



January 25, 2018

MEMORANDUM FOR: NICHOLAS C. GEALE
Chief of Staff

Elliot P. Lewis

FROM: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

SUBJECT: Review of Secretary Acosta's Travel
Report Number 17-18-001-01-001

Following media reports concerning noncommercial travel by cabinet members, the Office of Inspector General (OIG) initiated a review of the Secretary of Labor's (Secretary) travel since his confirmation on April 28, 2017, to determine whether federal travel funds were expended according to federal laws, regulations, and departmental policy and procedures. We also received a congressional request seeking similar information.

The Secretary took 21 official government trips between April 28, 2017, and October 12, 2017. The 21 trips we identified included 12 noncommercial flights, all on government aircraft, and 49 commercial flights.

Based on our review, the Secretary's travel complied with federal laws, regulations, and departmental policy and procedures for all 21 official government trips. All of the Secretary's noncommercial flights occurred while the government aircrafts were in use by or in support of the President or Vice President.

We also found that the Department of Labor's (DOL) justifications and authorizations for the Secretary's noncommercial flights could be improved. Specifically, DOL should clearly document that the Secretary's noncommercial flights on government aircrafts were directed by or in support of the President or Vice President. In addition, we found DOL could not demonstrate how it apportioned the travel costs of a trip that included both official and political activities. These issues occurred because DOL did not have policies and procedures for documenting political appointee use of noncommercial flights or

for trips that involve official and political activities. Documentation is an essential part of an effective internal control system and clearly documenting internal controls for political appointee travel is an effective control activity to ensure travel is conducted according to federal laws, regulations, and departmental policy and procedures. As such, we recommend DOL develop and implement policies and procedures for documenting political appointee use of noncommercial flights and trips that involve both official and political activities.

Background

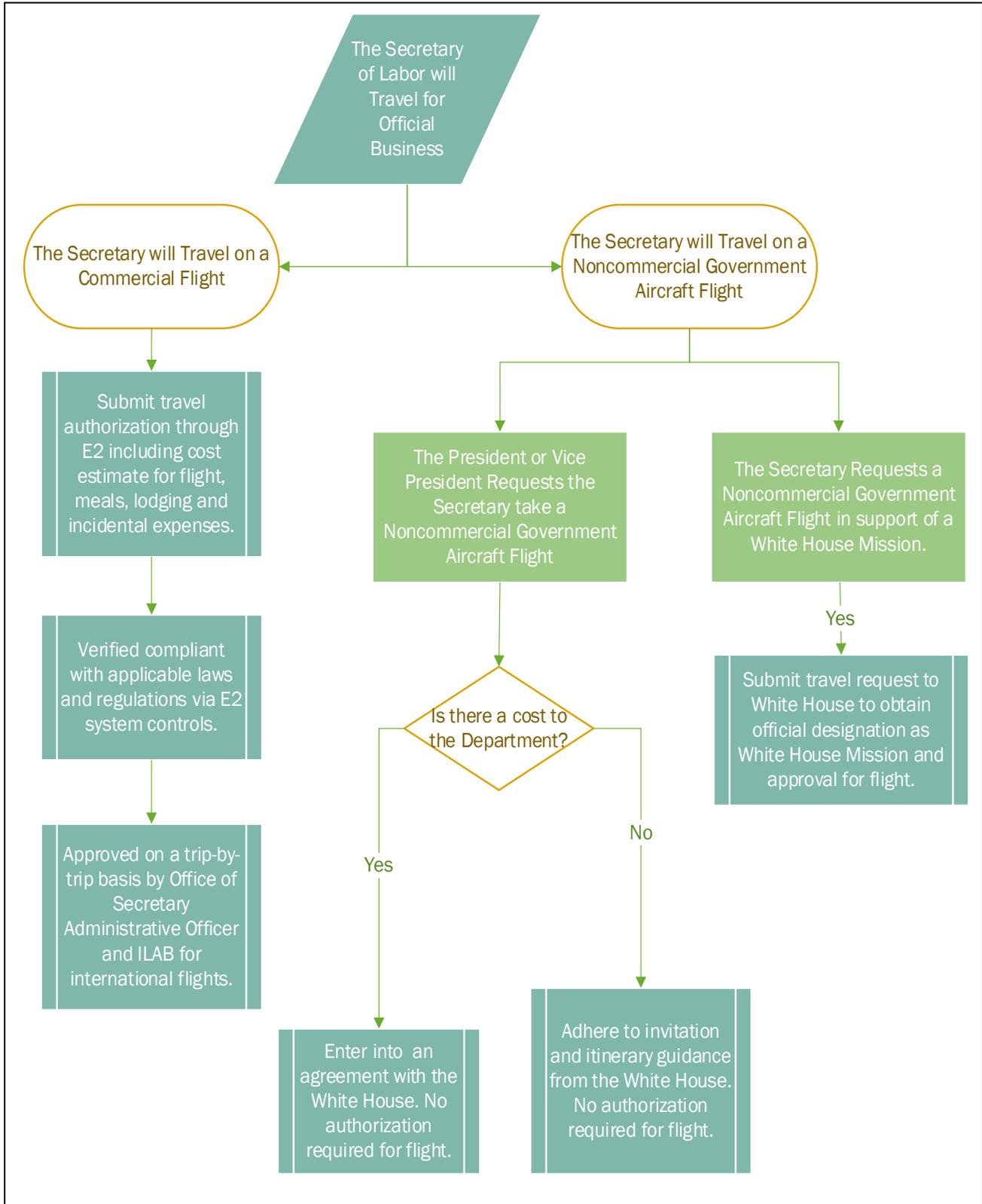
The Office of Management and Budget Circular A-126, *Improving the Management and Use of Government Aircraft (OMB Circular A-126)*, and *Federal Travel Regulations* state that, in general, all federal travelers should obtain an electronic or written authorization prior to incurring travel expenses. The guidance also states that if commercial travel is available to the same destination within a 24-hour period it is the preferred method for travel. However, the regulations describe exceptions to pre-authorization and commercial travel for special circumstances.¹ These include missions with or in support of the President or Vice President, such as the noncommercial flights taken by the Secretary.

