

Congress of the United States

Washington, DC 20515

August 2, 2017

The Honorable Calvin L. Scovel III
Inspector General
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Dear Inspector General Scovel:

We write to request an investigation of officials of the U.S. Department of Transportation (DOT) to determine whether they have engaged in conduct that violates the Anti-Lobbying Act or other Federal law.

As you know, the Anti-Lobbying Act states:

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or any official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation¹

The Department of Justice has interpreted this prohibition on lobbying Members of Congress to bar “substantial ‘grass roots’ lobbying campaigns . . . designed to encourage members of the public to pressure Members of Congress to support Administration or Department legislative or appropriations proposals.”²

It has come to our attention that at least four DOT political appointees have contacted Members of Congress, nonfederal stakeholders such as aviation association representatives and airport sponsors, or both to gain support for H.R. 2997, the “21st Century AIRR Act”, which includes a controversial plan to privatize our Nation’s air traffic control (ATC) system. We understand that these DOT political appointees have sent e-mails and written materials or conducted phone calls with these nonfederal stakeholders to encourage ATC privatization.

¹ 18 U.S.C. § 1913 (emphasis added).

² Department of Justice, *Constraints Imposed by 18 U.S.C. § 1913 on Lobbying Efforts* (Sept. 28, 1989), available at https://www.justice.gov/sites/default/files/olc/opinions/1989/09/31/op-olc-v013-p0300_0.pdf.

For instance, political appointees have sent e-mails to nonfederal stakeholders that state,

*... with each of its major concerns addressed in the AIRR Act, the general aviation community has no substantive basis to oppose freeing America's air traffic control system from an unwieldy agency and unpredictable funding.*³

In addition, DOT has distributed written materials and developed a website (www.smarterskies.gov) and official social media accounts on Facebook and Twitter with the unambiguous intent of encouraging members of the public to support ATC privatization legislation. Even when viewed in the light most favorable, these e-mails, phone calls, and other activities are highly irregular, at best.

We therefore request that you conduct an investigation of these activities by Administration political appointees and that you report on whether the activities, either individually or in totality, violate applicable Federal law, including the Anti-Lobbying Act.

If you have any questions, please contact the Committee on Transportation and Infrastructure Democratic staff at (202) 225-9161.

Sincerely,

PETER DeFAZIO
Ranking Member
Committee on Transportation
and Infrastructure

NITA M. LOWEY
Ranking Member
Committee on Appropriations

DAVID E. PRICE
Ranking Member
Subcommittee on Transportation,
Housing and Urban Development
Committee on Appropriations

Enclosure

cc: The Honorable Elaine L. Chao, Secretary of Transportation
The Honorable Michael P. Huerta, Administrator, Federal Aviation Administration

³ See Appendix 1 (emphasis added). In addition, the General Aviation Fact Sheet states, "The AAIR Act [sic] carefully considered and addressed the concerns of the General Aviation Community"