OFFICE OF INSPECTOR GENERAL

Audit Report

Fiscal Year 2017 Financial Statement Audit Letter to Management

Report No. 18-04
February 8, 2018

RAILROAD RETIREMENT BOARD

UNITED STATES RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

February 8, 2018

Office of the Chairman (Vacant)
U.S. Railroad Retirement Board

The purpose of this letter is to transmit internal control matters that came to our attention during our fiscal year 2017 audit of the Railroad Retirement Board's (RRB) financial statements.

We have audited the RRB's general purpose financial statements and issued our report thereon dated November 8, 2017, except for matters relating to the net assets of the National Railroad Retirement Investment Trust (NRRIT) as of September 30, 2017, as to which the date is November 15, 2017.[1] We performed our audit in accordance with U.S. Generally Accepted Government Auditing Standards and Office of Management and Budget (OMB) audit guidance, as applicable to the scope of our audit. We also audited the RRB's closing package financial statements and issued our report thereon dated November 16, 2017. We have not considered internal control since we ended fieldwork for the general purpose audit opinion on November 8, 2017 and the closing package audit opinion on November 16, 2017.

During our audit, we noted certain matters involving the RRB's internal control structure and its operation, which individually did not rise to the level of a material weakness or a significant deficiency; the details of which are presented in the attached report.[2] We also present the full text of the previously reported material weaknesses. However, neither this letter nor the attached matters of internal control modifies our reports dated as of November 8, 2017 and November 16, 2017, referred to above.

In planning and performing the audit, we considered internal control in order to determine our auditing procedures for the purpose of issuing our reports on the RRB's financial statements and not to provide assurance on internal control. The maintenance of adequate internal control designed to fulfill the RRB's control objectives is the

[1] Railroad Retirement Board Office of Inspector General (RRB OIG), *The Office of the Inspector General's Report on the Railroad Retirement Board's Fiscal Year 2017 Financial Statements*, Audit Report No. 18-02 (Chicago, IL: November 15, 2017).
[2] A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

responsibility of management. Because of inherent limitations in any system of internal control, errors or irregularities may nevertheless occur and not be detected.

Our work was not conducted for the primary purpose of making detailed recommendations about the RRB's system of internal control. Had we done so, other matters might have come to our attention that we would have reported to you. Our observations concerning internal control were presented to responsible agency management who were offered the opportunity to review and comment on the draft report. Management's response is attached.

We wish to express our appreciation for the many courtesies and cooperation extended to us during these audits.

Very truly yours,

Original Signed By

Martin J. Dickman
Inspector General

Attachments

cc: Walter A. Barrows, Labor Member
Steven J. Anthony, Management Member
Daniel J. Fadden, Senior Executive Officer/Director of Field Service
Ana M. Kocur, General Counsel
Shawna Weekley, Deputy Chief Financial Officer
Jeffrey G. Baer, Director of Audit Affairs and Compliance
Timothy Hogueisson, Financial Management and Program Analyst
Martha P. Rico-Parra, Secretary to the Board

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Letter to Management on Internal Control

INTERNAL CONTROL MATTERS PREVIOUSLY REPORTED IN OUR AUDIT OPINIONS

The following material weaknesses were reported in conjunction with the Office of Inspector General's (OIG) opinion on the Railroad Retirement Board's (RRB) financial statements for the fiscal years ended September 30, 2017 and 2016.[3]

MATERIAL WEAKNESSES

Financial Reporting

- Ineffective Controls

This material weakness was initially reported in fiscal year 2014 as part of the overall material weakness for financial reporting and we made recommendations for improvement. As reported for fiscal year 2016, we identified approximately $14.2 billion in transactions recorded and approved in the RRB's financial reporting system that did not have adequate supporting documentation in the agency's official records.[4] During fiscal year 2017, RRB staff added the missing documentation to the RRB's financial reporting system for the errors cited in our finding. In addition, RRB management stated that they developed new controls, conducted training, and updated procedures to address our previous recommendation for development and implementation of new controls for financial reporting. We found that although these actions were taken, additional internal control improvements are needed because during the fiscal year 2017 audit, we identified approximately $503.2 million of recorded and approved financial transactions that lacked adequate supporting documentation.

