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**Analysis of Disclosures, Agency Investigation and Reports, Whistleblower Comments, and Comments of the Special Counsel—OSC File Nos. DI-02-1869 and DI-03-0806**

**Summary**

The disclosures in this matter were made by Gabriel D. Bruno, former Manager of the Orlando Flight Standards District Office (FSDO), who has been employed by the Federal Aviation Administration (FAA) for more than 24 years, and Dorvin Hagen, a former Supervisory Safety Inspector of the Orlando FSDO employed by FAA for 29 years. Mr. Bruno was responsible for overseeing all commercial aviation safety activities within his district office, including the FSDO's three Certificate Management Units (CMUs), which provide certification and monitoring of the assigned air carriers to ensure compliance with aviation safety regulations and procedures. Mr. Hagen served as the Supervisory Aviation Safety Inspector for the AirTran CMU from 1998 until August 2001.

Mr. Bruno and Mr. Hagen disclosed two allegations of wrongdoing by officials within FAA's Southern Region Flight Standards Division (FSD), which oversees the Orlando FSDO:

1. Mr. Bruno alleged that in the spring of 2001, Dawn Veatch, then-Acting Division Manager of the Southern Region FSD, abruptly cancelled a program implemented to re-examine individuals who had received airframe and powerplant (A & P) mechanic certificates under fraudulent conditions. Mr. Bruno alleged that cancellation of this program, and the failure to re-examine more than 1,000 questionable certificate holders, represents gross mismanagement, an abuse of authority, and a substantial and specific danger to public safety; and
2. Mr. Bruno and Mr. Hagen alleged that Southern Region FSD management, specifically three consecutive division managers, Marion Dittman, Dawn Veatch and Nicholas Sabatini, failed to adequately staff the AirTran CMU from 1998 to 2001. They asserted that such understaffing represents gross mismanagement that resulted in a substantial and specific danger to public safety.

The Department of Transportation (DOT), Office of Inspector General (OIG) investigated these allegations and substantiated them in part. The OIG found that FAA prematurely cancelled the re-examination program and recommended that the agency ensure that all remaining suspect certificate holders be re-tested. As discussed below, the agency initiated re-examinations; however, that process has been halted by a preliminary injunction judicially imposed on FAA. While the Special Counsel has determined that the agency's findings regarding this allegation appear to be reasonable, OSC remains concerned that the re-examination process has not been completed.

The OIG also found that “there were considerable staffing issues in the Orlando FSDO” from 1998 to 2001. However, the OIG did not find evidence that the staffing shortage in the AirTran CMU could be attributed to any deliberate act or omission by the Southern Region FSD managers, nor did it find that the shortage created a substantial and specific danger to public safety. Information provided by the whistleblowers and the OIG establishes that the shortage that existed from 1998 to 2001 has since been rectified, and the AirTran CMU, now classified as a Certificate Management Office, is currently adequately staffed.

### **The Whistleblowers’ Disclosures**

#### **Cancellation of the St. George Mechanic Re-Examination Program**

St. George Aviation (St. George) in Sanford, Florida, was an FAA “designated mechanic examiner,” authorized to administer FAA’s A & P mechanic exam and issue A & P mechanic certificates. In May 1999, the owner of St. George and an employee were convicted of fraud and conspiracy in federal court in relation to their administration of the A & P mechanic exam and issuance of A & P mechanic certificates between 1995 and 1999. Specifically, St. George was supplying examinees with the answers to the exam prior to the exam and, in some cases, issuing certificates without any examination at all.

According to Mr. Bruno, the St. George investigation conducted by DOT OIG revealed that approximately 2,000 mechanics were certified by St. George under these fraudulent conditions and needed to be re-examined. Following the OIG investigation, the Orlando FSDO developed a program to identify and re-examine those mechanics. Re-examinations began in 1999 and, according to Mr. Bruno, there was a high rate of failure among the mechanics re-tested. Some simply relinquished their certificates without undergoing re-examination.

Mr. Bruno alleged that in the spring of 2001, Dawn Veatch, Acting Division Manager of the Southern Region FSD, ordered him to terminate the re-examination program, because the Southern Region’s legal division lacked adequate resources to process the revocations of fraudulent certificates. Over Mr. Bruno’s objections, all re-examinations were terminated. Mr. Bruno estimated that cancellation of this program left more than 1,000 questionable certificates, and many unqualified A & P mechanics, working in the aviation industry.

