



CLAIMS PROGRAM:

Use of Best Practices Would Strengthen Management Controls

Report No. OIG-A-2012-016 | August 14, 2012






NATIONAL RAILROAD
PASSENGER CORPORATION

The Inspector General



Memorandum

To: Joseph Boardman, President and CEO

From: Ted Alves 

Date: August 14, 2012

Subject: *Claims Program: Use of Best Practices Would Strengthen Management Controls*
(Report No. OIG-A-2012-016)

As you requested, we have reviewed the adequacy of management controls over the Amtrak claims program. Claims against Amtrak represent a significant cost, with about \$44 million being paid in settlements and judgments in Fiscal Year 2011. Effective management controls over Claims Office activities play an important role in preventing and detecting fraud, waste, and abuse. They also help ensure that claims against Amtrak are settled in a cost-effective manner.

Our reporting objective is to review the adequacy of management controls over the claims program from initial receipt through settlement. While we did not review the effectiveness and efficiency of the claims program, we noted that the personnel we met with were knowledgeable, dedicated, and working diligently to settle claims made against Amtrak. The detailed results of our work are presented in Appendix II and are summarized below. For a discussion of our audit scope and methodology, see Appendix I.

SUMMARY OF RESULTS

While some limited policies, procedures, and management controls over claims exist, Amtrak's process in this area is inadequate to provide reasonable assurance that claims are handled consistently and to minimize vulnerabilities to fraud, waste, and abuse that would unjustly enrich individuals at the expense of Amtrak. Specifically, significant

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gaps in controls exist, including a lack of documented policies and procedures that have led to various claims-processing practices at different locations. Consequently, ad-hoc claims processes have developed over time, with claims being processed differently from office to office. As a result, significant weaknesses in the management control environment create vulnerabilities to fraud, waste, and abuse. For example:

- *No Comprehensive, Integrated Policies and Procedures Exist for Managing the Claims-Settlement Process.* Regional and local policies, procedures, and controls at the locations we visited were informal and mostly undocumented. To the extent that these exist, they are generally based on Association of American Railroads¹ training and prior work experience. Over time, given the development of ad-hoc claims processes at different locations, claims are not processed uniformly—sometimes not even in the same office when handled by different representatives.
- *Case File Documentation Procedures Do Not Exist to Identify Records That Should Be Included in the Files and the Manner in Which the Documents Should Be Organized.* Many of the files we reviewed appeared to contain a significant volume of important records. However, without file documentation standards, we had no basis for determining whether all needed information to support a settlement or litigation was included. This lack of procedures creates the vulnerability that information unfavorable to the claimant is omitted.
- *Peer Review Procedures Do Not Exist to Periodically Assess the Quality of the Claims Managers and Representatives' Performance.* According to officials from one freight railroad, it uses senior claims representatives to perform regular peer reviews of other offices' and representatives' compliance with the railroad's policies, procedures, and controls for managing and processing claims. These assessments and reviews are also critical to identifying and making needed policy and procedural improvements.
- *Duties Are Not Always Segregated to Provide Appropriate Checks and Balances.* In some cases, [REDACTED] has repeatedly processed claims for the same claimant—which creates vulnerabilities to potential fraud, waste, and abuse, in ways such as the following:

¹ The Association of American Railroads is a railroad policy, research, and technology organization focusing on the safety and productivity of rail carriers. Members include the major freight railroads of the United States, Canada, and Mexico, as well as Amtrak.