DOL relies on its electronic travel management system (E2) for internal controls over travel. E2 ensures that travel requests are approved, errors are flagged for travel that occurs outside of travel policies, expenses occurred during the dates of travel, and funds are authorized for meals and incidentals. The electronic travel system also creates the official record of travel. The Secretary's noncommercial flights were managed informally, outside of E2.

The Office of the Secretary Administrative Officer approves the Secretary's travel authorizations and vouchers for commercial flights in E2. For foreign travel on commercial flights, an official from DOL's Bureau of International Labor Affairs also approves the authorization. DOL did not have policies and procedures for authorizing or documenting noncommercial flights by political appointees, including missions with or in support of the President or Vice President (see Diagram on the following page).

¹ Federal Travel Regulations, §301-10.260 and OMB Circular A-126 – Revised, Section 4, Scope and Coverage

Diagram: Flowchart of Approval Process for Commercial and Noncommercial Flights



Methodology

After media reports surfaced concerning noncommercial travel by cabinet members, the OIG initiated a review of the Secretary's travel to ensure that it complied with federal laws, regulations, and departmental policy and procedures. We also received a congressional request seeking similar information. We examined the Secretary's travel on noncommercial flights since his confirmation on April 28, 2017. When the Secretary traveled on noncommercial flights, we also identified the following:

1. The total noncommercial flight cost to the Department
2. The Department's justification for the noncommercial flight
3. Whether a commercial flight was available to the same destination, and if so, the estimated price difference
4. Whether the noncommercial flight pertained solely to official government purposes, or the underlying trip included personal or non-official events
5. Whether the Secretary obtained the appropriate travel authorization for noncommercial flights

Finally, we evaluated whether there were any irregularities in the Secretary's commercial travel activities.

To perform our review, we obtained a list of the Secretary's travel from DOL's Office of the Assistant Secretary for Administration and Management and compared the list to the Secretary's security detail schedule, a travel management report, and the Secretary's personal calendar to determine if we had the complete universe of the Secretary's travel. We reviewed travel authorizations, travel vouchers, and other travel documents to determine the nature of the Secretary's travel and the applicable laws and regulations governing each travel type. We interviewed Office of the Chief Financial Officer officials to gain an understanding of E2, and we spoke with the staff who arrange and authorize the Secretary's travel. We reviewed the DOL's responses to Freedom of Information Act and Congressional requests and compared the trips identified by DOL to our list trips.