#### **Failure to Adequately Staff the AirTran Certificate Management Unit**

In April 1998, FAA transferred oversight responsibility for ValueJet Airlines from the Atlanta FSDO to the Orlando FSDO. In March 1999, ValueJet merged with AirTran Airways. The Orlando FSDO oversaw the merger and maintained the AirTran CMU following the merger. Mr. Bruno and Mr. Hagen alleged that prior to the merger, the Orlando FSDO developed a staffing plan for proper oversight of AirTran, taking into account the airline’s history, including the National Transportation Safety Board’s (NTSB’s) findings regarding the 1996 ValueJet plane crash, the merger, and AirTran’s plan for considerable growth. They alleged that they presented their staffing plan to the Southern Region FSD in October 1997, and that it was approved by Division Manager, Michael Sacrey, in December 1997.

The staffing plan called for eight inspectors, with six additional inspectors to be hired six months prior to the delivery of the first B-717 aircraft. Mr. Bruno and Mr. Hagen asserted that, despite the approval of this plan, their efforts to ensure the required staffing, and the arrival of the B-717 aircrafts in September 1999, the AirTran CMU never had more than seven inspectors during the three years following the merger, leaving the CMU grossly understaffed. They pointed out that the prior ValueJet CMU in the Atlanta FSDO had fourteen inspectors for oversight of a smaller airline operation with fewer aircraft.

Over the course of that three-year period, Mr. Bruno and Mr. Hagen sought additional inspectors for the AirTran CMU, to no avail. In October 2000, they met with Marion Dittman, then-Acting Division Manager of the Southern Region FSD. Mr. Hagen outlined for Ms. Dittman the safety oversight functions that they were unable to accomplish because of inadequate staffing. The failure to adequately perform these functions was particularly troubling to Mr. Bruno and Mr. Hagen, because inadequate FAA oversight of the airline was cited by NTSB in its review of the 1996 ValueJet crash. They alleged that Ms. Dittman acknowledged the staffing shortage yet failed to allocate additional inspectors.

After further follow-up by Mr. Bruno, the Director of the FSD, Nicholas Lacey, ordered an independent staffing study of the AirTran CMU in December 2000. The study, completed by a member of the Southwestern Region FSD in early January 2001, concluded that the AirTran CMU required a minimum of four, ideally five, additional inspectors. The study recommended increasing the staff by four inspectors “as soon as possible” and a fifth inspector when resources became available. In response, Mr. Lacey ordered the Southern Region to hire four additional inspectors by the end of February 2001. However, Southern Region FSD management, specifically Ms. Dittman and her successors, Dawn Veatch and Nicholas Sabatini, failed to fill those positions. At the time of Mr. Bruno’s and Mr. Hagen’s departure from the Orlando FSDO in the summer of 2001, none of the four positions had been filled.<sup>1</sup>

## **The Department of Transportation Investigation and Reports**

### **Cancellation of the St. George Re-Examination Program**

According to the OIG’s initial report, dated January 16, 2004, “FAA prematurely cancelled its re-examination program,” and the number of mechanics who had not been re-examined and might fail “represents a measurable impact on aviation safety.” The OIG found that FAA failed to follow through on its previous commitment to re-examine all 1,626 mechanics who had received certificates from St. George between October 1995 and October 1998, the time frame in which the OIG determined fraudulent certificates were issued. Instead, FAA limited re-examinations to those individuals who were certified after June 11, 1998, the date on which the OIG investigation began.

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<sup>1</sup>Mr. Bruno and Mr. Hagen stated that subsequent to their departure from the Orlando FSDO in July 2001 and August 2001, respectively, additional inspectors were hired for the AirTran CMU.

According to the report, Dawn Veatch directed cancellation of the program after only 130 mechanics had been re-examined based on: (1) an opinion from the Regional Counsel's Office that it was "merely speculation that the balance of the approximately 1,228 certificate holders identified for re-examination had not received a valid test from [St. George];" and (2) advice from the Regional Air Safety Regulation Branch that given the passage of two years since St. George's closure and a pass-rate of 79 percent for the mechanics who were re-examined, there was "no conclusive measurable impact on aviation safety and the flying public that can be attributed to individuals tested at [St. George]."

