



**Regional  
Transportation  
Authority**

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March 17, 2014

Secretary Ann Schneider, Co-Chair  
Northeastern Illinois Public Transit Task Force  
2300 South Dirksen Pkwy  
Springfield, IL 62764

George Ranney, Co-Chair  
Northeastern Illinois Public Transit Task Force  
30 West Monroe Street  
Chicago, IL 60603

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Dear Secretary Schneider & Mr. Ranney:

This letter is written in response to the statement of Executive Inspector General Ricardo Meza recently submitted to the Northeastern Illinois Public Transit Task Force (the "Task Force"). It is our understanding that Mr. Meza will be testifying before the Task Force on Monday, March 17<sup>th</sup>. Mr. Meza raises several issues regarding the authority of the Office of the Executive Inspector General ("OEIG"), as it relates to the Regional Transportation Authority ("RTA") and the Service Boards and I would like to briefly respond to some of those comments.

**The OEIG's Audit Authority**

The RTA's challenge to the OEIG's 2012 attempt at hiring auditors to conduct Regional Transit Board ("RTB") audits was not "inexplicable" as Mr. Meza contends in his written statement. As was noted in our letter to the OEIG dated October 17, 2012, the State Ethics Act does not authorize the OEIG to conduct or review audits. The initial job description posted by the OEIG in 2012 stated that the position would review and evaluate "audits performed by internal and external auditors relating to the RTBs." The OEIG's enabling statute is explicit in granting the OEIG jurisdiction to "investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations" of the State Officials and Employees Ethics Act ("the Ethics Act"). The legislature has never given the OEIG auditing authority. The legislature has made the RTA responsible for conducting audits of the transit system, and the constitutionally created position of Auditor General has been held by William Holland since 1992.

The distinction between auditor and investigator may be subtle, but there is a distinction. In addition to determining whether processes and policies have been followed, auditors also verify whether appropriate policies are in place to prevent the types of fraud and abuse that the OEIG has been granted

Leanne Redden  
Acting Executive Director

jurisdiction to investigate. The fact that the positions were later re-titled to “investigative auditors” would indicate the original audit positions were not appropriate for the mission of the OEIG.

The position descriptions also state that the auditors were to “conduct proactive and reactive audits and reviews” and would “evaluate the propriety of audit findings and recommendations.” The Ethics Act grants the OEIG jurisdiction to investigate “allegations.” The plain language of the Ethics Act presupposes that there is a basis for an investigation. However, it does not grant the OEIG the authority to create a basis for investigating. Consequently, we believe that allowing the OEIG the ability to audit and further to review audits would be an expansion of the authority granted to the office in its enabling legislation.

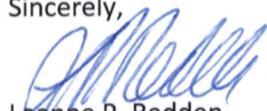
### **The Right to Review the Assertion of the Attorney-Client Privilege**

We disagree with Mr. Meza’s claim that our admittedly proper assertion of privilege in any way “delayed” the OEIG’s investigation into the referenced matter. To the contrary, our attorneys have been particularly cooperative with Mr. Meza’s office and worked closely with our Ethics Officer to ensure that the OEIG has obtained all necessary information to facilitate investigations. We look forward to continuing that positive relationship.

Further, we disagree with Mr. Meza’s contention that the OEIG should have the same right to seek an immediate determination by the Executive Ethics Commission (EEC) as to whether an attorney-client privilege is properly asserted. Only a court of competent jurisdiction should have the authority to review privileged documents, or to compel a state agency or one of the RTBs to produce documents believed to be subject to the attorney-client privilege. Obviously, the implications of waiving an attorney-client privilege go beyond simply disclosing privileged documents to the OEIG. An unsettled legal issue still exists in Illinois regarding whether disclosing documents to an office conducting a government investigation, like the OEIG, would constitute a complete waiver of the privilege and would prohibit an agency from claiming the privilege in any other circumstance. Consequently, granting the OEIG a mechanism to challenge a state agency’s or RTB’s assertion of attorney-client privilege, outside of a court proceeding could have drastic unintended consequences in other circumstances.

Please feel free to contact me with any questions.

Sincerely,



Leanne P. Redden  
Acting Executive Director