Management's Response and Our Comments

The Bureau of Fiscal Operations (BFO) discusses this material weakness in its response to findings and recommendations provided in this audit report (see Appendix I). They state that the lack of supporting documentation cited in our finding was stored in hard copy and readily available for review. BFO indicates that our conclusion, that the documentation was missing, is patently false and purposefully overstates the magnitude of the discrepancy. OIG disagrees. RRB's Accounting Procedures Guide requires BFO staff to provide sufficient support *as attachments* [emphasis added] in the agency's financial reporting system to validate the recording of each transaction. The attachments are the basis for review and approval. The attachments for each cited transaction lacked sufficient supporting documentation in the agency's financial reporting system and as such, it is described as missing. Our determination was based on the requirements outlined in the RRB's Accounting Procedures Guide, with which they did not comply.

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[3] Railroad Retirement Board Office of Inspector General (RRB OIG), *The Office of the Inspector General's Report on the Railroad Retirement Board's Fiscal Year 2017 Financial Statements*, Audit Report No. 18-02 (Chicago, IL: November 15, 2017).
[4] RRB OIG, *The Office of Inspector General's Report on the Railroad Retirement Board's Fiscal Year 2016 Financial Statements,* Audit Report No. 17-01 (Chicago, IL: November 15, 2016).

- Communication with the National Railroad Retirement Investment Trust's Auditor

RRB OIG auditors have rendered disclaimer opinions on the RRB's financial statements since fiscal year 2013 because of RRB management's unwillingness to provide OIG auditors with cooperation and communication from National Railroad Retirement Investment Trust (NRRIT) auditors. This lack of cooperation and communication prevents OIG auditors from obtaining sufficient appropriate audit evidence regarding the RRB's financial statements. Although American Institute of Certified Public Accountants (AICPA) Group 600 guidance requires that the group auditor (OIG) communicate with and receive cooperation from the component auditor (NRRIT's auditor), RRB management continues to prevent this from occurring, citing section 15 (j) of the Railroad Retirement Act as the basis for denial. In addition, NRRIT management did not respond to our request to communicate with its auditors.

As part of our fiscal year 2014 audit, we recommended that an independent committee be established to identify a functional solution that would enable communication between OIG and NRRIT's auditors.[5] Although RRB management did not concur with this recommendation, we will continue to cite this issue and the need for corrective action.

<u>Control Environment</u>

This material weakness was initially reported in fiscal year 2016.[6] We determined that RRB management had not taken corrective actions to address high level, monetarily significant matters that were not in accordance with authoritative guidance, previous agreements, and laws and regulations regarding matters that could have a detrimental effect on the reliability of financial reporting at the RRB and at governmentwide levels. That finding provided examples of our audit concerns regarding the control environment.

- National Railroad Retirement Investment Trust Net Assets

A significant example that continues to be an audit concern is RRB management's determination that the NRRIT should be a disclosure entity that would result in removal of its net assets of approximately $26.5 billion, as of fiscal year 2017, from RRB and governmentwide financial statements. RRB management also determined that the RRB has no ownership interest in the NRRIT. These determinations were made in regard to new Federal Accounting Standards Advisory Board's Statement of Federal Financial Accounting Standards 47 (SFFAS 47), *Reporting Entity*, which becomes effective in fiscal year 2018. RRB's General Counsel issued a legal opinion stating that the NRRIT meets

[5] RRB OIG, *Fiscal Year 2014 Financial Statement Audit Letter to Management*, Audit Report No. 15-05 (Chicago, IL: March 31, 2015).
[6] RRB OIG, Audit Report No. 17-01.

the characteristics of a disclosure entity more than a consolidating entity.[7] BFO management concluded that NRRIT classification as a disclosure entity would resolve the basis for RRB financial statement disclaimers because such classification would remove NRRIT net assets from the RRB's financial statements. RRB OIG auditors determined that the NRRIT should be classified as a consolidating entity, which would result in continuance of its net assets being reported in the RRB's financial statements. RRB OIG auditors are concerned about the precedent set as a result of RRB management's determination that it does not have legal ownership of NRRIT net assets.

During a teleconference on December 1, 2017, with management from Government Accountability Office (GAO), Office of Management and Budget (OMB), and U.S. Department of the Treasury (Treasury), OMB's Acting Controller informed OIG auditors and RRB management that NRRIT net assets will continue to be reported as assets of the federal government at the governmentwide level.