The report states that the OIG disagreed with FAA's limitation of the re-examination program to only those mechanics certified after June 11, 1998, because FAA had information that suspicious testing activities were occurring at St. George as early as May 1995. In addition, the OIG believed that the pass-rate of 79 percent was a matter of significant concern. The OIG stated, "[i]n our view, this does represent a measurable impact on aviation safety."

Accordingly, the OIG recommended that FAA take steps to re-examine the remaining 1,228 mechanics who received certificates from St. George under suspect conditions. The initial report did not include what steps FAA had taken in response to this recommendation. Thus, OSC followed up with the OIG on this issue. After communications with the OIG and James Ballough, Director, FAA Flight Standards Service, the OIG provided in its June 9, 2004, supplemental report, assurance that FAA was implementing steps to re-examine all mechanics who received certificates from St. George dating back to May 1995.

Subsequently, however, Mr. Bruno informed OSC that the new re-examination program had been cancelled. OSC followed up with the OIG and the FAA Office of the Chief Counsel (OCC), which confirmed the cancellation of the re-examination program. Susan Caron, OCC, advised OSC that the U.S. District Court for the Middle District of Florida issued a preliminary injunction prohibiting FAA from proceeding with re-examinations for several mechanics who filed suit challenging the legality of the re-examinations. She further advised that FAA had filed an appeal in the United States Court of Appeals for the Eleventh Circuit of the preliminary injunction which is pending and that the re-examinations were suspended pending the outcome of the litigation.<sup>2</sup>

Mr. Bruno provided comments regarding this allegation. He pointed out that the cancellation of the re-examination program placed the public at risk for more than three years by allowing unqualified individuals to remain in the aviation system. He also raised concern that, according to Flight Standards Information Bulletin 04-10, attached as Exhibit 50 to his comments, the new re-examination program includes the written and oral segments of the exam, but not the practical exam required for original certification. He expressed concern that the OIG investigation of the cancellation of the re-examination program will do little to rectify the problems associated with FAA's oversight of the Designated Mechanic Examiner program, and that abuses of authority, gross mismanagement and risks to the public will continue.

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<sup>2</sup>This matter is docketed as Bennett-Seacrest, et al. v. Federal Aviation Administration, Case No. 6:04-cv-1525-Orl-22JGG.

### **Understaffing of AirTran CMU**

In its initial report, the OIG found that Southern Region FSD provided adequate staff for the AirTran CMU. However, the report states that Mr. Bruno diverted the personnel hired or transferred to assist in the St. George re-examination program.

According to the initial report, the OIG found that Southern Region FSD management “took significant measures, including multiple re-writes and submissions of special position requests, to assist Mr. Bruno in obtaining the staff necessary for the CMU.” Contrary to Mr. Bruno and Mr. Hagen’s allegations, the report states that the original staffing plan for the AirTran CMU was reviewed by the Flight Standards National Position Classification Panel (FSNPCP) in December 1999; however, FSNPCP did not find sufficient justification for the positions requested and recommended that Mr. Bruno submit a unique position request for temporary positions. The report does not state from whom the OIG obtained this information or provide any documentation to support these findings. In fact, the report states that FAA was unable to provide such documentation.<sup>3</sup>

In addition, the initial report states that the 2001 staffing study ordered by Mr. Lacey “demonstrated that the CMU for AirTran Airways was staffed on a par with other CMUs with similar responsibilities. . .” However, according to the chart from that study, included on page 10 of the initial report, the AirTran CMU was the only one of the ten compared that needed five additional inspectors. Five of the CMUs did not require any additional personnel, and each of the other four required one or two additional inspectors. The report confirms that the staffing study recommended that the AirTran CMU hire five additional inspectors.

The initial report states that following the staffing study, Mr. Bruno refused offers by Southern Region FSD to hire aviation safety inspectors and made requests to hire inspectors at higher grades. The report states that “FAA told us that these are specialized positions and require specific justification for hiring.” According to the report, FAA filled three of the inspector positions before the February 2001 deadline; however, Mr. Bruno and Mr. Hagen continued to request a contract maintenance inspector, which was denied by FAA.