Results

The Secretary took 21 official government trips between April 28, 2017, and October 12, 2017, the cut-off date of our review. The 21 trips we identified included 12 noncommercial flights on government aircraft and 49 commercial flights. All of the Secretary's travel subject to this review was for official business.²

Noncommercial Flights

Our review of the Secretary's noncommercial flights noted that the Office of the President or Vice President requested all of the Secretary's noncommercial flights and did not provide flight costs to DOL. Except as documented by two memoranda of understanding (MOU) between DOL and the White House for travel with the President on Air Force One, there were no costs to DOL for the Secretary's noncommercial flights. The MOUs required DOL to reimburse the White House \$20,000 through an intergovernmental fund transfer for each trip covering travel and event costs. The White House did not provide an itemized list detailing flight and event costs. MOUs are a common vehicle for cross-government initiatives and have been used by previous Secretaries of Labor when traveling on Air Force One. All of the Secretary's noncommercial flights were on government aircraft.

Our review noted that travel authorizations were not prepared for the Secretary's noncommercial flights. In addition, we noted that although there were commercial flights available to some of the Secretary's noncommercial flight destinations, DOL did not conduct commercial cost comparisons.

DOL officials stated travel authorizations and cost comparisons were not completed because the Office of the President or Vice President directed the flights. DOL officials provided email itineraries and cellular telephone coordination texts from the Office of the President or Vice President to support the trips. However, the texts and emails did not specifically direct the Secretary to undertake the assignment requiring noncommercial flights, a key factor in determining the exceptions in Federal travel requirements for travel authorizations and cost comparisons.

The Office of Management and Budget (OMB), Circular A-126, Improving the Management and Use of Government Aircraft, was issued to minimize cost and improve the management and use of government aviation resources. It prescribes policies to be followed by executive agencies in acquiring, managing, using, accounting for the costs of, and disposing of aircraft that include preparing travel authorizations and performing cost comparisons. However, the requirements of OMB Circular A-126 do not apply to government aircraft while in

² The Secretary took three personal flights between April 28, 2017, and October 12, 2017, that he paid for himself and were not included in this review.

use by or in support of the President or Vice President. In addition, the Federal Travel Regulation states that Government aircraft may be used for travel only when authorized by an executive agency. However, it goes on to state:

Given the unique functions and needs of the presidency and the vice presidency, section 4 of Circular A-126, "Improving the Management and Use of Government Aircraft," Revised May 1992, makes clear that Circular A-126 does not apply to aircraft while in use by or in support of the President or Vice President. Since the principal purpose of the rules in this part is to implement Circular A-126, the rules in this part also do not apply to such travel.

Because Circular A-126 and the Federal Travel Regulation are not applicable to aircraft in use by or in support of the President or Vice President, the measures they outline to minimize cost and improve management of government resources are also not applicable. In the absence of those measures, we reviewed guidance on internal control in the Federal Government and the Department's controls over travel.

In its *Standards for Internal Control in the Federal Government*, the Government Accountability Office (GAO) states that documentation is an essential part of an effective internal control system and that clearly documenting internal controls in administrative policies is an effective control activity to implement standards of conduct. GAO also suggests that management clearly documents internal control, transactions, and other significant events in a manner that allows the documentation to be readily available for examination.

DOL relies on the controls in E2 to ensure that employee travel is documented and in compliance with federal laws, regulations, and departmental policies and procedures. However, the Secretary's noncommercial flights were directed by the Office of the President or Vice President and arranged outside of E2. As such, it is particularly important for DOL to develop policies and procedures for requesting, authorizing, and documenting travel by political appointees that may occur outside of E2 to ensure it is clearly documented, readily accessible, and adheres to federal travel laws and regulations.

Attachment 1 summarizes our evaluation of the Secretary of Labor's noncommercial flights.