Management's Response and Our Comments

BFO discusses this teleconference in its response to findings and recommendations provided in this audit report (see Appendix I). RRB states that OMB, Treasury, and GAO believe NRRIT's agreement to provide GAO audit personnel access to NRRIT's auditors satisfactorily resolves the disclaimer of opinion on the government's financial statements stemming from the OIG's disclaimer of opinion on the RRB's financial statement and concludes that since the RRB's financial statements consolidate into the government's financial statement, the RRB expects this arrangement adequately addresses the OIG's concern. BFO's conclusion is incorrect. The agreement reached by OMB, Treasury, and GAO is applicable to audit assurance at the governmentwide level only. In fact, during the teleconference, it was reiterated that the reporting structure as required by the memorandum of understanding between the NRRIT, RRB, Treasury, and OMB has not changed and that this agreement has no impact on the RRB OIG's audit. Further, that GAO requiring NRRIT auditor access supports our longheld opinion that in order to opine on the RRB's financial statements, we too would require access to NRRIT auditors. NRRIT assets, as part of RRB's financial statements, are substantially more material than at the governmentwide level; further supporting our conclusion that under AICPA Group 600 guidance we must communicate and receive cooperation from the component auditor (NRRIT's auditor). This agreement addresses governmentwide audit assurances but does not address those at the RRB financial statement level. Regardless, the aforementioned agreement has not been formally agreed to and it is not expected to take place until the fiscal year 2018 audit is conducted. As such, this agreement has no bearing on our current audit opinion.

We were also informed of another post audit development. On December 27, 2017, OIG auditors were informed that the SFFAS 47 Steering Committee determined that the NRRIT will be classified as a consolidating entity.

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[7] Railroad Retirement Board (RRB) General Counsel, *National Railroad Retirement Investment Trust Assets Statement of Federal Financial Accounting Standards 47, Reporting Entity,* Legal Opinion 2016-53, (Chicago, IL: October 31, 2016).

- Concerns Regarding Communication

In addition, we reported that RRB management had not always communicated matters of audit significance with RRB OIG auditors. AICPA AU-C section 260, *The Auditor's Communication With Those Charged with Governance*, explains the importance of communication between auditors and agency management and indicates that inadequate two-way communication may indicate an unsatisfactory control environment, thereby impacting the risk of material misstatements.[8] In response to our recommended corrective actions, RRB management reminded agency bureau directors of their responsibility to meet with OIG audit staff in a timely manner to discuss matters of significant importance.

RRB management did not concur with two of our four recommendations for improvement regarding this material weakness for the control environment.[9] We recommended that when RRB management and RRB OIG auditors disagree on the agency's application of authoritative guidance and laws and regulations, that the matter be elevated for RRB Executive Committee determinations. We also recommended development and implementation of Executive Committee procedures for enforcement of RRB management responsibilities when RRB management does not take appropriate corrective actions in regard to the application of authoritative guidance and laws and regulations. RRB management stated that our recommendations imply that the RRB does not have the authority or prerogative to disagree with OIG audit findings or recommendations and that ceding that authority to the OIG will compromise audit independence. We disagreed and stated that the intent of the recommendations was to ensure that the RRB's Executive Committee fulfills its responsibilities as defined in agency procedure to (1) oversee day-to-day operations of the agency in conformance with existing laws and regulations, (2) provide oversight and solutions for cross organizational internal control issues, and (3) function as the agency's senior management council with respect to internal control responsibilities.[10]

- Concerns Regarding Federal Travel Regulations and Improper Payments

During fiscal year 2017, we identified additional concerns regarding the RRB's control environment.

  - During fiscal year 2017, we reported that the RRB did not always comply with federal travel regulations and that the RRB's approval and authorization controls were not always adequate and enforced.[11] As a result, there was an increased risk

[8] American Institute of Certified Public Accountants (AICPA), AICPA Professional Standards, *The Auditor's Communication With Those Charged with Governance*, AU-C Section 260 (New York, NY: June 1, 2016).
[9] RRB OIG, *Fiscal Year 2016 Financial Statement Audit Letter to Management*, Audit Report No. 17-03, Recommendations 2 and 3 (Chicago, IL: February 16, 2017).
[10] RRB, *Committees at the Railroad Retirement Board*, Administrative Circular REF(RRB)-2 (August 28, 2015).
[11] RRB OIG, *Railroad Retirement Board Did Not Always Comply with the Federal Travel Regulation*, Audit Report No. 17-04 (Chicago, IL: April 11, 2017).

for unauthorized travel and potential fraud, waste, and abuse of government funds. We determined that RRB travel policies and procedures allowed for noncompliance with federal travel regulations. RRB management did not concur with some of our recommended corrective actions, and in one instance stated that there was no requirement for RRB policies and procedures to mirror federal travel regulations. Policies and procedures are not required to mirror regulations but they cannot allow for the regulations to not be followed, which we found in one instance. Other reasons RRB management provided for nonconcurrence included reliance on the travel system that the RRB uses and the warnings and other system functionalities built into the system. The OIG disagreed and reiterated the need for improved controls, adequate documentation, and updated policies and procedures to ensure compliance with federal travel regulations.