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- In one regional office, [REDACTED] processed seven claims filed between December 2003 and September 2009 by the same claimant. The claims payments in these cases ranged from \$ [REDACTED] to \$ [REDACTED].
- In another regional office, [REDACTED] processed four claims filed between December 2002 and June 2010 by the same claimant. The claims payments ranged from \$ [REDACTED] to \$ [REDACTED].
- *Criteria and Procedures for Employing Surveillance Services Have Not Been Documented.* The Claims Office has not used general engagement letters or contracts to procure services with surveillance firms. This lack of written criteria or procedures creates vulnerabilities to more costly and/or lower quality surveillance services and to fraud, waste, and abuse. At the conclusion of our review, the Amtrak Law Department provided draft criteria and procedures for using surveillance services in the Claims Office.
- *Practices Do Not Require Outside Counsel to Report Potential or Real Conflicts of Interest.* The Claims Office requires its outside counsel to sign an agreement acknowledging the receipt and acceptance of the terms contained in the office's *Guidelines for Outside Counsel*, but does not use the Law Department's standard engagement letter that contains certain provisions addressing budget matters and conflicts of interest. Although we recognize that professional and bar association ethics standards require counsel to notify clients of real or potential conflicts of interest, we believe that the use of the standard engagement letter adheres to this requirement and also provides a process for handling waiver requests. In our opinion, this is a better practice for protecting Amtrak. By not requiring outside counsel to report potential or real conflicts of interest, Amtrak may be at risk of encountering an adverse situation that is not in its best interests.
- *Procedures Do Not Exist to Periodically Review the Quality, Results, and Costs of the Surveillance and Legal Services Obtained to Ensure Best Value.* The Claims Office has not formally assessed the performance of the outside firms it employs for surveillance and legal services to determine whether its contractors are meeting the performance standards and quality levels expected and to help ensure best value. According to the Vice President, General Counsel, performance assessments of outside counsel are performed in the normal course of business, but these performance assessments are not documented. Thus, there is no documentation describing how well the legal firms performed relative to

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expectations. This practice is also inconsistent with generally accepted internal control standards, which stipulate that all transactions and other significant events should be clearly documented and the documentation readily available for examination.

- *Potential Fraudulent Claims Had Not Been Routinely Referred to the Office of Inspector General (OIG) for Investigation.* Claims managers and representatives have not referred questionable claims to the OIG.
 - In one case, the regional office obtained good surveillance—video of the claimant working out in a weight room and performing other activities—an indicator of potential fraud. However, this case was not referred to the OIG for investigation. The Claims Office paid \$██████████ to the claimant to settle the claim.
 - In another case, the regional office obtained good surveillance—video of the claimant carrying items, bending, and performing other physical activities—also an indicator of potential fraud. However, the case was not referred to the OIG for investigation. The Claims Office paid \$██████████ to the claimant to settle the claim.

In response to the U.S. Postal Service OIG's report on Amtrak OIG operational independence,² during our audit the Law Department developed draft procedures for referring potentially fraudulent claims to the OIG for investigation. These draft procedures had not been finalized, but the Vice President, General Counsel, said they were provided to the regional claims offices. The Law Department finalized the draft procedures and disseminated a set of suggested fraud indicators to the claims staff in March 2012.

- *A Formal Training Program that Covers Amtrak-wide Policies, Procedures, and Controls for Managing and Processing Claims Does Not Exist.* The Claims Office does not have a formal training program for its managers and representatives beyond the Association of American Railroads' introductory and advanced programs—usually provided within the first 2 years of employment. These programs are designed for the railroad industry in general. As such, they do not cover specific Amtrak policies and procedures for processing claims.

² *National Railroad Passenger Corporation (Amtrak) Office of Inspector General Operational Independence* (U.S. Postal Service OIG Report Number FF-AR-12-001, October 28, 2011).

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We compared best practices for management controls against existing Claims Office controls. That comparison showed that best practices can strengthen the management control environment over the claims program. Accordingly, we recommend that the President and Chief Executive Officer direct the Vice President, General Counsel, to:

1. Develop a comprehensive, integrated set of policies and procedures for managing the claims-settlement process.
2. Develop case file documentation procedures to identify records that should be included in the files and the manner in which the documents should be organized.
3. Develop written procedures to periodically assess the quality of the claims managers' and representatives' performance.
4. Develop written procedures to help ensure separation of duties to provide appropriate checks and balances.
5. Finalize draft criteria and procedures for [REDACTED].
6. Develop written procedures to require outside counsel engaged by the Claims Office to sign the Law Department's standard engagement letter, which requires outside counsel to report potential or real conflicts of interest.
7. Develop written procedures to periodically review the quality, results, and costs of the surveillance and legal services obtained to ensure best value.
8. Finalize draft procedures for [REDACTED] for investigation.
9. Develop a program to regularly train claims managers and representatives in Amtrak's policies, procedures, and controls for managing and processing claims.

We are working with Amtrak management to redact the sensitive data presented in this report. We will post a redacted report to the Amtrak OIG website based on the outcome of that process. In the interim, we have posted a summary of this report on our website.

