

United States Senate

WASHINGTON, DC 20510

June 18, 2024

The Honorable Eric J. Soskin
Inspector General
U.S. Department of Transportation
1200 New Jersey Ave SE, 7th Floor
Washington, D.C. 20590

Dear Mr. Soskin:

This letter is a follow-up to the letter you received on August 28, 2023, regarding telework, physical space utilization, and locality pay policies at the U.S. Department of Transportation (DOT). We respectfully request an independent review of compliance with office work policies at DOT, including the Federal Aviation Administration (FAA) and the Federal Railroad Administration (FRA) specifically.

In your initial, September 21, 2023, response, you stated that a “full-scale review” of the DOT’s telework and remote work policies would be “premature at this time.”¹ Simply because DOT is phasing in its return to normal operations is no reason to wait to review the reasonableness of its policies.² The phased transition also began four years ago; DOT cannot be allowed to escape oversight of its telework practices by never completing implementation of its return to normal operations. This cannot be another scenario where DOT OIG waits ten years to audit the agency’s compliance.³ In any case, the situation has now changed: In the seven months since your response, whistleblowers from the FAA and FRA have contacted us about fraud, waste, and abuse occurring at the department. Additionally, the head of the independent National Transportation Safety Board (NTSB) has lamented how lax standards elsewhere make it difficult for her to set a meaningful office work policy, and DOT has continued to post numerous “remote” listings for headquarters jobs.

FAA Allegations

According to the FAA whistleblower, managers and employees are not abiding by the modest requirement that employees report to their official worksites at least four days per two-week pay period. This flagrant disregard for FAA Administrator Michael Whitaker’s directive is

¹ Letter from DOT Inspector General Soskin to Senator Joni Ernst (on file with recipient).

² See *Framework for DOT’s Return to Normal Operation*, DOT 4–10 (May 26, 2020), <https://www.transportation.gov/sites/dot.gov/files/2020-06/dot-framework-for-return-to-normal-operations.pdf>.

³ See Dep’t of Transp’n Office of the Insp’r Gen., Audit Announcement: Federal Transit Administration Hurricane Sandy Unexpended Funds, 24H3001Z000 (May 21, 2024), <https://www.oig.dot.gov/sites/default/files/library-items/FTA%20Hurricane%20Sandy%20Unexpended%20Funds%20Audit%20Announcement%205-21-2024.pdf>.

unacceptable, especially because the four-days-per-two-weeks standard was only instituted after the FAA’s employee union pushed back on the agency’s initial plan to bring employees back to the office for a mere *six* days every two weeks.⁴

The whistleblower describes FAA office spaces across the national capital region as “ghost towns.” These mostly vacant spaces include the FAA offices in Washington, D.C., at 600 Independence Avenue SW, 800 Independence Avenue SW, and 950 L’Enfant Plaza SW, as well as in Silver Spring, Maryland, at 1305 East-West Highway. Only about 30 percent of the L’Enfant Plaza office space is being used—and that’s “on a good day.” Meanwhile, the Silver Spring office space is operating on any given day at about “ten percent, if we’re lucky.” Indeed, some FAA supervisors continue to assign office space to fully remote workers in an attempt to disguise the lack of occupancy.

These allegations mirror the findings of both the Public Buildings Reform Board (PBRB) and the Government Accountability Office (GAO). The PBRB reported just 13 percent (or 831 employees) in attendance across both the East and West Buildings of the Southeast Federal Center on any given day from January to September 2023.⁵ The GAO reported that this ratio also applied to other administrations at DOT, with DOT’s headquarters operating at 14 percent utilization throughout 2023.⁶ To date, the cafeteria in the headquarters’ East Tower remains closed for lack of demand for its services. The Department has also reportedly permanently shuttered its Executive Dining Room across from Secretary Buttigieg’s office, a dining area reserved for DOT political appointees and senior Department employees, for lack of business.

FRA Allegations

As you know, an FRA employee recently pled guilty to federal theft charges after committing payroll fraud while working fully remotely for five years.⁷ According to two whistleblowers from FRA, other staff directors and managers have facilitated similar payroll fraud. For years, senior staff members have allegedly approved work arrangements that allow employees to receive locality pay designated for Washington, D.C., although they reside in lower-cost areas

⁴ See Jory Heckman, *FAA Rethinks Its Return-to-Office Policy, Sets Lower In-Person Goal Than Previously Expected*, FEDERAL NEWS NETWORK (Jan. 3, 2024), <https://federalnewsnetwork.com/workforce/2024/01/faq-rethinks-its-return-to-office-policy-sets-lower-in-person-goal-than-previously-expected/>.

⁵ PUBLIC BUILDINGS REFORM BOARD, INTERIM REPORT TO CONGRESS 7 (2024), <https://www.pbrb.gov/files/2024/03/3.21.24-FINAL-PBRB-Interim-Report.pdf>.

