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1.0 PURPOSE

To establish the responsibility and authority of the Amtrak Office of Inspector General ("OIG"), the general principles for ensuring a productive relationship between the OIG and the rest of the company, and to summarize the process followed by the OIG when conducting audits, evaluations, and investigations.

2.0 SCOPE

This policy applies to all Amtrak employees, contractors, programs, and operations.

3.0 RESPONSIBILITY

The head of Amtrak and the Amtrak Inspector General ("Inspector General") are responsible for the interpretation and administration of this policy. As of the date of this policy, the "head" of Amtrak is defined as the Board of Directors of Amtrak (the "Board").

4.0 AUTHORITY AND RESPONSIBILITIES OF THE OIG

4.1 Mission of the OIG. The Inspector General Act of 1978, as amended (5 U.S.C. Appendix 3), hereinafter "IG Act," established the OIG as an independent and objective unit within Amtrak to:

- (a) Provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to Amtrak programs and operations;
- (b) Provide leadership and coordination and to recommend policies for activities designed (1) to promote economy, efficiency, and effectiveness in the administration of, and (2) to prevent and detect fraud and abuse in Amtrak programs and operations;
- (c) Review existing and proposed legislation and regulations relating to Amtrak programs and operations and make recommendations in its semiannual reports concerning their impact on the economy and efficiency in the administration of programs and operations administered or financed by Amtrak or the prevention and detection of fraud and abuse in such programs;
- (d) Keep the Board of Directors and Congress fully and currently informed concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by Amtrak, recommend corrective action concerning such problems, abuses, and deficiencies, and report on the progress made in implementing corrective actions.

4.2 Establishment of the OIG.

- (a) The Inspector General is appointed by the Board of Directors without regard to political affiliation, and solely on the basis of integrity and demonstrated

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ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

- (b) The Inspector General reports to and is under the general supervision of the Board of Directors and is not subject to supervision by any other officer or employee of Amtrak. The Board of Directors cannot prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.
- (c) The Inspector General serves as a non-voting, ex officio member of the Executive Committee. This is an important mechanism to foster open communications and facilitate the exchange of information. It allows the IG to be aware of management issues and concerns and to provide appropriate input for management to consider. The IG's role will be limited and subject to the following conditions:
  - (1) The IG will not be a voting member;
  - (2) The IG will not perform programmatic functions or roles, which are proscribed under the IG Act;
  - (3) The IG's participation will be in a mutually agreed capacity, which allows the IG to decide not to attend certain meetings, or Amtrak management to elect to conduct meetings or segments of meetings, without the IG's presence;
  - (4) Both the IG and Amtrak management will respect the IG's statutory requirement to maintain independence and objectivity and will not request participation or agreement with respect to any matter that would impair or compromise that independence or objectivity;
  - (5) The IG will not make management decisions or perform management functions.
- (d) If the Inspector General is removed from office or is transferred to another position or location within Amtrak, the Board of Directors must communicate in writing the reasons for the removal or transfer to both Houses of Congress, at least 30 days before the removal or transfer. The Board of Directors can also take other personnel actions authorized by law.
- (e) The Board of Directors also provides the OIG with appropriate and adequate office space at central and field office locations of Amtrak, together with needed equipment, office supplies, communications facilities and services, and necessary maintenance services.

4.3 Authority of the Inspector General. In carrying out the provisions of the IG Act, the Inspector General is authorized to:

- (a) Conduct audits and investigations and issue reports relating to Amtrak programs and operations that, in the judgment of the Inspector General, are necessary or desirable;
- (b) Have access to all Amtrak records, reports, audits, reviews, documents, papers, recommendations, or other material available to Amtrak which relate

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to programs and operations with respect to which the Inspector General has responsibilities;

- (c) Request such information or assistance as may be necessary to carry out the duties and responsibilities provided by the IG Act from any Federal, State, or local governmental agency or unit thereof;
- (d) Require by subpoena the production of information, documents, reports, answers, records, accounts, papers and other data needed to accomplish the functions assigned by the IG Act (procedures other than subpoenas will be used by the Inspector General to obtain documents and information from Federal agencies). Because the Inspector General has access to all Amtrak information, subpoenas are not used to obtain documents and information from Amtrak;
- (e) Administer oaths, affirmations, and affidavits, when needed to carry out the functions assigned by the IG Act;
- (f) Have direct and prompt access to the Board of Directors when necessary for any purpose pertaining to the performance of functions and responsibilities under the IG Act; and
- (g) Enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of the IG Act.