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MANAGEMENT COMMENTS AND OIG ANALYSIS

In commenting on a draft of this report, the Vice President, General Counsel, stated that the Law Department and Claims Office agreed with all of our recommendations. She stated that they had already implemented the recommendation to finalize draft procedures for referring potential fraudulent claims to the OIG for investigation and would implement all of the remaining recommendations. The actions Amtrak has taken and plans to take meet the intent of our recommendations.

The Vice President, General Counsel's letter commenting on our draft report is reprinted as Appendix III. Management also provided technical comments on certain aspects of the report for our consideration. We considered these comments and incorporated them into this report where appropriate.

Management expressed the strong view that the vast majority of information presented in the draft report was sensitive and/or privileged and should be redacted. We are in the process of analyzing this position. However, in the interest of timely reporting, we are issuing the report and treating it as sensitive in its entirety, and reserve the right to issue a redacted version once we have completed our review of the requested redactions. Until that time, we have posted a summary of the report on our website, www.amtrakoig.gov.

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Appendix I

SCOPE AND METHODOLOGY

This report provides the results of an Amtrak OIG review to assess the adequacy of the management controls over Amtrak's claims program from initial receipt through settlement. We used best practices from railroad and insurance, general management, and financial research and consulting services organizations in conducting our review of management controls. We performed our work from November 2011 through August 2012. The process of working with Amtrak management to address their concerns about the sensitive and/or privileged data in the draft report resulted in additional time to issue the final report. Certain information in this report has been omitted due to the sensitive and/or privileged nature of the information.

To assess the adequacy of the management controls over the claims program, we (1) collected and reviewed existing Amtrak policies, procedures, and guidance of its claims program; and (2) researched best practices in the railroad, insurance, general management, and financial research and consulting services organizations as a guide in comparing Amtrak's policies, procedures, and guidance. We met with the Vice President, General Counsel; the Managing Deputy General Counsel; the Deputy General Counsel; senior directors; directors; managers; and claims representatives; and visited offices in Baltimore; Beech Grove, Indiana; Chicago; Los Angeles; New York; Oakland; Philadelphia; and Washington, D.C. We conducted interviews with claims managers and representatives at these locations to identify the processes that (1) managers use to oversee the claims program to ensure consistency with existing policies, procedures, and guidance; and (2) claims representatives use to resolve claims assigned to them and to detect potential fraud, waste, and/or abuse—to include the use of surveillance and outside counsel. We also discussed the type and frequency of training that managers and representatives receive to help them perform their duties. In addition, we discussed the type of data management information systems they use to help manage and oversee the claims program.

At headquarters and field locations, we collected available claims files, policies, procedures, and guidance pertaining to how injury and illness claims are managed, processed, and overseen to ensure proper resolution and to detect and prevent potential fraud, waste, and abuse and to train claims staff. The scope of this work included injury and illness claims filed by Amtrak employees, passengers, trespassers, and invitees who accompanied passengers on Amtrak property; and third-party property claims. We judgmentally selected and reviewed 36 claims files and the data in the *Claims*

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Information System to identify the types of documentation collected from initial receipt through settlement of claims. We focused our selection primarily on high-profile claims and on repetitive claims submitted for injuries during different time periods by the same claimants and processed by the same claims representatives. We selected these types of claims to determine the type of information collected and the management control procedures in place regarding segregation of duties and their ability to mitigate potential fraud, waste, and abuse. We also assessed consistency among claims offices and representatives in managing and processing claims and in using surveillance firms and outside counsel.

We did not review the effectiveness and efficiency of the claims program. For example, we neither attempted to identify nor identified any actual instances of fraud, waste, or abuse. Similarly, we did not assess whether the Claims Office settled claims in a cost-effective manner.

Further, we conducted extensive research on best practices in railroad, insurance, general management, and financial research and consulting services organizations. We compared Amtrak's existing policies, procedures, and guidance with best practices in these industries to ascertain how well they aligned. This comparison also allowed us to identify other areas that potentially needed policy development. We also met with representatives from one of the freight railroads regarding the claims program they administer. This railroad had been identified by representatives of the Association of American Railroads as having one of the better claims programs for employees. Further, we held discussions with representatives of the Association of American Railroads regarding the frequency and type of training the association provides to railroad claims representatives. Amtrak representatives identified the association as the primary source of training in the claims area. Finally, we collected and reviewed the materials provided to participants at the association's introductory and advanced training courses to identify areas covered.

