



**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION**

National Policy

**ORDER  
1100.167A**

Effective Date:  
11/06/12

**SUBJ:** The Office of Audit and Evaluation

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**1. Purpose of this Order.** This is a revision of FAA Order 1100.167 issued on December 6, 2010. This order updates the functions and responsibilities of the Office of Audit and Evaluation as a result of the enactment, on February 14, 2012, of the FAA Modernization and Reform Act of 2012 (Public Law 112-95), which formally establishes the creation of an independent Federal Aviation Administration (FAA) office for the investigation of safety-related whistleblower disclosures (Section 341).

**2. Who this Affects.** This order affects everyone who does business with the Office of Audit and Evaluation (AAE).

**3. Where you can get a copy of this notice.** You can find this order on the MyFAA Employee Web site: [https://employees.faa.gov/tools\\_resources/orders\\_notices/](https://employees.faa.gov/tools_resources/orders_notices/). This order is available to the public at [http://www.faa.gov/regulations\\_policies/orders\\_notices/](http://www.faa.gov/regulations_policies/orders_notices/).

**4. Cancellation.** This Order cancels Notice 1100.337, Realignment of the Office of Audit and Evaluation dated January 13, 2012.

**5. Background.** In anticipation of the passage of Public Law 112-95 (P.L. 112-95), and as a result of past recommendations from the U.S. Department of Transportation, Office of the Inspector General (DOT OIG), the FAA realigned AAE as an independent organization reporting to the FAA Administrator on January 13, 2012. This change in structure was published in FAA Notice N1100.337. The realignment augmented the visibility of AAE for both employees and external stakeholders, enhanced agency accountability for internally identified safety concerns, and revalidated the agency's commitment to providing an independent, vital and effective mechanism for addressing and resolving safety-related employee disclosures, whistleblower disclosures, and employee workplace conflicts.

**6. Structure.** AAE is managed by a Director, who is to be appointed by the Secretary of Transportation to a 5-year term. The current Director was appointed by the Secretary on September 11, 2012. AAE is organized into three staff offices to correspond with AAE's primary functions.

**a. Audit and Analysis Staff, AAE-100.** AAE-100 performs the audit and investigative review functions and is the primary focal point for the investigation of safety disclosures, including the FAA Whistleblower Protection Program. It also serves as the focal point for the coordination and

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Distribution: Electronically

Initiated By: AAE-1

evaluation of FAA responses to DOT OIG, Government Accountability Office (GAO), and the Office of Special Counsel (OSC) audits and investigations. AAE-100 also tracks the implementation of corrective actions identified in the course of both internal and external audits and investigations of FAA programs and organizations.<sup>1</sup>

**b. Intervention and Evaluation Staff, AAE-200.** AAE-200 provides conflict mitigation services and training for FAA employees and managers. AAE-200 works closely with the Office of the Chief Counsel (AGC), the Office of Civil Rights (ACR), and the Office of Human Resources (AHR) to ensure that workplace conflicts are resolved in a manner most beneficial to the organization and affected employees. AAE-200 is available to managers and employees for informal mediation services.

**c. Reporting and Data Analysis Staff, AAE-300.** AAE-300 operates the consolidated FAA Hotlines. AAE-300 analyzes hotline submissions, coordinates their investigation with other AAE staff offices, and ensures that they are properly investigated by the appropriate FAA organization(s). AAE-300 also analyzes hotline data for safety trends, which are provided to the appropriate FAA lines of business. AAE-300 is also responsible for responding to all Freedom of Information Act requests submitted to AAE.

**7. Supervision and Oversight.** The Director for Audit and Evaluation reports directly to the FAA Administrator. The Director has the authority to make recommendations pertaining to corrective actions to the Administrator (under P.L. 112-95) and to the Secretary of Transportation where AAE has found the likelihood of a violation of order, regulation, or other provision of Federal law pertaining to aviation safety.

**8. Functions of the AAE Office.** AAE operates the agency's hotline system and other programs that offer employees and other members of the aviation community an independent venue to report safety-related and related concerns. AAE coordinates and provides independent quality control evaluations of certain investigations<sup>2</sup> conducted by the lines of business and analyzes data from a broad range of sources. AAE may initiate independent investigations of whistleblower disclosures using investigative resources from other lines of business and staff offices. As required by P.L. 112-95, Section 341, AAE will make recommendations to the Administrator as a result of its independent assessments and investigations. AAE will track corrective actions made as a result of its findings. However, the ultimate responsibility for implementing corrective actions identified on safety-related issues remains with the appropriate FAA organizations. AAE will also provide intervention assistance to managers and employees. In summary, AAE performs the following functions:

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<sup>1</sup> The Employment and Labor Law Division of the Office of the Chief Counsel (AGC-30) remains the primary point of contact involving complaints of *prohibited personnel practices* filed with the U. S. Office of the Special Counsel.

<sup>2</sup> Excluding investigations involving FAA employee conduct and discipline and/or airmen/aircraft regulatory investigations that fall under the purview of the FAA Office of Security and Hazardous Materials as defined in FAA Order 1600.38.

**a.** Interface and maintain a continuous liaison with GAO, OSC, and the DOT OIG investigation/audit staffs concerning safety-related investigations and external safety referrals such as hotline disclosures.<sup>3</sup>

**b.** Record, track, review, and confirm implementation of FAA responses to DOT OIG, OSC, and GAO audits and investigations that are under the purview of the AAE Office.