## 5.0 GENERAL PRINCIPLES GUIDING RELATIONSHIPS WITH THE OIG

5.1 To work together most effectively, the OIG and Amtrak's management, employees, and contractors should:

- (a) **Interact with professionalism and mutual respect.**
  - (1) Representatives of Amtrak's management and the OIG should always act in good faith and expect the same from the other.
  - (2) Amtrak's management and the OIG share as a common goal the successful accomplishment of Amtrak's mission.
- (b) **Ensure mutual respect for each mission.**
  - (1) Amtrak's officers, directors, employees, and contractors should recognize the OIG's primary responsibility and authority to conduct independent and objective audits, evaluations, and investigations of Amtrak programs and operations, and the OIG's responsibility to report to both the Board of Directors and the Congress.
  - (2) The OIG will seek to carry out its work with a minimum of disruption to the primary mission of Amtrak.
  - (3) Amtrak's management will promptly notify the OIG in the event that it initiates reviews or examinations related to fraud or waste which could be the subject of an OIG audit, investigation, or inspection. Once notified, the Inspector General will determine whether it is a matter subject to the jurisdiction of the OIG and respond promptly to management to determine how to proceed. To the extent the Inspector General deems appropriate, the OIG will coordinate with the responsible

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department where management is engaged in a review or examination or litigation involving matters of common interest to the OIG and management.

- (4) If, in the course of its work, the OIG discovers facts or circumstances related to safety or other matters which have some immediacy or may cause significant business or legal harm to the company unless management is notified and given the opportunity to intervene, the Inspector General will, at his discretion, notify and coordinate with appropriate Amtrak managers or the department head in order to address safety issues quickly or to limit significant business or legal harm.
- (c) Foster open communications at all levels.**
- (1) The OIG's access to information, records, facilities and people must be unimpeded. Amtrak's employees, contractors, and representatives should promptly respond to OIG requests for information to facilitate OIG activities.
- (2) Amtrak managers will be forthcoming in recognizing the existence of challenges that the OIG can help to address.
- (3) Surprises are to be avoided. The OIG will seek to avoid undertaking its work or presenting its findings without reasonable notice to management and management will keep the OIG informed of significant challenges and problems.
- (4) With limited exceptions, primarily related to criminal investigations, the Inspector General will keep the President and the Board of Directors advised of its work and its findings on a timely basis, and the OIG will provide information helpful to Amtrak's management at the earliest possible stage.
- (5) Because some OIG investigations may involve allegations of criminal misconduct or other need for confidentiality, circumstances will dictate whether, and what type of, notice will be given. This will be at the discretion of the Inspector General, with consideration of all factors of confidentiality, sensitivity, and investigative techniques.
- (d) Be thorough, objective, and fair.**
- (1) The OIG will perform its work thoroughly, objectively, and with due consideration of the point of view of Amtrak's management.
- (2) When working with the OIG, Amtrak's management and staff should objectively consider differing opinions and alternative ways to improve operations.
- (3) Both the OIG and other departments of Amtrak should recognize successes in addressing management challenges and advancing Amtrak's mission.
- (e) Respect confidential information.**
- (1) The OIG will respect Amtrak's need to protect confidential, sensitive, or privileged information from inappropriate disclosure, while meeting OIG's obligation to report to the Department of Justice, external oversight entities such as Congress, and the public.