Our work was performed in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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Computer-Processed Data

During our review, we used computer-processed data from the *Claims Information System*. We did not validate the data, but relied on the data to identify the type of documentation collected from initial receipt to settlement. We also relied on data from our interviews with Claims Office officials and the documentation in individual case files as additional support for the information used from the *Claims Information System*. We found that this information was generally accurate and reliable when compared with source documents and found sufficient assurance that we could rely on the computer-processed data to accomplish our audit objectives.

Internal Controls

In conducting this audit, we reviewed Amtrak's internal controls related to the claims program. Specifically, we identified and assessed internal or management controls, including

- procedures for entering claims information into the *Claims Information System*,
- procedures for monitoring and tracking claims from initial receipt through claim settlement,
- procedures for determining when surveillance and outside counsel services are necessary, and
- procedures for training claims managers and representatives.

The weaknesses and gaps in these controls that we identified are discussed in the body of this report.

Prior Coverage

We reviewed the following audit reports and used information from them in conducting our analysis of issues:

National Railroad Passenger Corporation (Amtrak) Office of Inspector General Operational Independence (U.S. Postal Service OIG Report Number FF-AR-12-001, October 28, 2011)

Amtrak Management: Systemic Problems Require Actions to Improve Efficiency, Effectiveness, and Accountability (GAO-06-145, October 4, 2005)

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Handbook for VA Facility Workers' Compensation Program (WCP) Case Management and Fraud Detection (U.S. Department of Veterans Affairs OIG Report Number 9D2-G01-064, April 14, 1999)

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Appendix II


BRIEFING

On February 24, 2012, we briefed the detailed results of our work to Law Department officials. Based on that briefing and subsequent discussions with Law Department officials, we developed the following final briefing on the results of our work.

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Background

Office of Inspector General

- The Law Department's Claims and Tort Litigation Group (Claims Office) manages the program for settling claims by employees, passengers, trespassers, and others against Amtrak; it also manages claims by Amtrak for rolling stock and property damage caused by third parties.
 - In January 2012, the group consisted of three attorneys and 65 claims professionals and support personnel in Washington, D.C., and 14 field offices.
 - The Claims Office relies heavily on surveillance firms and outside counsel to help process claims and support litigation.
- Based on claims database analysis, the claims program cost about \$8.9 million to administer in fiscal year 2011. Legal fees and disbursements, surveillance costs, and expert fees totaled nearly \$16 million. Settlements and judgments amounted to about \$44 million.



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Objective & Methodology

Office of Inspector General

- Based on a request from Amtrak's President and CEO, we are reviewing the claims program.
- Our objective is to review the adequacy of management controls over the claims program from initial receipt through settlement of claims.
- We are using best practices from a railroad and insurance, general management, and financial research and consulting services organizations in conducting our review of management controls.



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*Management Control Environment
Can Be Strengthened*

Office of Inspector General

General Observations

While we did not review the effectiveness and efficiency of the claims program, we noted that the personnel we met with were knowledgeable, dedicated, and working diligently to settle claims made against Amtrak.

We found some limited policies, procedures, and controls to guide the Claims Office's staff. However, significant gaps in controls exist including a lack of documented policies and procedures that have led to different claims processing practices at different locations. As a result, significant weaknesses exist in the management control environment that create vulnerabilities to fraud, waste, and abuse.



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***Management Control Environment
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Office of Inspector General

Limited Formal (Documented) Controls Exist

- Existing policies, procedures, and controls address limited portions of the claims process. Specifically:
 - The Law Department has issued *General Letter of Engagement for Outside Counsel (Non-Claims Matters)* and *Guidelines for Outside Counsel (Claims)*.
 - From discussions with claims officials and our reviews of the files, we noticed that emphasis was placed on high-profile claims—such as those with potentially large costs or liabilities, grievous injuries, and/or high public interest.
 - A *Claims Information System* has been established. This is an office-wide automated tool for tracking claims and for standardizing some procedures, such as electronically requesting and approving surveillance and settlement authority. However, the extent to which the system is used varies among claims offices and representatives.