Commercial Flights

We also reviewed the Secretary's commercial travel for any irregularities with federal travel regulations and DOL polices. We verified that the travel was for government purposes that travel authorizations and vouchers were approved, that travel vouchers matched travel authorizations, and any exceptions were

justified and approved. In addition, we verified that lodging invoices and receipts for expenses over \$75.00 were submitted for the Secretary's travel vouchers.

Based on our review, the Secretary's commercial travel complied with federal laws, regulations, and departmental policy and procedures governing travel. However, we noted that DOL could not provide documentation to support how it determined the political percentage for one trip that included official and political activities. DOL did not have policies and procedures for documenting political appointee trips that include both official and political activities.

The Secretary took a commercial flight to Denver, CO, on July 20, 2017. While he was in Denver, the Republican Governors Association asked him to speak at their roundtable event in Aspen, CO, on July 24, 2017. The Secretary traveled by vehicle to Aspen on July 24, 2017, and took a commercial flight from Aspen back to Washington, DC, on July 25, 2017.

DOL determined that 22 percent of the total cost of the Secretary's trip to Colorado related to political activities. As such, the Republican Governors Association reimbursed \$492 of the \$2,235 total cost of the Secretary's trip to Denver.

However, DOL could not demonstrate how it determined that 22 percent of the trip was related to political activities. According to DOL officials, the Office of the Secretary and DOL Solicitors office met and discussed the duty hours versus political hours and performed the calculations in accordance with federal laws and regulations. However, the documentation of the calculations was not saved.

The Hatch Act exempts certain politically-appointed, Senate-confirmed employees, such as the Secretary, from the general prohibitions against federal employees engaging in political activity while on duty.³ However, the Hatch Act provides that the costs associated with such employees' political activity may not be paid for with money derived from the United States Treasury.⁴

The Office of Special Counsel in its October 6, 2011, Advisory Regarding Mixed Travel by Presidentially-Appointed/Senate Confirmed Employees states:

In cases involving mixed travel, that is, when an exempt employee attends both official and political events during the same trip, agencies must apportion the travel costs between the federal government and the relevant political organization or candidate, and ensure that the Treasury is appropriately reimbursed.

³ 5 U.S.C. 7324(b).

⁴ 5 U.S.C. 7324(b)(1).

In its *Standards for Internal Control in the Federal Government*, GAO states:

Documentation is an essential part of an effective internal control system and that clearly documenting internal controls in administrative policies is an effective control activity to implement standards of conduct. The GAO also suggests that management clearly documents internal control, transactions, and other significant events in a manner that allows the documentation to be readily available for examination.

While DOL apportioned the Secretary's travel costs between official and political activities, it could not demonstrate how the apportionment was calculated, as the calculations were not saved. As such, DOL could not demonstrate that federal funds were not spent for political activities.

Recommendations

We recommend that the Office of the Secretary:

1. Develop and implement policies and procedures for documenting political appointee use of noncommercial flights.
2. Develop and implement policies and procedures for documenting trips that involve both official duties and political activities.

Management Response

The Chief of Staff to the Secretary of Labor concurred with the OIG's conclusion and agreed with the recommendations. The Chief of Staff stated that DOL has developed and issued guidance concerning use of premium class travel accommodations and established procedures and a uniform reporting requirement regarding mixed political and official travel by the Secretary. Management's full response is included in Attachment 2 to this report.

We appreciate the cooperation and courtesies DOL agency officials extended to the Office of Inspector General during this review.

cc: Bryan Slater
Assistant Secretary
Office of Administration and Management

Attachments

Review of Noncommercial Flights

Flight 1: Andernach, Germany

Mode of Travel and Purpose: Roundtrip, German government helicopter to factory site visit on May 19, 2017⁵

1. **Flight Cost to the Department:** None
2. **Department's Justification:** The Department did not provide any supporting documentation or justification for this flight.
3. **Commercial flight Availability and Cost:** No, a City-Pair commercial flight was not available for this destination.
4. **Solely Official Government Purposes:** Yes, solely government
5. **Authorization for Noncommercial Flight:** The Department did not provide an authorization for this flight because there was no flight cost to authorize.

The Secretary took commercial flights into and out of Germany for the G-20 conference. The noncommercial flight was a German helicopter arranged and provided by the German Government for the transport of G-20 conference participants.

