificates issued by an AME and subsequent reconsideration of the AME's action by the Federal Air Surgeon when an airman does not meet specific standards outlined in the regulation. A certificate issued by an AME is affirmed as issued unless an FAA official reverses that issuance within 60 days after the date of issuance. However, if within 60 days after the date of issuance an authorized official requests that the certificate holder submit additional medical information, an authorized official may reverse the issuance after receipt of the requested information. While the certificate holder may exercise the privileges of the certificate until a decision is made to reverse the issuance, the FAA may also reverse an issuance if an airman fails to provide the requested medical information.<sup>12</sup>

A life or medical circumstance that occurs after a medical certificate was issued is the primary reason an airman may possess a valid medical certificate while being medically disqualified. For example, a disqualifying medical-related event may occur to the pilot after the issuance of the medical certificate, such as: a new medication is prescribed by the airman's primary physician, or the certificate holder has an alcohol-related arrest. In those situations, the airman is required to notify the FAA immediately of the new condition or circumstance and cease all airman activities. The airman is not required to surrender their certificate, and still holds a valid medical certificate. This does not present a significant or substantial danger to public safety, as the individual certificate holder is aware that FAA regulations prohibit them from engaging in aviation activities until medically cleared by AAM. There is no FAA regulatory requirement for an airman to surrender their medical certificate unless the FAA has revoked or suspended the certificate. To revoke or suspend a medical certificate, the agency must initiate formal legal action,<sup>13</sup> which requires the certificate holder to surrender their physical copy of the certificate in some situations.<sup>14</sup>

When a medical certificate is issued by an AME, the applicant's information is entered into the FAA's Aerospace Medical Certification Subsystem (AMCS) and thereafter is considered a valid medical certificate. As part of AAM's quality control procedures, an AMCS algorithm scans the applicant's information as input by the AME for detection of anomalies. If an anomaly is detected/flagged by the AMCS algorithm, the medical application is transferred to the SPA for review by an SPA analyst. For 2023, ninety-seven percent of the cases with anomalies were resolved by the SPA analyst and the AME issuances were affirmed. The application anomaly is then considered closed, and the medical certificate remains valid.

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<sup>12</sup> 14 CFR § 67.413(b).

<sup>13</sup> *Order 2150 3C, FAA Compliance and Enforcement Program.*

<sup>14</sup> A certificate is subject to revocation or suspension pending compliance pursuant to the FAA's Emergency action authority where the legal action alleges a lack of qualifications. In these circumstances, the pilot is required to immediately surrender the certificate, even during the pendency of the enforcement action. A pilot would not be required to surrender the certificate if the legal action is "non-emergency" in nature and the pilot appeals the proposed suspension. In that case, the pilot would not surrender the certificate until the FAA prevails at trial or a settlement is reached.

The remaining open applications with detected, unresolved anomalies (issues) are forwarded to the AMCD and assigned to a second-level reviewer for additional analysis and resolution. If the second-level review cannot resolve the issue identified, the application is transferred to a Legal Instrument Examiner (LIE) for third level review. If the anomaly cannot be resolved by an LIE, the application is then forwarded to an FAA Regional Medical Officer (MO).

At each stage of the quality control review process, the number of unresolved anomalies decreases.

As evidence, the data below reflects statistics related to applications for medical certificates issued in Fiscal Year 2023 by the FAA:

Total AME-issued medical certificates and entered in the FAA AMCS	445,613
AME issued medical certificates with no detected anomalies	408,055
Anomalies detected by AMCS’s algorithm; applications are moved to SPA for review	37,558
SPA unresolved anomalies referred to the AMCD second-level reviewer	1,731
AMCD anomalies unresolved by the second level review, which are referred to an LIE for 3 <sup>rd</sup> level, further investigation	802

According to AMCD, LIEs resolved between 25-50% of the 802 certificates reviewed. Accordingly, MOs only had to review between 200-401 certificates, which represents less than .01% of all medical certificates entered into AMCS. Put another way, with 30 MOs on staff, that is about 12-13 cases per MO per year, or approximately one case a month.