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***Management Control Environment
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Office of Inspector General

- o The Claims Office uses the *Impact System*— Amtrak’s online performance management system — to communicate individual employee performance goals.
- o On January 24, 2012, Amtrak’s President and CEO reissued his September 2010 memorandum to all employees, contractors, and vendors on the role of the Office of Inspector General (OIG). While not a control over the claims process, the memorandum reinforces the President and CEO’s commitment to ensure that potential fraud is referred to the OIG.



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Management Control Environment

Office of Inspector General

Can Be Strengthened (cont'd.)

Significant Formal Control Gaps Exist

- No comprehensive, integrated policies and procedures exist for managing the claims-settlement process. Regional and local policies, procedures, and controls at the locations we visited were informal and mostly undocumented. To the extent that these exist, they are generally based on Association of American Railroads training and prior work experience.
- Over time, ad-hoc claims processes have been developed at different sites and, therefore, claims are processed differently among claims offices and representatives. For example, we noted different processes during our visits to the Baltimore, Beech Grove, Chicago, Los Angeles, New York, Oakland, and Philadelphia regional field offices.



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*Management Control Environment
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- This weak control environment creates vulnerabilities to fraud, waste, and abuse. For example:
 - Duties are not always separated to provide appropriate checks and balances. In some cases, [REDACTED] has repeatedly processed claims for the same claimant — which creates vulnerabilities to fraud, waste, and abuse due to the lack of separation of duties. For example:
 - In one regional office, [REDACTED] processed seven claims filed between December 2003 and September 2009 by the same claimant. The claim payments ranged from \$ [REDACTED] to \$ [REDACTED].
 - In another regional office, [REDACTED] processed four claims filed between December 2001 and July 2007 by the same claimant. The claim payments ranged from \$ [REDACTED] to \$ [REDACTED].
 - In another regional office, [REDACTED] processed four claims filed between December 2002 and June 2010 by the same claimant. The claim payments ranged from \$ [REDACTED] to \$ [REDACTED].



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*Management Control Environment
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Office of Inspector General

- Multiple claims by the same claimant should be considered a factor in referring a case to the OIG for a possible fraud, waste, and abuse investigation. The Law Department's January 2012 [REDACTED]. However, the Claims Office has not [REDACTED].
- o The Claims Office has not had criteria and procedures for using surveillance services. We recognize that surveillance is one of the tools that can be used for a number of purposes. However, [REDACTED].
 - The Claims Office has not used general engagement letters or contracts with surveillance firms, or formally assessed their performance.
 - These practices create vulnerabilities to more costly and/or lower quality surveillance services, and to fraud, waste, and abuse; and do not consider best practices, such as written procedures to periodically review the quality, results, and costs of the services obtained.



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***Management Control Environment
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- At the conclusion of our review, the Law Department provided draft criteria and procedures for [REDACTED] in the Claims Office. The draft criteria and procedures list factors to consider [REDACTED] including the requirement that all work performed by these firms be done based on written services agreements.
- o The Claims Office requires its outside counsel to sign an agreement acknowledging the receipt and acceptance of the terms contained in the office's *Guidelines for Outside Counsel (Claims)*, but does not use the Law Department's standard engagement letter that contains certain provisions addressing budget matters and conflicts of interest. We believe that it would be a better practice for the Claims Office to use the standard engagement letter, including these provisions.
- The Law Department's *Outside Counsel Engagement and Management Policies and Protocols* require a written, standard engagement letter or agreement between the Law Department and all outside counsel that contains all of the terms and conditions of the standard engagement letter.



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***Management Control Environment
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Office of Inspector General

- Instead, the Claims Office requires its outside counsel to sign an agreement acknowledging the receipt and acceptance of the terms contained in the Claims Office's *Guidelines for Outside Counsel*, which contain all material terms and conditions of the standard engagement letter except for the budgeting and conflicts provisions.
- The General Counsel authorized the Claims Office practice exception but did not reflect that authority in writing.
- We compared the Law Department's standard engagement letter to its *Guidelines for Outside Counsel*, and we found that the guidelines do not require outside counsel to
 - develop initial and updated budgets that estimate the expected fees and expenses to complete each assignment, and
 - report potential or real conflicts of interest that occur to Amtrak.



