

**Management Advisory -
The Transportation Security
Administration's Failure to
Address Two Recommendations to
Improve the Efficiency and
Effectiveness of Its Office of
Inspection**





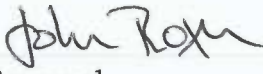
OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

July 6, 2015

MEMORANDUM FOR: The Honorable Vice Admiral Peter Neffenger
Administrator
Transportation Security Administration

FROM: John Roth 
Inspector General

SUBJECT: Management Advisory – *The Transportation Security Administration's Failure to Address Two Recommendations to Improve the Efficiency and Effectiveness of Its Office of Inspection*

Attached for your action is our management advisory regarding the Transportation Security Administration's (TSA) actions to address two open recommendations in our September 24, 2013, report *Transportation Security Administration Office of Inspection's Efforts to Enhance Transportation Security* (OIG-13-123). On January 6, 2015, TSA submitted workforce analysis reports of its Office of Inspection (OOI) and requested closure of recommendations 3 and 4 of our report.

After reviewing the workforce analysis reports and discussing them with TSA and its contractor, we concluded that TSA's actions do not meet the intent of our recommendations. Therefore, these two recommendations will remain open until TSA provides evidence that (1) an objective workforce analysis of OOI has been conducted to determine the appropriate staffing levels to accomplish the office's mission and (2) a position classification review has been conducted to ensure that positions are being filled with the skill sets needed to perform the job. Upon completion of these, TSA must provide evidence that (1) criminal investigators in primary positions who do not meet or are not expected to meet the Federal 50 percent minimum legal workload requirement are reclassified and (2) secondary law enforcement positions are properly classified according to Federal regulations.

We are issuing this management advisory to provide you with the basis for our decision not to close these open recommendations. Please call me with any questions, or your staff may contact Mark Bell, Assistant Inspector General for Audits, at (202) 254-4100.

Attachment



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Management Advisory

TSA's Failure to Address Two Recommendations to Improve the Efficiency and Effectiveness of Its Office of Inspection

We are advising the Transportation Security Administration (TSA) that its actions to address two open recommendations in our report *Transportation Security Administration Office of Inspection's Efforts to Enhance Transportation Security* (OIG-13-123), issued September 24, 2013, are not sufficient.

As a result of our audit of TSA's Office of Inspection (OOI), we concluded that OOI did not use its staff and resources efficiently to conduct its work cost effectively. For example, the office classified personnel as "criminal investigators," which TSA considers to be law enforcement officers, even though their primary duties may not have been criminal investigations, as required by Federal law and regulations. These employees received premium pay and other costly benefits, although other employees were able to perform the same work at a lower cost. We made two recommendations to address issues with OOI's position classifications. We recommended that TSA:

1. *Conduct an objective workforce analysis of the Office of Inspection, including a needs assessment, to determine the appropriate staffing levels to accomplish the office's mission cost effectively. In conjunction with this analysis, perform a position classification review of the Office of Inspection to ensure that all staff positions are properly classified and ensure that those conducting the review, such as the TSA Office of Human Capital or the Office of Personnel Management, are independent of the process.*
2. *Upon completion of the workforce analysis and position classification review, reclassify criminal investigator primary positions that do not or are not expected to meet the Federal 50 percent minimum legal workload requirement appropriately. In addition, ensure that secondary law enforcement positions are properly classified in accordance with Federal regulations. As long as they are supervisors, their proper classification depends on the correct classification of the individuals they supervise.*

On January 6, 2015, TSA's Acting Assistant Administrator for the Office of Inspection and the Assistant Administrator for TSA's Office of Human Capital



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(OHC) officially requested that the Office of Inspector General (OIG) close these two recommendations. To support this request, TSA submitted two reports prepared by PotomacWave, a consulting firm with whom TSA awarded a contract for more than \$330,000 to conduct a workforce analysis: a Demand Analysis Report and a Gap Analysis and Recommendation Report. The contractor's analysis was based on information provided by TSA, which included caseload data, case hours for criminal investigators, and case types. Based on its work, PotomacWave concluded that OOI does not have the appropriate number of criminal investigators to meet future mission demands.

After reviewing these reports and discussing them with TSA and its contractor, we conclude that TSA's actions do not meet the intent of our recommendations. Therefore, these two recommendations will remain open until TSA provides evidence that (1) an objective workforce analysis of OOI has been conducted to determine the appropriate staffing levels to accomplish the office's mission and (2) a position classification review has been conducted to ensure that positions are being filled with the skill sets needed to perform the job. Upon completion of these, TSA must provide evidence that (1) criminal investigators in primary positions who do not meet or are not expected to meet the Federal 50 percent minimum legal workload requirement are reclassified and (2) secondary law enforcement positions are properly classified according to Federal regulations.