**c.** Manage the day-to-day operations of the consolidated FAA hotlines (previously referred to as the Aviation Safety Hotline, the Administrator's Hotline, and the Public Inquiry Hotline.).

**d.** Manage the Whistleblower Protection Program established under 49 U.S.C. § 42121 to record, review, and track the investigation of information identifying an alleged violation of any order, regulation, or standard of the FAA or an alleged violation of any other Federal law related to air carrier safety associated with complaints of discrimination filed with the Secretary of Labor. AAE is the primary interface and maintain a continuous liaison with OSHA on these matters.

**e.** Analyze data from the FAA and OIG Hotlines, as well as other whistleblower disclosure to identify trends and issue reports to the Administrator, AGC, and appropriate lines of business based on these analyses.

**f.** Serve as an alternative point of contact for receipt of safety-related disclosures or allegations of retaliation against whistleblowers in general.

**g.** Provide intervention assistance for managers and their employees to help resolve workplace conflicts, consistent with labor management obligations, if applicable.

**h.** Conduct an initial review of disclosures and investigations received, including an immediate assessment (in consultation with appropriate parties), and review responses for accuracy, thoroughness, and internal consistency of handling.

**i.** Task appropriate organizations for investigation and resolution of issues, within a specified time, that are raised to consolidated FAA Hotlines.

**j.** Maintain a liaison with the Director of the Accountability Board. The AAE Director will report all matters that are reported to AAE, that come under the scope of the Accountability Board, to the Executive Director of the Accountability Board within 2 business days of the incident becoming known to AAE.

**k.** Maintain a liaison with the Director of the Air Traffic Oversight Service.

**l.** Maintain a liaison with the Director of the Office of Emergency Operations, Communications, and Investigations.

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<sup>3</sup> ASH remains the primary interface with the DOT OIG investigations staff for matters involving FAA employee conduct and discipline and/or airmen/aircraft regulatory investigations as outlined in FAA Order 1600.38.

**m.** Provide guidance to lines of business and staff offices on how to conduct investigations to determine if a retaliatory action was taken as a result of a whistleblower disclosure, thoroughly and impartially. Lines of business and staff offices will be referred to the Office of Security and Hazardous Materials Safety for general guidance on how to conduct investigations.

**n.** Assess whether investigations and resolutions, of matters that come under its purview, are fair, impartial, and in conformance with established processes.

**o.** Review for accuracy and completeness reports prepared by Flight Standards Service (AFS) Internal Assessment Capability (IAC) teams and evaluate whether the IAC review was fair and followed established AFS procedures.

**p.** AAE-100 works closely with AGC and AHR in coordinating whistleblower issues.

## **9. AAE Whistleblower Protection.**

**a. Applicability.** AAE will serve as an independent venue to receive disclosures from FAA employees, certificate holders, or employees of certificate holders, concerning:

(1) Actions relating to a possible violation of the FAA's statute (49 U.S.C. subtitle VII) or an FAA regulation or order:

(2) Acts or omissions that pose a high level of risk to aviation safety: or

(3) Gross misconduct of agency employees involving a matter of aviation safety.

**b. Investigative Responsibility.** AAE will evaluate the protected disclosure, including any supporting documentation, to determine whether a substantial likelihood exists that conduct within a category described in subparagraph 8.a. occurred. If AAE determines there is a substantial likelihood that a violation within subparagraph 8.a. occurred, it will either refer the disclosure to the appropriate FAA office for further investigation (with continuous AAE oversight) or request assistance from the line of business or staff office to conduct an inquiry under the auspices of AAE.

**c. Limitations on Review.** AAE will not investigate, or refer for investigation, the substantive matters that:

(1) Are the subject of an on-going enforcement investigation by an FAA office, unless such investigations involve allegations of retaliation for safety disclosures;<sup>4</sup>

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<sup>4</sup> This does not preclude AAE from reviewing the allegations to determine if whistleblower status exists. In such instances, AAE will initiate, or refer, the whistleblower matter for investigation to determine if a protected disclosure was made and retaliatory action was taken as a result.

(2) Are the subject of an administrative appeal process or within the jurisdiction of an administrative forum, such as the National Transportation Safety Board or the Merit Systems Protection Board, or under review before, or within the jurisdiction of, Federal or state courts;

(3) Were previously submitted to the DOT OIG as a discrimination complaint, grievance, or complaint; or

(4) Fall under the purview of FAA Order 1600.38.

**10. Prohibition on Retaliation.** All persons are entitled to contact AAE without fear of reprisal. Retaliation against persons who do so is prohibited and will become a separate matter for investigation by AAE with assistance from AGC-30.

**11. Authority to Change this Order.** The Director of AAE is authorized to make changes as appropriate to this order through the directives management process.

**12. Organization Chart.** Attached is Appendix A of the AAE organizational chart.

**13. Distribution.** This order is distributed to the division level in the Washington headquarters, regions, and centers with distribution to each field office and facility.

A handwritten signature in black ink, appearing to read 'Michael P. Huerta', enclosed within a circular scribble.

Michael P. Huerta  
Acting Administrator

## Appendix A. Office of Audit and Evaluation Organizational Chart