Flights 2 and 3: Pewaukee, WI

Mode of Travel and Purpose: Roundtrip, Air Force One, Policy Travel with the President on June 13, 2017

1. **Flight Cost to the Department:** \$20,000. The White House did not provide a breakdown of the flight cost and event cost for this MOU.⁶
2. **Department's Justification:** The Department provided an email departure schedule from the White House Operations Office for the Secretary and had a Memorandum of Understanding (MOU) with the White House for the trip.

⁵ The Secretary flew commercial into and out of Germany for the G-20 Conference. The helicopter flight was an in-country flight.

⁶ June 8, 2017, MOU with White House authorized \$20,000 for an Infrastructure and Workforce Development event. The MOU covered travel costs of the President's event team, and site cost requirements such as staging, lights, sound, facility, banners, labor, and other related items.

3. **Commercial Flight availability and Cost:** Yes, a commercial flight was available for \$490.00 round trip. The \$20,000 MOU covered event costs in addition to the flight and the Department received no itemized event receipt from the White House to determine the actual flight cost. The Department did not evaluate commercial flight availability as the Office of the President directed the noncommercial flight.
4. **Solely Government Purposes:** Yes, solely government
5. **Travel Authorization for Noncommercial Flight:** The Department had an MOU in place with the White House for this trip.

The Secretary flew Air Force One at the request of the White House Operations office. The Department reimbursed the White House \$20,000 in accordance with the MOU, a similar practice with previous administrations, but the Department did not receive an itemized event receipt. Therefore, the Secretary's noncommercial flight cost for this trip is unknown. Since the President requested the Secretary fly noncommercial, Department officials did not complete an authorization or justification for the flight.

Flight 4: Miami, FL

Mode of Travel and Purpose: One Way, Air Force One, Policy Travel with the President on June 16, 2017

1. **Flight Cost to the Department:** \$20,000. The White House did not provide a breakdown of the flight cost and event cost for this MOU.⁷
2. **Department's Justification:** The Department provided an email departure schedule from the White House Operations Office for the Secretary and had an MOU with the White House for the trip.
3. **Commercial Flight Availability and Cost:** Yes, a commercial flight was available for \$446.00. The \$20,000 MOU covered event costs in addition to the flight and the Department received no itemized event receipt from the White House to determine the actual flight cost. The Department did not evaluate commercial flight availability as the Office of the President directed the noncommercial flight.
4. **Solely Government Purposes:** Secretary Acosta took Air Force One, one way to Miami on Friday where he attended two interviews and an event with the President. On Saturday, the Secretary had an additional interview and

⁷ June 16, 2017, MOU with White House for Infrastructure and Workforce Development event. The MOU covered travel and event costs of the President's event. The Secretary only flew one-way on Air Force One. He stayed the night in Miami and flew back to Washington, DC, on a commercial flight the next day.

personal time for the remainder of the afternoon. He flew back to Washington, DC, that evening on a commercial flight.

5. **Travel authorization for Noncommercial Flight:** The Department had an MOU in place with the White House for this trip.

The Secretary flew Air Force One at the request of the White House Operations office. The Department reimbursed the White House \$20,000 in accordance with the MOU, a similar practice with previous administrations, but the Department did not receive an itemized event receipt. Therefore, the Secretary's noncommercial flight cost for this trip is unknown. Since the President requested the Secretary fly noncommercial, Department officials did not complete an authorization or justification for the flight.

Flights 5 and 6: Morristown, NJ

Type of Travel and Purpose: Roundtrip, Executive Airlift Support Mission, Meeting with the President on August 11, 2017.

1. **Flight Cost to the Department:** None
2. **Department's Justification:** The Department provided an email from the White House Military Office coordinating the trip.
3. **Commercial Flight Availability and Cost:** No, a commercial flight was not available to Morristown, NJ. Furthermore, the Department did not evaluate commercial flight availability as the Office of the President directed the noncommercial flight.
4. **Solely Government Purposes:** Yes, solely government
5. **Travel Authorization for Noncommercial Flight:** The Department provided an email from the White House Military Office coordinating the trip.