The initial report further states that Ms. Dittman and Ms. Veatch advised the OIG that “Mr. Bruno and Mr. Hagen were repeatedly asking for additional personnel” for the AirTran CMU. They also stated that Mr. Bruno diverted personnel from the AirTran CMU to staff the St. George re-examination program. The initial report notes that Mr. Bruno’s successor, Jack Moyers, advised the OIG that he had “ample staff” to properly manage the AirTran CMU when he became the CMU manager in August 2001 but does not state how many inspectors Mr. Moyers had initially or when additional inspectors were obtained.

Following review of the initial report and comments submitted by Mr. Bruno and Mr. Hagen, OSC sought clarification and additional information from the OIG regarding the

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<sup>3</sup>The OIG states in footnote 8 that “FAA told us that their staffing numbers are based on a dynamic computerized staffing model that updates annually, overwriting the previous year’s projections. Accordingly, FAA was unable to provide our office with written documentation of staffing goals during this period.”

AirTran CMU staffing issue. OSC asked the OIG to identify the information relied on to reach its finding that adequate staffing was provided to the AirTran CMU, including identification of individuals interviewed for the investigation and any documentation relied on by the OIG. In response, the OIG produced a supplemental report, dated June 9, 2004.

### **OIG's First Supplemental Report**

The OIG states in the supplemental report that it relied on documents provided by Mr. Bruno and Mr. Hagen, documents available at the Southern Region FSD and Orlando FSDO, FAA regulations, and interviews with relevant personnel. The supplemental report states that based on the documents attached to the report, the OIG found that: (1) Mr. Bruno and Mr. Hagen were constantly asking for personnel assignments and positions that were not justified by the size of the AirTran CMU; (2) Southern Region FSD and the Southern Region Personnel Office attempted to assist Mr. Bruno in obtaining sufficient staff for the AirTran CMU; and (3) staffing levels within the AirTran CMU were consistent with levels at similar facilities.

In support of the OIG's finding regarding repeated requests for "unrated" positions, the supplemental report includes in Exhibit 1 the original AirTran CMU staffing plan prepared by the Orlando FSDO, which Mr. Bruno and Mr. Hagen alleged was approved in December 1997. The report states that this plan requests "staffing support for the AirTran CMU based on the ATOS staffing model."<sup>4</sup> The report further states that the AirTran CMU was never officially authorized for the ATOS program. According to the report, Nancy Aadland, FAA's ATOS Program Office Manager, advised the OIG that AirTran "has never been identified or scheduled to become an ATOS carrier."

Exhibit 1 of the supplemental report also includes the October 28, 1999, AirTran Training Requirement provided to the OIG by Mr. Hagen. The Memorandum of Activity prepared by the OIG investigator, at Exhibit 1, states that this document reveals that the AirTran CMU had a total of 20 inspectors and concludes that the staffing for the CMU exceeded Mr. Hagen's request for 14 inspectors. The supplemental report provides additional documentation reflecting ongoing communications between the Orlando FSDO and the Southern Region FSD regarding staffing issues of the AirTran CMU – at the time of the merger and beyond – including requests for additional inspectors and documentation reflecting that certain requests were denied on the basis of the size and workload of the AirTran CMU.

In addition, the supplemental report provides a copy of the 2001 independent staffing study, at Exhibit 12. The report notes that at the time of the study, the AirTran CMU had seven aviation safety inspectors, and that the staffing study recommended that the CMU should be increased by five aviation safety inspectors. The staffing study states that "[i]t appears that this certificate has suffered the same fate that the Mesa certificate (and probably other certificates) has – insufficient resources to meet the identified needs."

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<sup>4</sup>The supplemental report provides information on the Air Transportation Oversight System (ATOS) program, which is described as a "new and innovative" way of inspecting the airlines, designed to identify trends in order to spot and correct problems at their root cause. The report explains that the ATOS program initially included only the ten largest airlines, but will eventually include all airlines.

The supplemental report further states that following the study, Ms. Dittman obtained hiring authority for four of the recommended aviation safety inspectors; however, Mr. Bruno submitted requests for more specialized inspectors, including Assistant Principal Operations Inspectors, an Assistant Principal Maintenance Inspector, and a Contract Maintenance Inspector (CMI). The report states that the request for the CMI was denied.

