



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

National Policy

**ORDER
1100.167B**

Effective Date
02/05/14

SUBJ: The Office of Audit and Evaluation

1. Purpose of this Order. This is a revision of FAA Order 1100.167A issued on November 6, 2012. This order provides a revised organizational structure and provides updates and clarification of the functions and responsibilities of the Office of Audit and Evaluation (AAE). AAE was formally established as a result of the enactment, on February 14, 2012, of the Federal Aviation Administration (FAA) Modernization and Reform Act of 2012 (Public Law 112-95) requiring that the FAA formally establish an independent office for the investigation of aviation 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 obtain this order. You can find this order on the MyFAA Employee Web site: https://employees.faa.gov/tools_resources/orders_notices/. This order is available to the public at http://www.faa.gov/regulations_policies/orders_notices/.

4. Cancellation. This order cancels Order 1100.167A, The Office of Audit and Evaluation, dated November 6, 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 directly 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 and safety-related whistleblower disclosures.

6. Structure. AAE is managed by a Director, who is to be appointed by the Secretary of Transportation to a 5-year term. AAE is organized into two staff offices to correspond with its primary functions.

a. Audit and Analysis Staff, performs the audit and investigative review functions. This office is the primary focal point for investigation of safety disclosures, including disclosures made under the Wendell H. Ford Aviation and Reform Act for the 21st Century (AIR21), also known as the FAA

Whistleblower Protection Program. Staff reviews and may investigate aviation safety disclosures made by Federal employees. This group also serves as the focal point for the coordination and evaluation of FAA responses to DOT/OIG, Government Accountability Office (GAO) audits, and U.S. Office of Special Counsel (OSC) aviation-safety investigations. This staff also tracks the implementation of corrective actions identified in the course of both internal and external audits and investigations of FAA programs and organizations¹.

b. Reporting and Data Analysis Staff operates the consolidated FAA Hotline. This staff analyzes hotline submissions and ensures that they are properly investigated by the appropriate FAA organization(s). The hotline staff also analyzes hotline data for safety trends, which are provided to the appropriate FAA lines of business (LOB). The staff is also responsible for responding to all Freedom of Information Act requests submitted for AAE produced reports and correspondence.

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 an 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 FAA related concerns. AAE coordinates and provides independent quality control evaluations of certain investigations² conducted by the LOB designators and analyzes data from a broad range of sources. AAE may initiate independent investigations of whistleblower disclosures on matters pertaining to aviation safety using investigative resources from other lines of business and staff offices (LOB/SO) designators. As required by P.L. 112-95, Section 341, AAE will make recommendations to the Administrator regarding safety-related issues 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:

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 disclosures³.

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.

¹ The Employment and Labor Law Division of the Office of the Chief Counsel (AGC-100) remains the primary point of contact involving complaints of *prohibited personnel practices* filed with OSC.

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

³ 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.

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 maintains a continuous liaison with the Occupational Safety and Health Administration on these matters.

e. Analyze data from the FAA and OIG Hotlines, as well as other whistleblower disclosures, to identify trends and issue reports to the Administrator, Office of the Chief Counsel (AGC), and the appropriate LOB designators 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 limited unofficial 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 Hotlines⁴.

j. Maintain a liaison with the Director of the Accountability Board. The AAE Director will report all matters that are reported to the office, 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 liaisons with identified representatives of the Air Traffic Organization and the Associate Administrator for Aviation Safety.

l. Maintain a liaison with the Director of the Office of National Security Programs and Incident Response.

m. Provide guidance to the LOB/SO designators on how to conduct investigations to determine if a retaliatory action was taken as a result of a whistleblower disclosure, thoroughly and impartially. The LOB/SO designators will be referred to the Office of Security and Hazardous Materials Safety (ASH) for general guidance on how to conduct investigations.

⁴Excluding investigations involving FAA employee conduct and discipline and/or airmen/aircraft regulatory investigations that fall under the purview of ASH as defined in Order 1600.38.

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 works closely with AGC, Office of Human Resource Management (AHR), and ASH 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 associated with a possible violation of 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.⁵

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 LOB/SO designator 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 disclosures⁶;

(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;

⁵ In safety matters reported to AAE through internal or external sources, if an aviation safety matter is inextricably linked or caused by gross misconduct, employee actions or lack thereof, the matter will be investigated in a collaborative effort with AAE, ASH, and in consultation with AGC-100 as determined appropriate.

⁶ 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.

(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-100. In whistleblower-related matters reported to AAE through internal or external sources, if an aviation safety matter is inextricably linked or caused by employee actions or lack thereof (e.g., management actions caused a specific safety issue to occur), the matter will be investigated through collaboration between AAE, ASH, and AGC-100.

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', with a large circular flourish at the end.

Michael P. Huerta
Administrator

Appendix A. Office of Audit and Evaluation Organizational Chart