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*Management Control Environment
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- With respect to budgets, outside counsels routinely provides the Claims Office with status reports on their cases that describes the potential liability to Amtrak, estimated legal fees and costs through trial, potential verdict range, and other associated information about the case.
- Although we recognize that professional and bar ethics standards require counsel to notify clients of real or potential conflicts of interest, we believe that the use of the standard Amtrak engagement letter adheres to this requirement and also provides a process for handling waiver requests. In our opinion, this is a better practice for protecting Amtrak. By not requiring outside counsel to report potential or real conflicts of interest, Amtrak may be at risk of encountering an adverse situation that is not in its best interests.



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- The Claims Office has not formally assessed the performance of the outside legal firms it uses. The Vice President, General Counsel stated that performance assessments are performed as a normal course of business. However, these performance assessments are not documented. Also, the Claims Office process does not provide for written procedures to periodically review the quality, results, and costs of the services obtained from outside counsel.
- Case file documentation procedures do not exist to identify records that should be included and the manner in which they should be organized. Having such procedures would facilitate the review process. While many of the files we reviewed appeared to have a significant volume of important records, we have no basis for determining whether all needed information to support a settlement or litigation was included. This lack of procedures creates a vulnerability that information unfavorable to the claimant is omitted.



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- o Claims managers and representatives have not referred questionable claims to the OIG. For example:
 - In one case, a regional office obtained good surveillance – video of the claimant working out in a weight room and performing other activities – which is an indicator of potential fraud. However, this case was not referred to the OIG for investigation. The Claims Office paid \$ [REDACTED] to the claimant to settle the claim.
 - In another case, a regional office obtained good surveillance – video of the claimant carrying items, bending, and performing other activities – which is an indicator of potential fraud. However, this case was not referred to the OIG for investigation. The Claims Office paid \$ [REDACTED] to the claimant to settle the claim.
 - In response to the U.S. Postal Service OIG's report on Amtrak OIG operational independence, the Law Department is in the process of developing procedures for referring potentially fraudulent claims to the OIG for investigation. These draft procedures are not yet finalized, [REDACTED]



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- The Claims Office does not have a formal training program for its managers and representatives. The Association of American Railroads provides training in the way of introduction and advanced programs—usually within the first 2 years of employment. These programs are designed for the railroad industry in general. As such, they do not cover specific Amtrak policies and procedures for processing claims.
 - In addition, when funding is adequate, the Claims Office headquarters and regional offices conduct staff meetings to discuss claims issues and developments. However, according to several claims representatives, they do not consider these meetings as training.
 - A formal training program would help the claims managers and representatives improve their knowledge, skills, and abilities to do their job and stay current on Amtrak's policies, procedures, and controls.



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***Management Control Environment
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Compared against best practices, the Claims Office lacks

- a mission statement and management structure for accomplishing its mission;
- written strategic program goals and priorities for both short- and long-term achievements and results;
- written program objectives with specified completion time frames;
- a process to periodically review and revise the mission statement, goals, priorities, and objectives to reflect changes in Amtrak and/or the claims program;



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- a comprehensive and integrated set of policies and procedures to process claims that includes
 - written guidance and standard checklists to follow in collecting data, evaluating and settling claims, using surveillance services, and closing claims files; and
 - information that would assist claims representatives in understanding the rules of evidence, state laws and regulations, and the proper use of surveillance;
- peer review procedures to periodically assess the quality of performance; for example, regular peer reviews of other representatives' compliance with policies, procedures, and controls;



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- management controls that ensure the segregation of duties to deter fraud, waste, and abuse. For example, when functions cannot be separated due to limited staff, added supervisory review can be used as a compensating control;
- written procedures to periodically review the quality, results, and costs of the surveillance and legal services obtained to ensure best value;
- written procedures to refer [REDACTED] and
- a formal training program for its employees.



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Conclusions

Office of Inspector General

- While staff are working diligently to settle claims, management controls over the claims program are inadequate to provide reasonable assurance that claims are processed consistently and that vulnerabilities to fraud, waste, and abuse are mitigated. For example:
 - [REDACTED] repeatedly processed claims for the same claimant.
 - Processes are not formally in place to ensure that surveillance and legal services are purchased at the best value.
 - Potential fraudulent claims are not being routinely referred to the OIG for investigation before settlement.
- We identified best practices that can strengthen management controls.