The supplemental report also provides summaries of the OIG investigator's interviews with Ms. Veatch and Ms. Dittman, two of the three individuals Mr. Bruno and Mr. Hagen alleged were responsible for the understaffing of the AirTran CMU, and with Mr. Moyers, Mr. Bruno's successor. The summary of Ms. Dittman's interview reflects that she advised the OIG investigator that "the Southern Region has always been understaffed, but it's incumbent upon the local FSDO Managers to properly manage the resources provided by means of prioritization and appropriate tasking of their limited resources." Ms. Dittman was unable to provide any specific information regarding numbers or dates of personnel allocations for the Orlando FSDO or the AirTran CMU. She stated she recalled offering geographical assistance.

The summary of Ms. Veatch's interview reflects that she provided similar information. She stated that Mr. Bruno and Mr. Hagen were offered, but refused, geographical support. Ms. Veatch and Ms. Dittman both stated that Mr. Bruno diverted FSDO staff, including staff designated for the AirTran CMU, to support the St. George re-examination project. The report reflects that Mr. Moyers advised the OIG that the AirTran CMO is currently staffed adequately with 21 inspectors.

The supplemental report further states that based on its review of the AirTran CMU personnel files, the OIG concluded that staffing levels at the CMU were consistent with those of similar facilities. The report cites the staffing study in support of this finding.

### **OIG's Second Supplemental Report**

Subsequent to the initial report, Mr. Bruno raised in his comments and advised OSC that he had provided to the OIG investigator a copy of a 2001 document relating to the AirTran fleet size that he alleged was falsified and entered into the FAA's Vital Information System (VIS). A copy of the document is included as Exhibit 33 with Mr. Bruno's comments. Mr. Bruno alleged that this document falsely represents the AirTran fleet size in October 2001 to be twice its actual size – 120 aircraft rather than 58. He further alleged that this false representation of the fleet size was used to obtain authorization to establish an AirTran Certificate Management Office (CMO), separate from the FSDO. Such authorization was granted in December 2003.

OSC requested that the OIG review and respond to this allegation. In response, the OIG investigated and produced a second supplemental report, dated August 17, 2004. The OIG found that, as Mr. Bruno alleged, the VIS document does not accurately depict the AirTran fleet size in October 2001. However, the OIG found that neither the inaccurate document nor the 120 figure were used to obtain CMO approval, and that such approval was granted based on factors other

than fleet size. The report includes documents provided by FAA reflecting accurate fleet size and the basis for CMO approval.

### **OIG's Third Supplemental Report**

At OSC's request, the OIG revisited the staffing issue in a third supplemental report, received on April 7, 2005. In the third supplemental report, the OIG concedes that, as Mr. Bruno and Mr. Hagen alleged, "there were considerable staffing issues in the Orlando FSDO" from 1998 to 2001. However, the OIG notes that the staffing shortages were not unique to Orlando, but, rather, were experienced throughout the entire agency. The report also explains that the OIG did not find any evidence showing that the Southern Region FSD managers deliberately created or contributed to the staffing shortages.

The OIG also did not believe that the staffing shortages created a danger to public safety, or significantly compromised the AirTran CMU's ability to perform its function. In support, the report cites an employee award recommendation Mr. Bruno submitted on March 15, 2000, that claimed that, for the AirTran certificate, "day to day operations were monitored with unprecedented scrutiny." The report also states that the award recommendation indicates that inspectors attended daily morning meetings to discuss the previous day's problems. The OIG asserts that attending such meetings extended above and beyond the inspector's normal duties, which belies the whistleblowers' contention that the office had inadequate staff to perform required duties.

### **Whistleblowers' Comments**

Mr. Bruno and Mr. Hagen provided extensive comments and supporting documentation in response to the OIG's findings regarding the AirTran understaffing allegations.<sup>5</sup> They outlined the extensive documentation relating to AirTran staffing that they provided in support of their allegations. They then commented on the lack of documentation provided by FAA to refute the allegations or support FAA's position, and raised concerns regarding FAA's apparent failure to maintain official records. In addition, both noted that the OIG primarily relied on statements from Ms. Veatch and Ms. Dittman, the two primary subjects, and did not interview or seek information from the several individuals they identified as having valuable information regarding the AirTran CMU staffing during the time frame in question. Additional key points raised in their comments are discussed below.