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- (2) The terms confidential, sensitive, and privileged will be accorded the meanings ascribed to them under the Freedom of Information Act (FOIA).
  - (3) Other than the Department of Justice, in disclosing to external oversight entities (such as the Congress, Department of Transportation, OMB, and GAO) or other law enforcement entities, information that may be confidential, sensitive or privileged, the OIG will notify the recipient entities of the confidential, sensitive, or privileged nature of the information and request that they treat the information with the level of protection set forth under the FOIA or as otherwise required by law. If the IG believes there is a significant risk that the information could be released inappropriately, he may, at his discretion, consult with the appropriate department head to ensure that the company's interests are protected.
  - (4) The process to determine the sensitivity of information included in OIG audit, evaluation, and investigative reports that will be subject to public release is described in sections 6 and 7 below.
- (f) Be engaged.**
- (1) The OIG, Amtrak's management, and the Board will work cooperatively to identify the most important areas for OIG work, as well as the best means to address the results of that work, while maintaining the OIG's required independence.
  - (2) Amtrak's leadership will recognize that the OIG's limited resources must also be applied to address work that is initiated by the OIG, requested by members of Congress, or mandated by law or regulation.
- (g) Facilitate the exchange of information.**
- (1) The OIG will keep abreast of Amtrak's programs and operations, and keep Amtrak's management and Board informed of OIG activities and concerns that are raised in the course of the OIG's work.
  - (2) Amtrak's management and Board should ensure that the OIG is kept up to date on current matters and events affecting Amtrak or that may affect it in the future.
  - (3) Amtrak and the OIG will implement mechanisms, both formal and informal, to ensure prompt and regular feedback.
  - (4) All Amtrak employees, contractors, and representatives should understand that the OIG is the primary entity within Amtrak to address issues or concerns related to fraud or abuse; and that they have a responsibility to report suspected violations of the law or Amtrak policy that could result in fraud or abuse.
  - (5) The failure to cooperate with or the intentional furnishing of false or misleading information to the OIG by Amtrak employees, contract personnel, or representatives, may result in disciplinary action, contract termination, and/or criminal sanctions.
  - (6) Amtrak's managers must ensure that reprisals are not taken against employees who cooperate with or disclose information to the OIG or other lawful authority.

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## 6.0 COORDINATION BETWEEN AMTRAK OFFICIALS AND THE OIG ON INVESTIGATIONS

### 6.1 General Investigative Process.

- (a) The OIG determines whether it will initiate an investigation once it receives an allegation regarding fraud, abuse, criminal action, or other wrongdoing. Allegations originate from various sources including employees, vendors, Congress, federal agencies, and prosecutors. The OIG may also initiate investigations proactively to ensure that Amtrak is not being subject to fraud, waste, or abuse.
- (b) The investigative process generally involves: (1) determining the basis for an allegation; (2) analyzing the issues involved; and (3) obtaining relevant, objective evidence from individuals and entities, in the form of interviews, documents, tangible objects, and data.
- (c) The OIG follows the Quality Standards for Investigations (issued by the Council of the Inspectors General on Integrity and Efficiency ("CIGIE")) to guide its investigative activity.
- (d) Allegations are reviewed and screened and resources are allocated based on, among other things, the seriousness of the allegations, potential harm to Amtrak or the public, whether a violation of a statute or regulation likely occurred, and the effect of the alleged illegal or improper activity on Amtrak programs and operations.
- (e) If the OIG determines that an investigation should be undertaken, it seeks to obtain all relevant facts by examining documents and other tangible materials and interviewing individuals. When appropriate or required by law, the OIG informs subjects of their legal rights, including the right or opportunity to remain silent and to obtain legal counsel.
- (f) The process may result in one or more of the following OIG actions: administrative report to management, referral to a prosecutor for consideration, or closing the investigation.
- (g) When the investigation substantiates a wrongful act which is considered administrative, the OIG usually prepares an investigative report, which describes the allegation, the factual evidence to support its findings, and recommendations. This report is submitted to management for a written response. These administrative reports often recommend that management take action, but usually do not recommend specific disciplinary action. Privacy concerns usually restrict these reports from public release.
- (h) If an issue identified in an investigative report is a recurring or systemic problem, the OIG may also identify this broader problem to managers and, usually, make recommendations for management to consider in addressing the problem. Management normally is given an opportunity to provide comments before the report is issued. The process for obtaining comments and issuing the report is described in Section 7.2(h).

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- (i) If there is evidence of criminal wrongdoing, the OIG presents the report to the Department of Justice or other appropriate prosecutors for their consideration. This may lead to prosecution of the subject(s) in Federal, state, or local court. In cases where there is evidence of criminal wrongdoing, the Inspector General may, in his/her discretion, also refer the report to management for administrative action.

## 6.2 Requirements And Responsibilities.

### (a) **OIG.**

- (1) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.
- (2) The OIG will ensure that Amtrak's confidential, sensitive, or privileged information as defined in section 5.1(e) above is not inappropriately disclosed by OIG employees.
- (3) Circumstances when the OIG will disclose such information include:
  - (A) referrals to appropriate agencies for law enforcement purposes;
  - (B) disclosures under court order;
  - (C) responses to requests by Congress; and,
  - (D) referrals to other agencies that may have cognizance over the matter.
- (4) The OIG will usually honor an employee's request that counsel be present during an interview. The counsel may not be another employee of Amtrak, paid for by Amtrak (unless approved in accordance with Amtrak's Bylaws and policies), a potential subject, or a witness in the case.
- (5) Employees who allege that action was taken against them as reprisal or retaliation for cooperating with or disclosing information to the OIG while they were employed at Amtrak may request the OIG to investigate their reprisal or retaliation allegations.

