

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

MINORITY (202) 225-5051

<http://oversight.house.gov>

August 6, 2015

Mr. Mortimer Downey
Chairman
Washington Metropolitan Area Transit Authority
600 5th Street NW
Washington, DC 20001

Dear Mr. Downey:

On July 21, 2015, Washington Metropolitan Area Transit Authority (WMATA) Inspector General (IG) Helen Lew testified before the Subcommittees on Transportation and Public Assets and Government Operations about the relationship between the WMATA Board of Directors (Board) and the IG.¹ WMATA's unique relationship with two States, the District of Columbia, and the federal government underscores the need for a strong Inspector General to ensure the investments made by these entities are protected against waste, fraud, and abuse. As the Committee of jurisdiction for federal Inspectors General, we understand the vital role these independent offices play in a well-functioning government.

Ms. Lew's testimony raised a number of concerns about the independence—or lack thereof—granted to the WMATA IG. When Representative Grothman asked Ms. Lew if her work plan required Board approval, she responded affirmatively. Further, when asked if all IG work required approval, Ms. Lew responded that all but “urgent” audits require Board approval.² Ms. Lew also explained, “before [the IG] can post a report on the website, it must be reviewed by the Board, [and] accepted by the Board, in order to be posted.”³

The Board's involvement in the IG's ability to conduct audit work and subsequently publish or not publish the IG's findings undermines the ability of the IG to act as an independent agent and achieve its core mission. While it is appropriate for the IG to receive input and suggestions about its audit plan from the Board, the IG should not need Board approval for its work plan and publication of its work. The existing requirement compromises the integrity and independence of the IG as a whole.

¹ H. Comm. on Oversight & Gov't Reform, Subcomms. on Transp. and Pub. Assets and Gov't Operations, *Hearing on D.C. Metro: Update*, 114th Cong. (July 21, 2015) (testimony of Helen Lew, Inspector Gen. for the Wash. Metro. Area Transit Auth.).

² *Id.*

³ *Id.*

Unfortunately, such an encroachment on the IG's independence may have already occurred through the Board's actions regarding a report concerning a WMATA contractor, nMomentum. Ms. Lew testified that, as part of a settlement, the Board removed the IG's July 26, 2013 "Review of nMomentum Corporation Contracts and Task Order" from the WMATA website "because the contractor/subcontractor had problems with the report and information that was contained in the report."⁴ The memo published on the website in place of the audit indicates that the report contained "unfortunate wording," contributing to its removal.⁵ Still, the memo does not claim that the audit is inaccurate.

Ms. Lew also testified that the WMATA IG lacks the authority to investigate the Board.⁶ This is troubling. Such a lack of authority means the Board can restrict the IG's work for inappropriate reasons and the IG, even if aware of impropriety, cannot question the Board's activities.

Ms. Lew's testimony regarding the intervention of the Board's General Counsel in IG staffing decisions raises additional questions about the IG's independence. When asked why the IG no longer had an employee with the title "Counsel to the Inspector General," Ms. Lew explained, "the former General Counsel [to WMATA] took the title away," based on concerns that individuals may mistakenly believe attorney-client privilege applies to the Counsel to the Inspector General.⁷ Such interference in IG employment decisions may compromise the independence of the IG.

In order to better understand the relationship between the Board and the IG, and to assist this Committee's oversight efforts of WMATA, please provide Committee staff with a briefing no later than 5:00 p.m. on August 20, 2015. Please be prepared to discuss the following topics:

1. The relationship of the Board to the Inspector General and how the Board believes this promotes the independence of the Inspector General;
2. The details surrounding the Board's decision to remove the nMomentum report from the website; and
3. An explanation for how the Board decided that the Inspector General no longer have an employee with the title "Counsel to the Inspector General."

The Committee on Oversight and Government Reform is the principal investigative committee in the U.S. House of Representatives. Pursuant to House Rule X, the Committee has authority to investigate "any matter" at "any time."

⁴ H. Comm. on Oversight & Gov't Reform, Subcomms. On Transp. and Pub. Assets and Gov't Operations, *Hearing on D.C. Metro: Update*, 114th Cong. (July 21, 2015) (testimony of Helen Lew, Inspector Gen. for the Wash. Metro. Area Transit Auth.).

⁵ Memorandum from Wash. Metropolitan Area Transit Authority Board of Directors, *nMomentum* (Oct. 10, 2013).

⁶ H. Comm. on Oversight & Gov't Reform, Subcomms. On Transp. and Pub. Assets and Gov't Operations, *Hearing on D.C. Metro: Update*, 114th Cong. (July 21, 2015) (testimony of Helen Lew, Inspector Gen. for the Wash. Metro. Area Transit Auth.).

⁷ *Id.*

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Thank you for your cooperation in this matter. If you have any questions regarding this request, please contact Christopher D'Angelo of the Committee staff at (202) 225-5074.

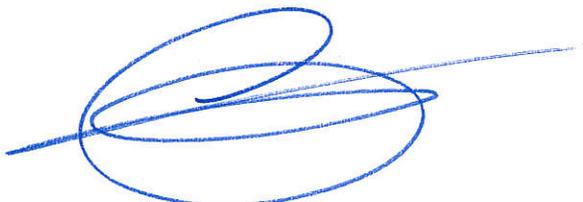
Sincerely,



Jason Chaffetz
Chairman



Mark Meadows
Chairman
Subcommittee on Government
Operations



John L. Mica
Chairman
Subcommittee on Transportation
and Public Assets



Glenn Grothman
Vice Chairman
Subcommittee on Transportation
and Public Assets

cc: The Honorable Elijah E. Cummings
The Honorable Gerald E. Connolly
The Honorable Tammy Duckworth