- We previously reported that the RRB had been noncompliant with improper payment reporting for three consecutive years due to the lack of risk assessments prepared in accordance with OMB guidance for all of the programs that the RRB administers.[12] RRB management did not concur with our recommendation to take corrective actions as required by OMB for third year noncompliance, thus the agency was in further violation of OMB guidance.

RRB management's rationale for nonconcurrence for our previous audit recommendations and lack of complete corrective action related to this material weakness, as well as the audit concerns itemized in this finding warrants our continuance of this material weakness.

[12] RRB OIG, *Audit of the Railroad Retirement Board's Compliance with the Improper Payments Elimination and Recovery Act of 2010 in the Fiscal Year 2016 Performance and Accountability Report*, Audit Report No. 17-05 (Chicago, IL: May 12, 2017).

OTHER MATTERS INVOLVING INTERNAL CONTROL

During our audit of the RRB's general purpose and closing package financial statements, we also noted certain other matters involving the RRB's internal control structure and its operations. Although these matters do not rise to the level of a significant deficiency or material weakness, either individually or in the aggregate, they represent areas in which control weaknesses increase the risk of error or mishandling.

The details of our observations and recommendations for corrective action follow. The full text of management's response is provided in Appendix I. The status of prior financial statement related audit recommendations is provided in Appendix II.

Lack of Adherence to Separation of Duty Procedures and Changes in Procedures

BFO staff that prepare supporting documentation for monetarily significant transactions required additional staff to be involved in the chain of command to ensure adequate separation of duties. However, we found that the person that prepares supporting documentation or initiates the funds transfer process for RRB payment or receipt of payment, was sometimes the same person that records or approves the transaction in the RRB's financial reporting system. In addition, BFO control procedures were revised during fiscal year 2017 to weaken certain BFO review and approval controls. BFO procedures previously required calculations of NRRIT transfer amounts to be reviewed by the Chief of Accounting and Budget Division. Current BFO procedure does not require this level of review.

One of the exceptions was an $8.1 billion financial interchange transaction. Although RRB Accounting Procedures Guide states that four separate staff personnel are to be involved in the processing of these transactions, three individuals processed the referenced transaction. Other transactions involved the same person calculating the NRRIT transfer amounts and then approving the recorded transaction in the agency's general ledger. These seven additional transactions totaled $1.1 billion.

When OIG auditors inquired why this occurred, BFO stated that they plan to hire additional staff. They also stated that because other individuals were involved in the processing of the transactions cited in this finding, there was adequate separation of duties.

Nonadherence to documented procedures and lessening review and approval controls increases the risk of errors in financial recording, thus impacting the agency's financial statements.

Recommendations

We recommend that the Bureau of Fiscal Operations:

1. adhere to documented RRB Accounting Procedures Guide to ensure adequate separation of duties; and

2. reconsider whether a higher second level of review should be required for the calculation of transfers that the RRB receives from the National Railroad Retirement Investment Trust and document its consideration and conclusion.

Management's Response and Our Comments

BFO concurred with recommendation 1.

BFO did not concur with recommendation 2 and stated that the monthly transfer transactions for the NRRIT are reviewed before they are released and that emails from the Chief of Accounting and Budget provide evidence of review. Although BFO considered our recommendation, the OIG continues to have concerns regarding the weakened controls by no longer requiring that these calculations be reviewed by higher level management, given the monetary significance of NRRIT transfer amounts. In addition, the OIG disagrees that sending an email to request transfer, provides evidence of review of the calculation of the transfer amount.