### (b) **Amtrak Management, Employees, and Contractors.**

- (1) All Amtrak employees must comply with requests for interviews and briefings.
- (2) The failure to cooperate with or the intentional furnishing of false or misleading information to the OIG by Amtrak employees, contract personnel, or representatives, may result in disciplinary action, contract termination, and/or criminal sanctions or penalties.
- (3) Amtrak's managers must ensure that reprisals are not taken against employees who cooperate with or disclose information to the OIG or other lawful appropriate authority.
- (4) In the context of investigations, managers should not question staff about their interactions with the OIG.
- (5) Any employee who makes a complaint to the OIG with the knowledge that the complaint is false or that it is made with willful disregard for the

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truth of the information may be held accountable for such statements and may be subject to disciplinary action or criminal prosecution.

**7.0 COORDINATION BETWEEN AMTRAK OFFICIALS AND OIG ON AUDITS AND EVALUATIONS**

**7.1 Types of Audits and Evaluations.** The OIG conducts audits and evaluations of Amtrak programs and operations, including performance of contractors. Some audits and evaluations may be specifically required by statute.

- (a) An audit is an independent, formal, and methodical examination of an organization, program, function, or activity, designed to help Amtrak accomplish its mission efficiently and effectively. OIG audits are performed in accordance with Government Auditing Standards (commonly called the Yellow Book).
- (b) Evaluations are reviews of an organization, program, function, or activity. Evaluations are performed in accordance with the Quality Standards for Inspections issued by the CIGIE.
- (c) Audits and evaluations may include financial or performance reviews.
  - (1) Financial reviews include financial statement audits and any other financially related reviews related to Amtrak's financial operations.
  - (2) Performance reviews include evaluating whether Amtrak programs and operations are working efficiently and effectively as well as whether programs are achieving expected results.
- (d) The OIG also routinely gathers information and data but does not use that information in a formal audit report. These activities may be in response to a congressional inquiry, a request for testimony, or routine planning purposes. Normally, OIG staff members assigned to these activities directly contacts responsible managers to collect information. The assigned OIG staff will inform management of the nature of the data gathering effort.

**7.2 Audit and Evaluation Processes.** The audit and evaluation processes involve the following steps:

- (a) **Audit or Evaluation Planning.** The OIG often conducts informal research to help it develop audit or evaluation plans or to better understand emerging issues. Audit plans outline potential reviews to be conducted, the objectives of each review, and the resources required to conduct them. In developing the audit or evaluation plan for the year, the OIG considers the following:
  - (1) Issues that may pose a risk to or would promote Amtrak's mission;
  - (2) Objectives of Amtrak's Board and senior managers; and
  - (3) Objectives of Congress.
- (b) **Notification.** The OIG will notify responsible management officials of its intent to begin a review.
- (c) **Entrance Conference.** As a general practice, the OIG will request an entrance conference with responsible management officials to advise them of

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the objectives and scope of the review and the general methodology that will be followed, and to solicit input from Amtrak officials.

- (d) **Survey.** In some cases, particularly for large or complex reviews, the OIG will perform initial research to refine the objectives, determine the scope, and develop a sound methodology.
- (e) **Field Work.** The OIG analyzes selected areas of a program, activity, or function. It obtains sufficient evidence to support the findings and conclusions and to make recommendations. Frequent interaction with responsible managers and employees occurs during fieldwork.
- (f) **Exit Conference.** Prior to the issuance of a draft audit or evaluation report, the OIG will contact the responsible management official to set up an exit conference to discuss the results of the work. In some cases discussion draft reports or fact sheets are used to facilitate the discussion. The OIG strives to maintain an open channel of communication with managers to ensure that findings, conclusions, and recommendations are accurately and fairly presented in the report.
- (g) **Draft Report.** The OIG provides a draft report to the Audit Liaison, responsible managers of audited organizations, and Amtrak departments affected by the audit findings for their review and comment. The draft report will have been approved by OIG management and will contain the objectives, results, conclusions, and recommendations resulting from the OIG's audit or evaluation.
- (h) **Management Response.** Responsible management officials are normally provided 30 days to respond in writing to the draft report, indicating how they plan to address the findings and recommendations contained in the report. In some cases, the OIG requests a quicker response. Extensions to the established due date will be granted by the responsible Assistant Inspector General.
  - (1) Comments should clearly indicate whether responsible management officials concur with each of the recommendations.
  - (2) Concurrence is when management agrees to implement the recommendation or to take an alternative action that will correct the deficiency, along with actual or estimated completion dates.
  - (3) Nonconcurrence is when management does not agree to implement the recommendation or an acceptable alternative. In this case, management should explain the rationale, and include additional facts, if necessary.
  - (4) Management should also identify any information contained in the report that should be protected from public release on the basis that its release may cause significant business or legal harm to Amtrak (the information so designated must not be subject to public release pursuant to the Freedom of Information Act, as amended, 5 U.S.C. § 552). The responsible manager should also weigh the public benefit of transparency against the harm, or potential harm, to company interests, in light of the fact that the company receives Federal subsidies.
  - (5) With respect to decisions regarding confidential, sensitive or privileged information, the Inspector General will follow the standard set forth in