The Secretary flew noncommercial aircraft at the request of the White House Military Office. Since the President requested the Secretary fly noncommercial, Department officials did not complete an authorization or justification for the flight.

Flights 7, 8, 9 and 10: Corpus Christi, TX

Type of Travel and Purpose: Roundtrip, Air Force Two and Roundtrip USMC Helicopter, Hurricane Site Visit with the Vice President on August 31, 2017

1. **Flight Cost to Department:** None
2. **Department's Justification:** The Department provided an email from the Office of the Vice President requesting the Cabinet Secretaries travel to Texas. A second email included an itinerary for a government helicopter flight during the trip.
3. **Commercial Flight Availability and Cost:** Yes, a commercial flight was available for \$672.00. The Department did not evaluate commercial flight availability as the Office of the Vice President directed the noncommercial flight.
4. **Solely Government Purposes:** Yes, solely government
5. **Authorization for Noncommercial Flight:** The Department provided an email from the Office of the Vice President regarding the Cabinet Secretaries travel to Texas. A second email included an itinerary for a government helicopter flight during the trip.

The Secretary flew government noncommercial aircraft at the request of the Office of the Vice President. Since the Vice President requested the Secretary fly noncommercial, Department officials did not complete an authorization or justification for the flight.

Flights 11 and 12: Camp David, MD

Type of Travel and Purpose: Roundtrip, USMC Helicopter, Cabinet Meeting on September 9, 2017

1. **Flight Cost to the Department:** None
2. **Department's Justification:** The Department provided an email from the White House Cabinet Affairs Office regarding forthcoming invitations to the Cabinet and their spouses for the Chief of Staff's meeting at Camp David. A second email included a travel schedule for a V-22 military aircraft used during the event.
3. **Commercial Flight Availability and Cost:** No, there was not a commercial flight available for this destination but the destination is within government vehicle driving range.
4. **Solely Government Purposes:** Yes, solely government
5. **Authorization for Noncommercial flight:** The Department provided an email from the White House Cabinet Affairs Office regarding forthcoming invitations for the Cabinet and their spouses to the Chief of Staff's meeting at Camp David. A second email included a travel schedule for a V-22 military aircraft used during the event.

The Secretary flew noncommercial aircraft at the request of the White House Cabinet Affairs office. Since the Secretary was requested to fly noncommercial, Department officials did not complete an authorization or justification for the flight. The Secretary's wife accompanied him on this trip at no cost to the Department.

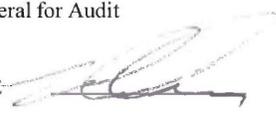
Management Response

U.S. Department of Labor

Chief of Staff to the
Secretary of Labor
Washington, D.C. 20210



MEMORANDUM FOR ELLIOT P. LEWIS
Assistant Inspector General for Audit

FROM: NICHOLAS C. GEALE 
Chief of Staff

SUBJECT: Management Response to OIG Report
Review of Secretary Acosta's Travel
Report Number 17-18-001-01-001

The purpose of this memorandum is to provide management's response to the Office of Inspector's General (OIG) *Review of Secretary Acosta's Travel* (Report Number 17-18-001-01-001).

Overall, management appreciates the OIG's review and input on suggested improvements and concurs with the OIG's conclusion that the Secretary's travel complied with federal laws, regulations, and departmental policy and procedures. Management also agrees with the two recommendations and has taken immediate steps to strengthen related policy. Specifically, we have developed guidance concerning use of premium class travel accommodations and issued that to all noncareer staff. Additionally, we have established procedures and a uniform reporting requirement regarding mixed political and official travel by the Secretary. These directives were issued on January 19, 2018.

Finally, management appreciates the importance of providing the OIG with accurate, complete, and timely information throughout review. We are not aware of any additional relevant information not provided to the OIG, and appreciate the importance of program controls to prevent and detect violations of laws and regulations. Further, we have no knowledge of any violations of department travel policies regarding the Secretary's official travel. The Department's leadership takes seriously the responsibility to detect and report fraud, waste, abuse, or mismanagement in the Department's travel program and supports the OIG mission.

We appreciate the opportunity to review and comment.

cc: Bryan Slater, Assistant Secretary for Administration and Management