Agency Report Not Available for Audit

The RRB's *Cost Allocation Plan Medicare Parts B, C, and D Administrative Costs* (CAP) required for review, was not available during the annual financial statement audit. The most recent CAP received was for a draft for fiscal year 2015 and 2016 costs. Agency management had been notified of the need for OIG auditors to review this report and OIG auditors had designated a date for expected receipt for audit purposes. GAO *Standards for Internal Control in the Federal Government* (GAO Standards) state that management clearly document internal controls and all transactions in a manner that allows the documentation to be readily available for examination.[13]

RRB administers certain provisions of the Medicare program for Qualified Railroad Retirement Beneficiaries and active railroad employees. Because the RRB performs Medicare program related work that otherwise would have been performed by the Centers for Medicare and Medicaid Services (CMS), the RRB is reimbursed for this work. RRB is to annually prepare a CAP to provide a basis for reimbursement for CMS for the services that RRB provides. Agency management indicated that the CAP was not available and did not respond to an OIG auditor inquiry regarding the basis the RRB used for reimbursements during fiscal year 2017. Agency management indicated that

[13] Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.; September 2014).

they are currently working with CMS to update the CAP based on recommendations from a previous OIG audit report.[14] That OIG audit report found that controls were not adequate to ensure the RRB's cost allocation plans and Medicare reimbursement calculations were accurate and supported in accordance with federal requirements. Twenty-six recommendations for improvement were made in regard to the deficiencies cited in the audit report.

Because OIG audit procedures could not be completed regarding the CAP, OIG auditors did not have any basis with which to fully assess the accuracy of the $28.6 million reimbursement that the RRB received from CMS for fiscal year 2017. None of the supporting voucher documentation provided evidence that the reimbursements were approved by CMS.

Recommendation

3. We recommend that the Bureau of Fiscal Operations prepare the *Cost Allocation Plan Medicare Parts B, C, and D Administrative Costs* annually and provide it as support for audit purposes by the dates specified during each financial statement audit.

Management's Response

BFO concurred with recommendation 3.

Influence on Financial Recording Resulting from Legal Determinations

As part of the annual financial statement audit, Office of General Counsel (OGC) provides written descriptions and evaluations of litigation, claims, and assessments involving RRB. These descriptions and evaluations are provided in periodic legal representation letters. These legal letters are provided to both BFO and OIG. Based on these letters, BFO determines whether the RRB has a potential liability, referred to as a contingent liability. If the likelihood of loss is determined to be "probable" by OGC, BFO records the contingent liability in the RRB's general ledger. Other likelihood of loss categories that do not require financial statement liability recognition are "reasonably possible", "remote", or "unable to determine".

During the course of our audit, we became aware of the following circumstances, which raise concern regarding our ability to rely on OGC's legal representation letters. In preparing its October 26, 2017 letter, OGC staff initially determined that the likelihood of loss for a pending litigation case was to be assessed as probable due to a recent judgement that denied the United States government's petition for rehearing. As a result of this judgement, the next step that the Department of Justice would consider taking is an appeal to the United States Supreme Court. During discussions between OIG

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[14] RRB OIG, *Railroad Retirement Board Did Not Calculate Reimbursed Medicare Costs in Accordance With Federal Requirements*, Audit Report No. 16-10 (Chicago, IL: August 22, 2016).

auditors and BFO staff, OIG auditors stated that assessments of probable would require that the contingent liability be recorded in the general ledger, thus impacting the RRB's financial statements. BFO staff indicated that recording this contingent liability would delay BFO's preparation and delivery of the financial statements within the timeframe requested by OIG auditors. Due to the critical timing of receipt of the OGC's October 26, 2017 legal letter and finalization of the RRB's financial statements, BFO staff initiated discussions with OGC staff. BFO staff explained the financial reporting ramifications for an assessment of probable. We were also notified that BFO staff also inquired whether OGC staff had read accounting guidance for contingent liabilities and revenue recognition. BFO staff informed OGC staff that the likelihood of loss should be reasonably possible based on the current circumstances of the case. Subsequent to these discussions with BFO and internal discussions within OGC, the likelihood of loss assessment was issued as reasonably possible by the General Counsel (GC), and the associated liability was not recorded. OIG auditors brought this matter to the attention of management in BFO and OGC in a priority audit memorandum dated November 9, 2017.[15]

In a response provided by OGC and BFO management to the OIG's memorandum, the GC stated that BFO staff did not contact the GC in an attempt to influence the decision making process and BFO communications with OGC did not influence the GC's decision. The GC stated that in making the likelihood of loss determination, she was not influenced by the potential impact on financial statement reporting, and made an impartial legal determination based on her legal expertise. The GC also stated that the ultimate likelihood of loss determination is not made by OGC staff, but is instead made by the GC and that the initial assessment of probable was made without her knowledge. Further, BFO and OGC management expressed concern that the OIG did not conduct a full inquiry into the matter as part of its audit.