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Section 5.1(e) above. If the OIG disagrees with management's assertion that specific information should be withheld from public release because it is confidential, sensitive, or privileged, the IG will confer with the responsible department head regarding the need to redact the information before publicly releasing the report. If so requested, the department head has one week to articulate in writing to the IG the bases or reasons for protecting the information from disclosure, including identifying the significant business or legal harm anticipated compared to the benefit of transparency. If, following that consultation, the IG determines that the information should be publicly released, he will consult with the Chair before including such information in a publicly released report.

- (i) **Final Report.** The OIG will amend the draft report, as appropriate, based on management's response. The Inspector General makes final determinations about what information will be included in the issued report. The OIG also normally includes the entire management response, along with the OIG's analysis of the response in the final report.
- (j) **Report Distribution.** The OIG usually distributes audit and evaluation reports to the Chairman, other Board members, responsible management officials, and Congress. Final reports are normally public documents and are available on the OIG Web site.
- (k) **Recommendation Follow-up.** Amtrak managers are responsible for implementing OIG recommendations to the extent there is concurrence, and OIG staff and Amtrak's Audit Liaison monitor managers' actions to ensure that recommendations are implemented in a timely manner.

### 7.3 Audit and Evaluation Process Responsibilities.

- (a) **Audit Liaison.**
  - (1) The Audit Liaison is an individual, or individuals, designated by Amtrak management to perform the functions outlined in this section.
  - (2) Facilitates OIG audits and evaluations with Amtrak management. In this role, the liaison ensures that Amtrak managers are aware of OIG reviews and that OIG staff is provided with initial contacts to begin the review process.
  - (3) Coordinates entrance and exit conferences with appropriate Amtrak managers.
  - (4) Follows up with Amtrak managers to track the status of management actions to implement OIG recommendations.
  - (5) Ensures that management's response to draft reports is coordinated with affected departments, is approved by the head of the audited department or organization and is completed in a timely manner.
- (b) **Inspector General Managers.**
  - (1) Notifies responsible management officials of the intent to begin a review.
  - (2) Contacts responsible management officials and the audit liaison to schedule entrance conferences and exit conferences.

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- (3) Provides copies of draft reports to the Audit Liaison, responsible management officials of audited organizations, and Amtrak departments affected by audit findings.
  - (4) Reviews and evaluates management response to the draft report and, as appropriate, either revises the report or provides the OIG's analysis of the response in the final report.
  - (5) Grants extensions to the established due date for management comments.
  - (6) Distributes final reports to the Audit Liaison and the appropriate Amtrak departments, and makes further distribution to authorized committees and subcommittees of Congress and the public.
- (c) **Responsible Management Officials.** To maximize the value of OIG reports, management officials or their designees will:
- (1) Attend exit conferences, unless they are waived by agreement with the OIG.
  - (2) Prepare responses to draft OIG reports.
  - (3) State in the proposed management decision whether they concur with the recommendations presented in the corresponding audit or evaluation report or propose alternative actions to correct the deficiency. For nonconcurrences, explain why management does not concur and present additional facts, if necessary.
  - (4) Take prompt and effective action to implement agreed-upon corrective actions.

## 8.0 OTHER POLICIES

- 8.1 The presumption is that this policy will take precedence in instances where other policies are inconsistent with this policy. When inconsistencies are identified, OIG and management will consult and reconcile differences.

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