The whistleblower suggested that the lack of MOs contributed to the delay in determinations. However, less than one-tenth of 1% of the 445,613 medical applications entered into AMCS were ultimately reviewed by MOs.

Delays in FAA review of airman medical certificates are the results of several factors. First and foremost, there are airman delays in providing additional requested medical information or completing additional medical testing. Second, FAA’s Quality Control (QC) process involves 5 layers of review by various AAM personnel. The SPA analysts, Second Level Reviewers, and LIEs resolve 98% of detected anomalies. These layers of QC represent a potential bottleneck if not adequately staffed. Third, AME mistakes or inattention when completing FAA forms contributes to anomalies that must be resolved.

Interviews with both AAM leadership and AMCD support staff revealed that additional direct support staff, including SPA Analysts, Program Analysts, and LIEs (individual employees who resolve the majority of detected anomalies) would quicken the certification review process. While there is a need for additional MOs, the need for additional support staff is far greater, according to both AAM staff and leadership.

During the processes outlined above, the FAA corresponds with the applicant to obtain additional information to address the anomaly. The investigation also determined that there are often significant delays in the applicant resolution process when the applicant does not provide the FAA-requested information in a timely manner. According to both AAM leadership and support staff, this is the most significant contributing factor to delays in processing determinations where anomalies are detected.

By reason of the foregoing, we have concluded there is not a safety issue because every pilot has two layers of medical review before the FAA gets involved. The first review is the AME medical review and issuance of a medical certificate, and the second review is the pilot's own affirmative duty not to operate an aircraft if not medically fit to operate an aircraft. As examples, a pilot may have taken certain over the counter medications for conditions like a cold or the flu, is under significant stress from a life event such as an unexpected death of someone close, or experiences other medical conditions that could come up after an AME issues a medical certificate. Pilots have an absolute duty to ensure they are medically fit to fly before every flight.

Additionally, as noted by the chart above, the number of anomalies which require Medical Officer review (802 out of 445,613) reinforces there is no specific danger to public safety from the extant airman medical certificate review process.

### **Allegation 2:**

*The agency's lengthy delay in processing medical applications deters airmen from disclosing illness, injury, and medications that may affect their eligibility for a medical certificate.*

**Finding:** Not Substantiated.

The whistleblower was interviewed multiple times during the agency's investigation and did not provide any evidence to support this allegation. The agency investigation also did not find any evidence or hard data to support this allegation. Therefore, this allegation is not substantiated.<sup>15</sup>

To be sure, airmen who have a medical condition which must be reported face potential negative impacts to their career prospects and this risk **could** lead some to violate FAA regulations, and not report the condition. Additionally, once a condition is disclosed, the time it takes a medical examiner and the FAA to review the medical condition **may** disincentivize an airman from disclosing a medical condition. Collecting data from airmen who do not report medical conditions because of putative FAA delays is challenging because it requires airmen to also admit violating the Federal Aviation Regulations. Media reports cite individual airmen who have faced these choices and elected not to report a medical condition because of anticipated delays in

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<sup>15</sup> There is not an agreed upon definition of what is a reasonable versus a lengthy "delay" in reviewing airman medical records and conditions. The review process is, by definition, collaborative and requires the sharing and evaluation of medical information between an airman and a medical professional.

resolving the medical condition to FAA satisfaction.<sup>16</sup> To date, the agency does not have empirical data to show this potential problem is a real one, much less one that is systemic.

When an AME issues a medical certificate, an airman is deemed medically qualified and remains qualified during the pendency of any FAA review of an AME determination. Moreover, if a pilot's medical condition changes after an AME issues a medical certificate, the pilot has an affirmative obligation not to fly if the pilot has a known medical condition or has taken a disqualifying medication to treat a medical condition. 14 CFR § 61.53. In every instance, the certificate holder has an absolute duty and obligation to ensure he or she is medically qualified to operate an aircraft even where the FAA has not asked for additional information. Finally, when a pilot develops a medical condition or is arrested for a DUI after a medical certificate has been issued, the pilot must report that new information to the FAA.