⁶ U.S. GOV’T ACCOUNTABILITY OFF., GAO-23-107060, FEDERAL REAL PROPERTY: PRELIMINARY RESULTS SHOW THAT INCREASED TELEWORK AND LONGSTANDING CHALLENGES LED TO UNDERUTILIZED FEDERAL BUILDINGS 8 (2023), <https://www.gao.gov/assets/gao-23-107060.pdf> (underlying data available at https://www.ernst.senate.gov/imo/media/doc/fy23_all_staff-1150574-v1-qfr__pdf_federal_space_utilization_fouo.pdf).

⁷ FRA Employee Convicted and Sentenced for Theft of Government Funds, DOT OIG (Apr. 23, 2024), <https://www.oig.dot.gov/library-item/46261>.

several hours away. These allegations raise serious concerns about the accuracy of locality pay determinations.⁸ If true, there are deeply entrenched issues within payroll management, and we urge you to reconsider whether it is truly “premature” to review telework and remote work policies at this time.

NTSB Concerns

Finally, at a hearing before the U.S. Senate Committee on Commerce, Science, and Transportation on April 10, 2024, NTSB Chairwoman Jennifer Homendy described how her critical safety agency is at a competitive disadvantage for workers because she expects in-office attendance three days per week.⁹ A federal worker “cannot get rooted in the culture if [he or she is] coming to work two times a pay period,” Homendy explained.¹⁰ Moreover, the NTSB has lost talent because it “can’t compete with” the lax standards elsewhere.¹¹ During this calendar year, DOT modal administrations have continued to advertise remote eligibility not only for headquarters jobs but also for some supervisory positions.¹²

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We respectfully request you engage in a comprehensive review of “the impact of telework and remote work on the [DOT’s] ability to achieve its mission, deliver quality and timely services, and manage taxpayer money and the DOT workforce.”¹³ This must include a review of both regular telework and ongoing remote work (which persist in headquarters roles, not just traditional field roles), how managers are or are not complying with stated DOT policies, and the daily swipe-in data of employees’ Personal Identification Verification cards at both DOT and FAA headquarters, and other DOT facilities. This review should include coordination with stakeholders at DOT and perhaps the Inspector General of the General Services Administration, which manages much of the federal property discussed above.

Finally, we would be remiss if we did not note that your own offices are located within DOT headquarters. Surely the empty halls and other obvious indicators of low occupancy, such as the

⁸ Other departments have faced similar issues. *See, e.g.*, DEP’T OF COMMERCE, OFF. OF INSPECTOR GENERAL, OIG-24-025-A, THE DEPARTMENT CAN IMPROVE PROCESSES TO ENSURE LOCALITY PAY IS ACCURATE (June 3, 2024), <https://www.oig.doc.gov/OIGPublications/OIG-24-025-A.pdf>.

⁹ Nominations Hearing, S. Comm. on Commerce, Sci., Trans. Testimony of Chairwoman Homendy, 30–31 (Apr. 10, 2024).

¹⁰ *Id.* at 31.

¹¹ *Id.*

¹² *E.g.*, Mgmt. & Program Analyst, Off. of the Sec’y of Trans., <https://www.usajobs.gov/job/780925400> (open Mar. 12 to Jun. 10, 2024) (“This position may be eligible for Remote Work.”); Trans. Analyst, FRA, <https://www.usajobs.gov/job/792504500> (open May 22 to Jun. 5, 2024) (“This position may be eligible for Remote Work.”); Supervisory Environmental Protection Specialist, FRA, <https://www.usajobs.gov/job/774359900> (open Feb. 2, 2024, to May 2, 2024) (location listed as “Anywhere in the U.S. (remote job)”); Program Analyst, Nat’l Hwy. Traffic Safety Admen, <https://www.usajobs.gov/job/785727200> (open Apr. 9 to Apr. 19, 2024) (location listed as “Anywhere in the U.S. (remote job)”).

¹³ Letter from DOT Inspector General Soskin, *supra* note 1.

continued closure of the cafeteria, have not fully escaped your notice. The evidence of your own eyes, and those of your subordinates, should supplement the evidence we provide and be more than sufficient to convince you of the necessity of this review.

Thank you for your time and attention to this important matter. We look forward to hearing from you as soon as possible but no later than July 2, 2024. If you have any questions or concerns, please feel free to reach out to us or our staffs, at [Aaron Gottesman@Ernst.Senate.Gov](mailto:Aaron_Gottesman@Ernst.Senate.Gov) and Robert_Smith@Commerce.Senate.Gov respectively.

Sincerely,



Joni K. Ernst
United States Senator



Ted Cruz
United States Senator

Cc: The Honorable Robert C. Erickson
Deputy Inspector General
General Services Administration