Mr. Bruno outlined the memoranda and related documents that he provided to illustrate the staffing needs of the AirTran CMU and his and Mr. Hagen's efforts to resolve critical staffing issues. He noted that the OIG failed to explain how FAA met the staffing needs of the CMU, or explain why the CMU was not allocated the 14 positions called for in the staffing plan and previously dedicated to ValueJet before the merger. He refuted the assertion that Southern Region management assisted in obtaining the necessary staff. He further maintained the "special position requests" and numerous re-writes were an unnecessary stalling tactic forced on the

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<sup>5</sup>In addition to his comments, Mr. Hagen provided to OSC a copy of the tape recording of his interview with the OIG investigator. OSC has placed the tape in Mr. Hagen's case file.



Orlando FSDO by the Southern Region management, which was unwilling to provide adequate staffing. He also pointed out that some of the information provided to show Southern Region FSD assistance pertained to filling vacant positions rather than additional staff.

Mr. Bruno also asserted that the OIG's finding that the 2001 staffing study demonstrated that the AirTran CMU was "on a par" with other CMUs distorts the study's finding and ignores the recommendation to increase the CMU's staff to 14, ideally 15, personnel. He refuted the OIG's allegation that following the staffing study and recommendation for additional aviation safety inspectors, he requested more specialized inspectors that were not justified. He pointed out that all of the positions he requested *are* aviation safety inspector positions, some of which were specifically recommended in the staffing study. He stated that he was identifying for the region, at their request, the position descriptions that he would use to assign these inspectors to perform.

Mr. Bruno adamantly denied that he diverted personnel from the AirTran CMU to support the St. George re-examination program. He stated that he provided the OIG with a copy of the St. George Action Plan, at Exhibit 2, which was approved by FAA Headquarters and specifically identifies the inspectors assigned to the program. He stated that there is no confusion regarding this issue, and noted that these accusations were presented by Ms. Dittman, the individual responsible for the understaffing. He further stated that the AirTran CMU was still seriously understaffed in August 2001, as he documented. Lastly, Mr. Bruno objected to the OIG's claim that the March 15, 2000, award recommendation showed that the CMU had adequate staff to fulfill all job duties. On the contrary, he asserted that he made the award recommendation in order to recognize the hard work performed by his limited staff under difficult conditions, which often included working nights, weekends and holidays.

In his comments, Mr. Hagen strongly refuted the OIG's statement that the original staffing plan calling for 14 inspectors, which he prepared, was based on the ATOS staffing model. He also objected to the assertion that AirTran was never identified or scheduled for ATOS, and, in support, he provided documentation prepared by Ms. Aadland showing that AirTran had, in fact, been slated for the ATOS program. He also contested the OIG's conclusion that, according to the AirTran Training Requirement, the CMU had 20 inspectors. He explained that that document was prepared as a cost summary of training required under ATOS when AirTran was being considered, and that 20 inspectors were never assigned to the CMU. Both Mr. Hagen and Mr. Bruno stressed in their comments that this newly raised issue of whether AirTran was considered for the ATOS program is not relevant to the question of whether the AirTran CMU was adequately staffed. Mr. Hagen expressed disappointment that the OIG did not probe further into FAA's decision not to transfer inspectors from Atlanta to Orlando after the agency transferred oversight responsibility from the Atlanta FSDO to the Orlando FSDO. He argued that this decision was untenable in light of the fact that the Certificate Management of ValuJet Airlines was one of FAA's greatest priorities at that time.

### **Conclusion**

Based on the representations made in the agency reports and as stated above, I have determined that the agency's reports collectively contain all of the information required by statute and the agency's findings appear to be reasonable. It is, nevertheless, troubling that FAA has been forced to cancel the re-examination program initiated in response to this investigation because of the preliminary injunction. In light of the OIG's finding that the number of individuals who have not been re-examined represents a measurable impact on aviation safety, this issue remains unresolved.

### **Recommendation**

Because there remain concerns regarding the termination of the re-examination program, the Special Counsel recommends follow-up with the agency to determine the status of the litigation and any steps the agency is taking to effectively complete the re-examinations.