While there are multiple factors<sup>17</sup> that may deter an airman from disclosing medical conditions to the FAA, a possible delay in the processing of their application by the FAA is not a factor that was substantiated in this investigation.<sup>18</sup> Pilots and controllers may avoid disclosing new medical conditions for fear of losing their medical certificates, which could lead to professional consequences and financial insecurities. This fear may be the most prevalent obstacle to airmen timely providing medical information.<sup>19</sup> That reluctance to timely provide medical information to the FAA is rooted in potential professional consequences. To date, we have not seen any empirical or non-anecdotal evidence that putative delays in FAA processing of medical information are why some airmen are reluctant to provide timely medical information. To the contrary, putative FAA delays work to the benefit of the airman because the airman may continue to fly while the FAA reviews the medical information, assuming the pilot is otherwise medically fit to operate an aircraft (or the FAA has not revoked the certificate because the pilot has not timely provided the information).

There is some perception<sup>20</sup> among pilots and controllers that the FAA's processes for resolving medical matters are complicated, excessive, and inconsistent. The National Transportation Safety Board (NTSB) Summit (*Navigating Mental Health in Aviation*, held December 11, 2023) disclosed that some pilots and controllers lack trust that the FAA will manage the medical certification application process in a fair and timely manner, but this lack of trust is not well founded.

Records received from AAM reflect that over 95% of applications for medical certificates are approved by AMEs and promptly issued to the applicant. An AME may issue a medical certificate when:

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<sup>16</sup> Sachs, Andrea, *Pilots Hide Mental Health Issues So They Don't 'Lose Their Wings. Grounded Pilots Face Lengthy Waits and Expensive Evaluations To Get Back in the Cockpit*, The Washington Post, December 15, 2023.

<sup>17</sup> *Mental Health & Aviation Medical Clearances*, Aviation Rulemaking Committee, Recommendation Report, April 1, 2024.

<sup>18</sup> This is especially true when an airman who was issued a medical certificate by an AME is allowed to exercise the privileges of a medical certificate while the FAA reviews requested supplemental medical information unless the airman is aware of a medical condition which make him or her medically unqualified-even temporarily.

<sup>19</sup> *5,000 Pilots Suspected of Hiding Major Health Issues. Most are still flying*. The Washington Post, August 27, 2023.

<sup>20</sup> *NTSB Safety Summit - Navigating Mental Health in Aviation (Panel 1)*, December 11, 2023.

- There are no significant findings contained in the medical history provided by the applicant or found during the physical exam;
- Common medical conditions specified in the *Guide for Aviation Medical Examiners* are found to be stable; or
- The medical condition(s) can be cleared with the completion of a Conditions AMEs Can Issue (CACI) worksheet.<sup>21</sup>

FAA data<sup>22</sup> shows only approximately 0.1% of applicants who disclose a health issue and complete the medical application process are ultimately denied a medical certificate. However, receiving medical clearance, either with an “unrestricted medical certificate” or with a “Special Issuance” certificate, can be very time-consuming, which may result in a significant financial hardship for the applicant, even if the medical certificate is ultimately issued. Nonetheless, because of the system’s collaborative reliance on an applicant’s honest disclosure about their very personal health circumstances to an AME and the FAA, there is no reasonable or practical methodology for the FAA to immediately validate or confirm the medical information disclosed or intentionally withheld by an airman. The regulatory and administrative backstop to AME medical information described above requires time and multiple levels of review to ensure due process to an airman and confirmation of a reported medical condition or evaluation. This inability to immediately confirm information supplied by an applicant could lead to frustration by an applicant, but the evidence from the investigation is it does not pose an unacceptable safety risk.

Operational analysis studies by AAM show the demand for medical certificates increasing over the last few years, particularly post-pandemic. While automated platforms (e.g., MedXpress) have been developed to enable AMEs to process more applications, airmen referrals to AMCD are increasing in volume, including an increasing number of aero-medically significant conditions, which take longer to evaluate to make a certification determination.

Previously, FAA technological limitations and AMEs’ limited administrative capabilities have slowed the certification or recertification process due to the extensive documentation required.<sup>23</sup> The FAA has pursued policy, technology, and personnel solutions to address the demand for certification and improve stakeholder processes, including:

- AAM has increased the number of aero-medically significant conditions for which AMEs can issue a certificate.
- In May 2022, AAM deployed a service in MedXpress that allows airmen to check their status online in the same system they use to submit their medical examination documentation.