Although the facts of the pending litigation had not changed, the likelihood of loss determination was changed from probable as determined by OGC staff to reasonably possible subsequent to discussions with BFO staff. Discussions with BFO and OGC staff and a review of email correspondence show that the final determination for the likelihood of loss was in agreement with the determination sought by BFO. In addition, the GC's assertion that the audit did not conduct a fully inquiry is erroneous. Our communication of the matter through the priority audit memorandum to OGC and BFO management allowed management to respond, which they did during the course of the audit. The GC and the Deputy Chief Financial Officer had been advised that this matter would be included in our forthcoming letter to management. Further, the Deputy Chief Financial Officer and BFO staff attended an exit conference on November 20, 2017, in which a draft of this report, including this matter, was discussed. During that conference, no attendees brought forth any concerns regarding this matter. The additional information provided does not change the appearance that BFO sought to influence the likelihood of loss determination, BFO staff told OGC staff the determination should be

[15] RRB OIG, *Priority Audit Memorandum – Reliability of the Legal Representation Letter*, Priority Audit Memorandum 18-01 (Chicago, IL; November 9, 2017).

changed to reasonably possible, and the legal determination changed subsequent to these discussions.

While OIG auditors will not supplant management's assessment regarding the likelihood of loss, the circumstances around this change provide significant concern regarding our ability to rely on OGC's legal representation letters now and in the future. OGC's legal representation letter provides an important assessment of liability associated with the ongoing litigation that is imperative to the conduct of a financial statement audit. Contingency liability determinations should be made free of pressures related to the financial statement reporting and provide impartial legal determinations of the likelihood of liability based on the legal expertise of OGC staff. The resulting financial recording in the RRB's financial statements should be made by BFO to assure that the RRB's financial statements have a full and reliable picture of the financial condition of the RRB, on which taxpayers, stakeholders, and other interested parties rely.

While this particular incident pertained to a $75 million contingent liability, OIG auditors bring this matter to management's attention as reliance on legal representation letters is imperative to our ability to conduct the financial statement audit.

No recommendation will be made at this time. OIG auditors will monitor this process for future management representation letters.

Management's Response and Our Comments

In its response to findings and recommendations provided in this audit report (see Appendix I), BFO reiterates its concern that OIG auditors did not gather sufficient, appropriate evidence to support this conclusion and goes on to question the OIG's objectivity and audit independence. Further, RRB included its response to our communication of this matter as BFO indicated our summarization of their response was inadequate.

As we described in the finding, we remain concerned about our ability to rely on OGC's legal representation letters. The facts we outline regarding the timing of communication, change of the opinion from the initial likelihood determination, and information shared are not contested by RRB. OGC indicates that none of the communication changed the GC's opinion and the opinion was not influenced by the financial statement outcome. We spoke to several RRB staff in BFO and OGC about what occurred, obtained email documentation in support of what these staff told OIG auditors, and communicated our concern with the GC. As noted in the finding, we do not make any recommendation and conclude that these circumstances raise concern about our ability to rely on the legal representation letters.

Recording Errors that Resulted from Erroneous Calculations or the Lack of Calculations

We found financial statement recording errors due to either the lack of calculations or erroneous calculations made by BFO. These errors pertained to financial interchange and contingent liability transactions. Financial interchange is a term that describes a series of legally mandated periodic fund transfers among RRB, the Social Security Administration, and CMS. The amounts transferred are the result of complex statistical projections made by the Bureau of the Actuary and Research (Actuary) based on the scenario “what if the Railroad Retirement Act had never been enacted.” Contingent liabilities are existing conditions, situations, or sets of circumstances that involve uncertainty as to possible loss to the RRB. Likelihood of loss assessments are made by OGC. Determinations of probable require liability recognition in the agency’s general ledger.

Financial Interchange Calculation Error

Upon receipt of monthly financial interchange data from Actuary, BFO staff calculates and records the change in the financial impact to reflect current RRB balances. These calculations impact multiple RRB financial statements and RRB note for the reconciliation of net cost of operations to budget (RNCOB). BFO’s calculation errors impacted the June 30, 2017 statements and RNCOB as follows:

- balance sheet receivable was understated by approximately $66.7 million;
- two balance sheet payable balances were understated by approximately $68.7 million;
- net cost expense was understated by approximately $59.2 million;
- two net position revenue accounts were understated by approximately $76.1 million; and
- RNCOB obligations balance was understated by approximately $59 million.

