

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE AND TECHNOLOGY

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6301
(202) 225-6375
TTY: (202) 226-4410
<http://science.house.gov>

October 22, 2007

Dr. Michael Griffin
Administrator
National Aeronautics and Space Administration
300 E St., N.W.
Washington, D.C. 20007

Dear Administrator Griffin,

Recently, the Committee had launched an investigation into aviation safety programs at the National Aeronautics and Space Administration (NASA). Early last week, Committee investigative staff had a telephone conversation with NASA staff concerning a survey of airline pilots about safety incidents conducted under the National Aviation System Operational Monitoring Service (NAOMS). The Committee followed up with a letter requesting certain documents and other information. Therefore, we were surprised to read in the media today that, after that phone conference, NASA officials had directed the lead contractor at Ames Research Center for the NAOMS survey to archive all its materials on this project, return the archived material to NASA and then purge it from their computers and files ("NASA Sits on Air Safety Survey," *Associated Press*, Oct. 22, 2007).

By this letter, we are directing NASA to halt any destruction of records relating to the NAOMS project, whether in the possession of the agency or its contractors, and as defined in the attached Appendix. Destruction of documents requested as part of a Congressional inquiry is a violation of criminal federal law. 18 U.S.C. 1505.

As I am sure you know, this is not the first time this year that we have written regarding a report that NASA was involved in the destruction of materials. In that prior instance, your own General Counsel destroyed video records of your appearance before the staff of the Inspector General. The evidence of misconduct was so clear that the Chairman and Ranking Member of the Investigations and Oversight Subcommittee sent a bipartisan referral letter to the Department of Justice seeking the prosecution of your General Counsel.

Dr. Griffin
Page 2
Oct. 21, 2007

We want to prevent any repeat performance with data and records generated as part of the NAOMS process. In a September 5 letter denying a press request under the Freedom of Information Act for the data generated through NAOMS interviews with commercial pilots, Associate Administrator Thomas Luedtke indicated that the data would not be released because it is "sensitive and safety-related, [and] could materially affect the public confidence in, and the commercial welfare of, the air carriers and general aviation companies whose pilots participated in the survey." Given the inference from that response that at NASA commercial interests appear to trump the public's right to aviation safety data, we are worried that the integrity of the data from NAOMS may be at risk. We expect to receive your immediate commitment that the relevant NASA contractors and subcontractors will be given clear, unequivocal guidance not to purge their records. Further, we expect your commitment that the records in NASA's possession will not be destroyed or otherwise compromised.

The Committee intends to hold a hearing on this matter at the earliest possible date. Therefore we ask that you accelerate the production of materials requested in the letter sent on October 19. Please deliver records related to any briefings or presentations given by Ames Research Center researchers and an answer to the question of why funding for NAOMS was cut (both of these elements are described more fully in the October 19 letter) no later than 5 p.m. Monday, October 29, 2007.

Further, we ask that you provide all records related to the guidance to your prime contractor, Battelle Memorial Institute, that it archive records, return them to NASA and then purge their own holdings on NAOMS. Please provide these materials no later than 5 p.m. Monday, October 29, 2007.

NASA has made repeated representations, to Committee staff in interviews as well as in the FOIA denial letter signed by Mr. Luedtke, that the material interests of the commercial airline industry may be harmed by release of data developed under NAOMS. Please provide to the Committee any records in the possession of the agency from the commercial airline industry (carriers or representative organizations) in which the concern that NAOMS data may affect their commercial interests was communicated to NASA. Please provide those records to the Committee no later than 5 p.m. Tuesday, November 6, 2007.

Finally, we ask that you make a copy of all NAOMS data resulting from the pilots survey and in the possession of either NASA or Batellee and deliver it to the Committee in an electronic format. As we wish to insure that an unadulterated record of that data be retained, we request the raw data files that the researchers at Ames are supposed to be working from to produce their analysis of the pilot survey. Please provide those records to the Committee no later than 5 p.m. Tuesday, November 6, 2007.

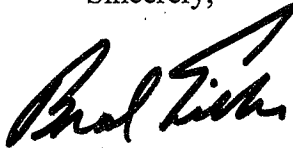
Dr. Griffin
Page 3
Oct. 21, 2007

All of the requested materials should be delivered to the offices of the Committee in B-374 Rayburn House Office Building. Please provide two copies (one for the majority and one for the minority). If your staff has any further questions or need additional information, please contact Dan Pearson, Investigations and Oversight Subcommittee staff director, at (202) 225-4494, or Edith Holleman, Investigative Counsel, at (202) 225-8459.

Sincerely,



BART GORDON
Chairman



BRAD MILLER
Chairman
Subcommittee on
Investigations & Oversight



MARK UDALL
Chairman
Subcommittee on Space &
Aeronautics

Cc:

Rep. Ralph Hall
Ranking Member

Rep. F. James Sensenbrenner
Ranking Member
Subcommittee on Investigations & Oversight

Rep. Tom Feeney
Ranking Member
Subcommittee on Space & Aeronautics

ATTACHMENT

1. The term "records" is to be construed in the broadest sense and shall mean any written or graphic material, however produced or reproduced, of any kind or description, consisting of the original and any non-identical copy (whether different from the original because of notes made on or attached to such copy or otherwise) and drafts and both sides thereof, whether printed or recorded electronically or magnetically or stored in any type of data bank, including, but not limited to, the following: correspondence, memoranda, records, summaries of personal conversations or interviews, minutes or records of meetings or conferences, opinions or reports of consultants, projections, statistical statements, drafts, contracts, agreements, purchase orders, invoices, confirmations, telegraphs, telexes, agendas, books, notes, pamphlets, periodicals, reports, studies, evaluations, opinions, logs, diaries, desk calendars, appointment books, tape recordings, video recordings, e-mails, voice mails, computer tapes, or other computer stored matter, magnetic tapes, microfilm, microfiche, punch cards, all other records kept by electronic, photographic, or mechanical means, charts, photographs, notebooks, drawings, plans, inter-office communications, intra-office and intra-departmental communications, transcripts, checks and canceled checks, bank statements, ledgers, books, records or statements of accounts, and papers and things similar to any of the foregoing, however denominated.
2. The terms "relating," "relate," or "regarding" as to any given subject means anything that constitutes, contains, embodies, identifies, deals with, or is in any manner whatsoever pertinent to that subject, including but not limited to records concerning the preparation of other records.