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<sup>21</sup> Conditions AMEs Can Issue (CACI) is a series of conditions which allow AMEs to regularly issue certificates if the applicant meets the parameters of the CACI Condition Worksheet. The worksheets provide detailed instructions to the examiner and outline condition-specific requirements for the applicant.

<sup>22</sup> *Mental Health & Aviation Medical Clearances, Aviation Rulemaking Committee, Recommendation Report*, April 1, 2024.

<sup>23</sup> This does not include additional delays created by slow airman responses to FAA requests for additional information or the possible lag from additional medical testing requested by FAA medical review officers (MROs).

- In September 2022, a new performance standard was implemented, requiring an initial review and response to deferred medical exams within 30 days of AME transmission.
- In April 2023, AAM deployed the Document Imaging Workflow System (DIWS), a program allowing AMEs to submit supporting documents electronically, eliminating the need to scan physical documents into the systems.

The whistleblower also reported to OSC that members of aviation advocacy groups have conveyed to their leadership the agency's medical certificate delay deters pilots from reporting medical issues. However, no specific investigable information was provided to the investigation team by the whistleblower to address this allegation.

Based upon this lack of evidence, we have concluded that there is no gross mismanagement on the part of the FAA, nor has the medical certification process created a substantial and specific danger to public safety by leading airmen to violate the Federal Aviation Regulations through failures to report medical conditions.

### **Allegation 3:**

*AAM's backlog conducting Air Traffic Controller Specialists' medical clearance examinations may lead to a shortage of employees controlling the National Airspace.*

**Finding:** Not Substantiated.

For years, the FAA has experienced air traffic controller staffing shortages. Despite a surge since fiscal year 2023, air traffic control facilities nationwide are understaffed. The shortage and its potential impact has been examined extensively, including by the Department of Transportation Office of Inspector General<sup>24</sup> and by the National Airspace System Safety Review Team, a panel of aviation experts assembled at the request of the FAA in 2023 to review emerging air traffic safety trends and make recommendations.<sup>25</sup> However, neither report identified processing of air traffic control applications for medical certification by the FAA as a contributing factor for understaffing. No developmental air traffic controller may enter the training pipeline to become an air traffic controller or upon completion of training perform safety sensitive air traffic control duties without a valid medical certificate, obtained from completion of a medical exam and psychiatric evaluation.

The Office of the Secretary of Transportation has made it a priority to hire ATCSs and has received the requested appropriations from Congress. However, the investigation found that while medical applications for ATCSs are rising, AAM support staffing numbers, as well as doctors specializing in psychiatry, are stagnant. For example, all conditionally selected ATCS applicants must take the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) as a psychological screening tool. Approximately 20% of applicants require further evaluation by an FAA psychiatrist and matters requiring psychiatric evaluations experience a delay in processing

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<sup>24</sup> *FAA Faces Controller Staffing Challenges as Air Traffic Operations Return to Pre-Pandemic Levels at Critical Facilities*, Report AV2023035, June 21, 2023.

<sup>25</sup> *National Airspace System Safety Review Team, Discussion and Recommendations To Address Risk in the National Airspace System*, Submitted to the U.S. Federal Aviation Administration, November 2023.

due to a known shortage of qualified personnel, specifically psychiatrists. However, since ATCS candidates may not begin training or work at an air traffic control facility without a medical certificate, no putative delays in the review of medical applications pose a substantial or specific danger to public safety.<sup>26</sup>

Furthermore, staffing in a facility is handled by multiple tools, including moving airspace from one air traffic facility to another or closing/reducing air space in the event of a controller shortage due to ATCS medical issues impacting safety. Additionally, the FAA has increased staffing through employment incentives at hard-to-staff facilities, moving resources to meet demand, and expediting training and increased medical staffing to move new hires more quickly into that training. As reported in the “Air Traffic Controller Workforce Plan 2024-2033,” in 2023 the FAA exceeded its target with 1,512 controller hires versus a plan for 1,500. Additionally, the anticipated new controller hires for FY 2024 is at least 1,800, which would restore the training pipeline to pre COVID-19 pandemic capacity.