OIG auditors inquired about these erroneous calculations. After approximately two months, BFO staff responded that they had made calculation errors that impacted RRB balances. BFO staff stated that the questioned calculations did not appear to be normal as compared to prior years, but these concerns were not addressed prior to being recorded. As a result, the incorrect amounts were recorded in the RRB’s general ledger. Because these errors remained undetected, an approximate $59 million intragovernmental difference was identified when the RRB’s payable balance was compared to Treasury’s receivable balance. To account for this intragovernmental difference for the June 30, 2017 financial statements, BFO prepared an adjusting entry in July 2017. After erroneous calculations were discovered by OIG, BFO prepared an adjusting entry in September 2017 to record the correct amounts in the RRB’s general ledger.

Contingent Liabilities Calculation Error

BFO receives periodic updates regarding contingent liabilities from Actuary for potential future liabilities the RRB may incur as related to financial interchange transactions. Loss contingencies usually involve litigation or legal issues for the Agency. The RRB also may have loss contingencies unrelated to litigation or other legal issues.

Actuary provided computations, but an incorrect total. BFO did not detect this error and recorded the incorrect total, resulting in an understatement of approximately $900,000, as reported for RRB contingent liabilities at September 30, 2016. This understatement remained undetected until it was discovered by OIG auditors during the fiscal year 2017 financial statement audit. OIG auditors and BFO discussed the prior year impact and the need for recognition. Upon determining that this immaterial error did not require restatement of the RRB's prior year financial statements, BFO added a footnote disclosure in the fiscal year 2017 financial statements.

GAO Standards state that management designs appropriate types of control activities that help management fulfill responsibilities and address identified risk responses in the internal control system.[16] Management is to design control activities to ensure that all transactions are completely and accurately recorded.

These errors were caused by inadequate internal controls that resulted from BFO staff performing document reviews under time constraints. During the fiscal year, BFO staff approved a maximum of 35 vouchers in one day by one employee, with an overall average of 116 vouchers approved each month. When BFO is understaffed and must prioritize responsibilities, staff is not allotted adequate time for thorough reviews, allowing calculation errors to go undetected. Furthermore, errors may also go undetected when data from other RRB bureaus is relied upon without verification by BFO.

BFO's calculation errors resulted in errors for RRB's June 30, 2017 financial statements. Had these calculation errors not occurred, the adjusting entries that BFO made to correct some of the errors noted in this finding would not have been necessary.

Recommendation

4. We recommend that the Bureau of Fiscal Operations review and update control procedures and workload priorities to ensure the efficiency and accuracy of the voucher review process.

Management's Response

BFO concurred with recommendation 4.

[16] GAO, GAO-14-704G.

Intragovermental Activities Were Ineffective and Not Performed Timely

We found that BFO did not always perform certain intragovernmental activities effectively or on a timely basis. These activities include the reconciliation of intragovernmental accounts and the transfer of funds with other federal agencies. BFO's reconciliation of payroll tax receipts did not correctly reconcile the Treasury balance with the amount recorded in the general ledger, resulting in a $6.6 million discrepancy in April 2017. BFO did not perform a reconciliation of accounts receivable with the Department of Labor (DOL) for an extended period. BFO transferred $12.5 million of funds with Treasury for DOL on June 9, 2017, but did not record the transaction in the general ledger until August 7, 2017, after inquiry from OIG auditors.

GAO Standards state that management is to perform ongoing monitoring for the design and operating effectiveness of internal control in the normal course of operations.[17]

According to the RRB Accounting Procedures Guide, BFO performs a reconciliation to provide reasonable assurance that payroll tax receipts transferred by Treasury to the trust accounts are in agreement with bank deposits received from the railroads. On a monthly basis, BFO reconciles the monthly closing balance in accounts receivable for DOL to the account statements for the Railroad Unemployment Insurance trust fund.

RRB Accounting Procedures Guide states that vouchers should be prepared as soon as practicable after the transaction occurs or when the documents are received.

Improper review and monitoring of intragovernmental reconciliations did not identify discrepancies or promote their timely completion. The accountant who normally calculated the transfer of funds with the DOL left the agency.

When reconciliations are not properly reviewed and monitored, or intragovernmental transactions are not recorded timely, discrepancies can occur between the RRB balance and the other agency's balance. There was a $37,180 discrepancy between the RRB's accounts receivable with DOL at June 30, 2017.

