

**FRANK R. WOLF**  
10TH DISTRICT, VIRGINIA

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:

CHAIRMAN—COMMERCE-JUSTICE-SCIENCE

TRANSPORTATION-HUD

STATE AND FOREIGN OPERATIONS

CO-CHAIR—TOM LANTOS  
HUMAN RIGHTS COMMISSION



**Congress of the United States**  
**House of Representatives**

May 15, 2012

241 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-4810  
(202) 225-5138

13873 PARK CENTER ROAD  
SUITE 130  
HERNDON, VA 20171  
(703) 709-5800  
(800) 945-9653 (IN STATE)

110 NORTH CAMERON STREET  
WINCHESTER, VA 22601  
(540) 667-0990  
(800) 850-3463 (IN STATE)

wolf.house.gov

The Honorable Ray LaHood  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Ave, SE  
Washington DC 20590

Dear Secretary LaHood:

I am deeply troubled by the findings released today in the interim report from the department's Inspector General (IG) on the Metropolitan Washington Airports Authority (MWAA) Board of Directors. I requested this audit last year and am sure you agree that the report raises significant concerns about the current board's policies and procedures, including contracting practices, ethics and transparency. This demands immediate action.

Most egregious are the IG's findings about MWAA's contracting practices. The report notes that in many cases MWAA failed to even abide by its own established contracting procedures, which already fall short of industry standards. Particularly concerning are the number of sole source contracts issued. As you know, MWAA is required by law to fully compete any contract over \$200,000, with limited exceptions. Yet the IG's report states that "[d]uring the period of our review, MWAA awarded five sole source contracts that were over \$200,000, but did not fall under any of MWAA's categorical exemptions. These contract awards, which amount to \$6 million, did not have Board approval." Not only did MWAA abuse the exemptions permitted under federal law, they issued numerous contracts that failed to meet even these basic standards.

The report points out that while MWAA's Contracting Manual says some exemptions are allowed, but "comprise only a small portion of MWAA's contracts and their dollar value," the IG found that the use of exemptions "has amounted to 40 percent of the Authority's \$589 million in contract awards during the period of our review."

The IG's report also shows that conflicts of interest between members of the board and contractors were ignored. The report details how "... one Board member's recommendation led MWAA to initiate a \$100,000 contract with a law firm despite the fact that an immediate family member worked for the firm." The report goes on to say that "while this family relationship had been previously disclosed, the Board member did not refrain from participating in matters related to the firm when the issue arose (per MWAA policy), and MWAA awarded the contract to the recommended firm. At minimum this created the appearance of a conflict of interest that may have been avoided had the Board member exercised better judgment and fully followed MWAA's ethical procedures."

The Honorable Ray LaHood

May 15, 2012

Page 2

This particular contract was initiated to procure a legal opinion by the law firm Jenner & Block for the express purpose of advising the board on how it could avoid complying with a bipartisan law passed by Congress and signed by President Obama. Amazingly, the report shows that the contract was requested on November 18, 2011, the same day the president signed the bill into law. It also is worth noting that the report reveals that the law firm submitted its "completed legal opinion to MWAA before the noncompetitive contact [was] documented and officially signed." Enclosed is a letter I sent today to Jenner & Block's managing partner asking the firm to return the money it received for the opinion.

The report also details the lack of proper standards for the recusal of board members. The report states that MWAA's ethics practices "are vague regarding when and how Board members should recuse themselves when a conflict of interest arises." The report cites an instance where two board members recused themselves from a particular issue. One member left the meeting while the other stayed. While the report said the board member who stayed did not participate in the decision or vote, "he had been instrumental in drafting the materials that were up for a vote, and had a clear interest in the outcome of the vote because of his relationship with the organizations that would potentially benefit from the proposal passing." This simply cannot stand.

The interim report also addresses MWAA's lack of transparency, specifically noting the board's excessive use of closed executive sessions. MWAA routinely uses these closed sessions to discuss important business that the public has a right to know. The report cites two examples that are particularly egregious. In one instance, the report notes that, "MWAA's recent revisions to its bylaws were conducted in a closed executive session – even though the revisions included enhancements to transparency." Later, the report states "...MWAA's Board holds its audit committee meetings exclusively in close executive sessions." Discussing transparency and the results of audits in closed session is counter intuitive and shows remarkable hubris.

The report further details how MWAA's board members abuse the public trust, charging expensive flights and meals to the authority. The report cites one voucher reviewed which "contained meal expenses for some Board members and their guests for a trip to Hawaii for a conference. The cost for three dinners totaled approximately \$4,800." What is even more troubling is the fact that, "[W]hile MWAA's travel policy states that Directors should make every effort to secure the most cost effective means of travel, there are no specified guidelines to limit travel costs for these kinds of trips." If the board does not issue adequate guidelines, extravagant expenses like this will continue to occur.

I am also troubled by what the IG says is one set of standards for authority staff and another – seemingly lower – for the board. Equally troubling is that the IG has "identified some concerns related to nepotism at MWAA; our work is ongoing in this area." I am pleased the IG is continuing to look into this.

One issue that is not addressed in the report – but has been confirmed by the IG – is deeply troubling: the financial settlement with Nathaniel Ford, the former San Francisco, California transit official who was originally considered for the CEO position. Why is MWAA paying an individual who never worked a single day for the authority? I am told MWAA refuses

The Honorable and Mr. Ray LaHood  
May 15, 2012  
Page 3

to tell the IG's team the details of the settlement, claiming a confidentiality agreement. This is not something that should be hidden from the IG or the public.

I know how important these airports are to the success of the region. Dulles, in particular, is the economic engine of northern Virginia. Sadly, the current board has not capitalized on past successes and instead is now completely dysfunctional. Contributing to this dysfunction is the that some public officials charged with appointing MWAA board members fail to do so in a timely fashion, permitting board members to continue to serve years after their terms expire. These concerns led me to introduce legislative changes to the board, since signed into law, including the provision stating that a board member may not serve past the end of their term. Disturbingly, these are the very changes that MWAA paid \$100,000 to avoid.

Based on our conversation this morning, I support your desire to place a top member of your staff immediately at MWAA to report directly to you in an effort to address the concerns detailed in the IG report. As you know, I introduced legislation last month to create a permanent IG for MWAA that would have complete access to all board actions, including executive sessions. Your staff member must be able to attend executive sessions.

Mr. Secretary, I applaud the steps we discussed and share your belief that immediately establishing an IG at MWAA will help ensure that the abuses detailed in the interim report never happen again. If the IG determines that it is necessary to "clean house" in order to implement the recommendations of the audit team, so be it. The responsibilities of the MWAA board are so important to the region that no necessary effort needed to restore public trust should be omitted.

I know how much you care about the two airports run by the authority and understand how important they are to the Washington Metropolitan area and the nation. I also appreciate the countless hours you and your staff have invested in the successful completion of Dulles rail. Your personal involvement has been critical to the project.

I also want to tell you how much I appreciate the outstanding work of Inspector General Calvin Scovel and his team. I am well aware of the time, energy and effort that have gone into the interim report and know there is a great deal more work to do. I look forward to the IG's final report later this year.

Best wishes.

Sincerely,

Frank R. Wolf  
Member of Congress

FRW:cw  
enclosure