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Recommendations

Office of Inspector General

We recommend that the President and CEO direct that actions be taken to

- develop and implement management control best practices identified in this briefing, and*
- require outside counsel engaged by the Claims Office to sign the Law Department's standard engagement letter—which requires them to report potential or real conflicts of interest that occur to Amtrak, and prescribes processes for conflicts waiver requests and management of waiver conflicts.*



Amtrak Office of Inspector General
Claims Program: Use of Best Practices Would Strengthen Management Controls
 Report No. OIG-A-2012-016, August 14, 2012

Appendix III

**COMMENTS FROM AMTRAK'S
 VICE PRESIDENT, GENERAL COUNSEL**

NATIONAL RAILROAD PASSENGER CORPORATION
 60 Massachusetts Ave NE, Washington, DC 20002

Memo



Date August 10, 2012

From *E.A.* Eleanor D. Acheson
 Vice President, General Counsel &
 Corporate Secretary

To Ted Alves
 Inspector General

Department Law

David Warren
 Assistant Inspector General for
 Audit

Subject Draft Audit Report, *Claims
 Program: Use of Best Practices
 Would Strengthen Management
 Controls*

CC Joseph H. Boardman
 Patrick Clarke
 Brian Fitzpatrick
 Ted Kerrine
 Wm Herrmann
 Gordon Hutchinson
 Jessica Scritchfield

Thank you for providing us an opportunity to comment on the Draft Audit Report, *Claims Program: Use of Best Practices Would Strengthen Management Controls* dated March 7, 2012 (Report), involving the Tort Claims function and group (Claims) in the Law Department. The Report states that that you compared best practices to the claims office existing processes and makes recommendations to strengthen the management controls over the Claims Program.

We agree with all of the Report's recommendations. On April 20, 2012, I provided the OIG details of the Law Department's plans for implementing all of the recommendations by December 31, 2013. At that time, I reported that the Department had already implemented one recommendation—concerning referring potential fraudulent claims to the OIG for investigation—and was in the process of implementing the remaining recommendations. These details provide a responsible position for implementing the OIG recommendations.

In April, I also provided you technical comments for the OIG's consideration. Management and the OIG had already discussed a number of these technical comments during the audit.

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Appendix IV

OIG TEAM MEMBERS

David R. Warren	Assistant Inspector General, Audits
Mark A. Little	Senior Director
Dan Krueger	Senior Director
See See Young	Senior Director
Al Murray	Auditor-in-Charge
Anil Gunaratne	Senior Auditor
Jana Brodsky	Senior Auditor
Raymond Zhang	Senior Auditor
Satish Parikh	Senior Auditor
Trig Alonso	Auditor
Dottie James	Consultant
Roy Judy	Consultant
Michael P. Fruitman	Principal Communications Officer

Amtrak Office of Inspector General
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OIG MISSION AND CONTACT INFORMATION

Amtrak OIG's Mission	<p>The Amtrak OIG's mission is to</p> <ul style="list-style-type: none"> • conduct and supervise independent and objective audits, inspections, evaluations, and investigations relating to Amtrak programs and operations; • promote economy, effectiveness, and efficiency within Amtrak; • prevent and detect fraud, waste, and abuse in Amtrak's programs and operations; and • review and make recommendations regarding existing and proposed legislation and regulations relating to Amtrak's programs and operations.
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Obtaining Copies of OIG Reports and Testimony	Available at our website: www.amtrakoig.gov .
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To Report Fraud, Waste, and Abuse	<p>Report suspicious or illegal activities to the OIG Hotline (you can remain anonymous):</p> <p>Web: www.amtrakoig.gov/hotline Phone: 800-468-5469</p>
<hr/>	
Congressional and Public Affairs	<p>E. Bret Coulson, Senior Director Congressional and Public Affairs</p> <p>Mail: Amtrak OIG 10 G Street, N.E., 3W-300 Washington, DC 20002</p> <p>Phone: 202-906-4134</p> <p>Email: bret.coulson@amtrakoig.gov</p>