We were surprised by TSA's actions because TSA indicated in its formal comments to our draft report that OOI, in conjunction with OHC, was scheduling a workforce analysis project, including a review of criminal investigator positions. The review would include a determination of the appropriate classification for each position, including primary and secondary law enforcement positions. The review would also assess the current and projected demand for criminal investigator positions and compare it against current staffing levels. It is unclear why TSA decided not to have a position classification review conducted of OOI as we recommended and it originally agreed to.

Key Concerns

We have decided not to close these two recommendations for the following reasons:

TSA's contract with PotomacWave did not require the contractor to perform a position classification review of OOI. Specifically, the contract requirements did not include personnel with experience in position classification standards. TSA acknowledged that its contract with PotomacWave did not require a position classification review of OOI. According to TSA, our recommendation called for a workforce "analysis," not a "validation." We agree that our recommendation



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called for a workforce analysis, but we also specifically recommended that a position classification review be conducted in conjunction with the analysis. Therefore, TSA did not fully implement our recommendation.

In conducting its work, PotomacWave did not consider that some OOI work may be performed by individuals other than criminal investigators. Federal regulations define law enforcement officers as those whose duties include “primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States.” However, as noted in our audit report, the majority of OOI’s criminal investigators’ workload consisted of noncriminal cases; monitoring and reporting on criminal cases; and carrying out inspections, covert testing, and internal reviews. We believe such work could be performed by noncriminal investigative personnel who do not receive Law Enforcement Availability Pay (an additional 25 percent premium pay above base pay) and other costly law enforcement benefits.

PotomacWave did not validate TSA-provided data used to support its conclusions and recommendations. PotomacWave’s subcontractor acknowledged it did not validate TSA’s data and told us it “tested for completeness rather than accuracy.” When records were incomplete, the subcontractor said it requested additional information from TSA. Not validating TSA’s data to determine its reliability significantly limits PotomacWave’s work because it calls into question the veracity of its conclusions and recommendations. We believe PotomacWave should have assessed TSA’s data reliability since the data analyzed was used to support its findings, conclusions, and recommendations. It is clear that the TSA-provided data PotomacWave’s subcontractor used significantly contributed to developing the conclusions and recommendations in PotomacWave’s reports. Therefore, the subcontractor should have tested the reliability of TSA-provided data.

PotomacWave did not evaluate the complexity and type of OOI’s criminal investigative cases. Assessing case complexity would have helped determine whether OOI is properly classifying criminal investigators. PotomacWave’s Demand Analysis Report shows that, from 2011 to 2014, OOI criminal investigators worked an average of about 100 hours per case; the majority of cases (65 percent) took less than 100 hours to complete. As defined in TSA’s Management Directive No. 1100.88-1, *Law Enforcement Position Standards and Hiring Requirements*, a criminal investigator is “an individual involved in the planning and conducting of complex and often long-term criminal investigations relating to the alleged or suspected violations of Federal criminal law.” Based on the average hours worked per criminal case, we question the complexity of the criminal investigative cases worked by OOI. We also question



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the need for a criminal investigator rather than a general investigator to work on those cases.

PotomacWave based its analysis on questionable assumptions about OOI's future workload. PotomacWave based its conclusion that OOI does not have the appropriate number of criminal investigators on future scenarios that include work we believe could be performed by noncriminal investigative personnel. For example, the contractor cited pre-employment polygraphs and recurrent vetting of TSA employees as examples of OOI's increasing workload volume. According to Office of Personnel Management guidance, positions in the 1800 job series may use polygraphs and their proper classification is dependent on the "primary duties of the position and the paramount knowledge necessary to perform them. Consequently, merely operating or providing instruction on the use of polygraphs is not sufficient basis for series or grade-level determinations for occupations in this family."¹ Therefore, we do not believe that these duties must be performed by criminal investigators; they can be performed by noncriminal investigative personnel.

For all of the above reasons, despite awarding a contract for more than \$330,000, TSA's actions do not meet the intent of our recommendations. Thus, these two recommendations will remain open until TSA provides evidence that an independent workforce analysis addressing the issues identified in this management advisory and a position classification review of OOI have been conducted. Upon completion of these, TSA will need to provide evidence that criminal investigators not meeting or not expected to meet the Federal workload requirement for criminal investigators have been reclassified and ensure that secondary law enforcement positions are properly classified.

We conducted this audit follow-up in March 2015 pursuant to the *Inspector General Act of 1978*, as amended. This work was not conducted according to generally accepted government auditing standards.

¹ *Job Family Position Classification Standard for Administrative Work in the Inspection, Investigation, Enforcement, and Compliance Group 1800*, Revised April 2011.



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