Post COVID-19, the FAA has committed to maximum hiring for the next few years to recover from substantial under hiring due to the pandemic and the 2019 lapse of funding. Over the past five years, the FAA has hired more than 4,900 new air traffic controllers. Given these recruitment efforts, FAA did not substantiate the allegation of gross mismanagement in the recruitment of air traffic controllers.

***Allegation 4:*** *FAA leadership has failed to implement any recruitment or retention incentives to hire the needed staff despite consistent understaffing and inability to fill Medical Officer positions.*

**Finding:** Not Substantiated.

This investigation disclosed no evidence to corroborate the whistleblowers’ allegations that FAA leadership has failed to implement any recruitment or retention incentives to hire needed staff.

As of October 2023, AAM employed 52 Medical Officers while authorized to have 68. According to the whistleblower, a primary barrier for reaching FAA’s authorized staffing level includes what the whistleblower believes is FAA’s non-competitive salary for medical doctors as compared to other federal agencies, lack of workplace flexibilities, and mandatory overtime. The whistleblower believes that the salary disparity between the FAA and other federal bureaus is the greatest impediment and that an increase in compensation is the most desirable incentive the agency can offer to both applicants and current staff. In May 2024, the FAA issued a Public Notice for Medical Officer (Direct Hire) to recruit Medical Officers. FAA is keeping the vacancy announcement open until May 2025, while continually hiring MOs on a rolling basis throughout that period in an effort to increase staffing.

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<sup>26</sup> As with pilots, air traffic control specialists (ATCS) are required to monitor their health and if a medical condition develops after a medical certificate is issued, the ATCS must report the changed medical condition to the FAA; similarly, if an ATCS takes a banned medication, including routine over the counter medications for colds, to treat a medical condition, the ATCS must report the medication and may not work a position with live air traffic until cleared by the FAA.

The whistleblower provided evidence of a salary disparity for Medical Officers between federal agencies, while explaining that duties and responsibilities can be dramatically different in most cases. For example, most Medical Officers who work for the Veterans Administration are mostly clinicians who treat patients and have constant in-person interface with the individual in a clinical setting and perform examinations. Most of the FAA Medical Officers are not clinicians; lack a physician-patient relationship with applicants; and do not perform extensive physical examinations. Interviews conducted with Aviation Safety (AVS) leadership revealed a strong desire to support AAM with recruitment and retention of Medical Officers, while also considering budget constraints and fiscal responsibility.

Informal recruitment information was gathered from the regional programs pertaining to employment offers that were eventually rejected by the applicant. Responses suggest lack of interest by qualified physicians with most citing a reluctance to relocate and/or a preference to work remotely full-time.

There is no evidence provided from the whistleblower or any other data to suggest that failure to provide recruitment or retention bonuses constitutes gross mismanagement or a substantial and specific danger to public safety.

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Although none of the allegations was substantiated, based upon the investigation and the expectation that the number of medical certificates will continue to increase, the Department makes the following recommendations to the Associate Administrator for Aviation Safety:

1. AAM leadership should review and evaluate current overall staffing needs (not just medical personnel), specifically to address the increase in controller hiring and airman applications.
2. AVS and AAM leadership should continue to collaborate on a long-term strategy to ensure successful recruitment and retention, which should consider all options available to reach staffing goals.

### **Investigation Methodology**

The investigation was conducted under the authority of the FAA Office of Audit and Evaluation (AAE) under 49 U.S.C. § 106(t) and FAA Order 1100.167B, and by delegation from the Office of the Secretary.

Investigative Team:

- [REDACTED], Senior Investigator, Internal Disclosures & Safety Investigations Branch, AAE-120
- [REDACTED], Senior Investigator, Internal Disclosures & Safety Investigations Branch, AAE-120

AAE analyzed records, FAA guidance, policy, regulations, orders, notices and memorandums. In addition, interviews were conducted with the whistleblower, six (6) AAM employees, and two (2) AVS managers.