Recommendation

5. We recommend that the Bureau of Fiscal Operations ensure payroll tax reconciliations and those pertaining to the Department of Labor are performed correctly and in a timely manner.

Management's Response

BFO concurred with recommendation 5.

[17] GAO, GAO-14-704G.

Untimely Recording of Year End Adjustments for Appropriations

BFO did not record a year end adjustment for appropriations in a timely manner. Although these additional appropriations of approximately $6 million had been apportioned, BFO had not recorded these additional funds. As a result, OIG auditors found that year end budgetary financial statements reflected that RRB expenditures exceeded appropriations. Upon notification of this discrepancy, BFO made the year end adjustment and had to resubmit its trial balance file to Treasury.

GAO Standards require accurate and timely recording of transactions.[18] Transactions are to be recorded promptly to maintain their relevance and value to management in controlling operations and making decisions. Management must design control activities to ensure complete and accurate recording of all transactions. This applies to the entire process or life cycle of a transaction or event from its initiation and authorization through its final classification in summary records.

BFO's manual internal controls and controls in the RRB's financial reporting system did not prevent this from occurring. In addition, BFO failed to identify the need to make the year end adjustment for appropriations without OIG notification.

As a result of this error, RRB budgetary financial statements and notes had to be corrected. In addition, BFO had to submit a revised trial balance file to Treasury to reflect this correction. Had OIG auditors not detected this error, the RRB's financial statements could have reflected an Antideficiency Act violation due to agency expenditures exceeding appropriations.[19]

Recommendations

We recommend the Bureau of Fiscal Operations:

6. revise and document manual and automated internal controls to ensure prevention of Antideficiency Act violations; and

7. establish controls to ensure year end adjustment transactions are recorded on a timely basis.

Management's Response and Our Comments

BFO did not concur with recommendation 6 and stated that at no time did expenditures exceed appropriations. They also stated to invoke the Antideficiency Act is imprudent, defies the principle of conservatism, and casts further doubt on the OIG's objectivity. However, as stated in the finding, prior to the year end adjustment being recorded, expenditures did exceed appropriations in RRB's financial reporting system, and importantly, RRB's internal controls did not prevent this from occurring. Further, we did

[18] GAO, GAO-14-704G.
[19] U.S.C § 1341(a) (1) (A)

not assert that there was an Antideficiency Act violation only that had OIG auditor not detected this error one could have been reflected in RRB's financial statements. The purpose of this letter to management is to bring matters such as this to the attention of management to prevent material errors from happening in the future. Due to the lack of concurrence with this recommendation, BFO will take no corrective action, and, as such, this type of recording error could occur again and remain undetected. The OIG continues to see the need for the corrective actions as described in recommendation 6 and will continue to track its status.

BFO concurred with recommendation 7.

Transactions Not in Compliance with the United States Standard General Ledger

We identified two funds for *New obligations and upward adjustments*, Line 2190 per the Statement of Budgetary Resources that were not in agreement with their corresponding proprietary components. The Railroad Retirement Account, Fund 8011, and the Railroad Unemployment Insurance Trust Fund, Fund 805101, had discrepancies of $10.6 million and $9.3 million, respectively.

Obligations are defined as "a binding agreement that will result in outlays, immediately or in the future. Budgetary resources must be available before obligations can be incurred legally."[20] The United States Standard General Ledger (USSGL) Account Transactions guidance provides both proprietary and budgetary account numbers for the transactions that comprise new obligations.[21]

The discrepancies were caused because BFO was not using the USSGL as a guide when recording obligations. We identified instances where the benefit expense account was recorded without the corresponding budgetary entries, which is contrary to USSGL guidance.

The effect of these transactions was an understatement of benefit expense and discrepancies between the proprietary and budgetary components of new obligations.

Recommendation

8. We recommend the Bureau of Fiscal Operations ensure transactions that comprise *New obligations and upward adjustments* for the Statement of Budgetary Resources include appropriate proprietary and budgetary accounts in accordance with the United States Standard General Ledger.

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[20] Office of Management and Budget (OMB), *Preparation, Submission, and Execution of the Budget*, OMB Circular A-11 (Washington, D.C.; July 2016).
[21] U.S. Department of the Treasury, *United States Standard General Ledger*, Bulletin No. 2017-06 (Washington, D.C.; June 2017).

Management's Response

BFO concurred with recommendation 8.

Voucher Approvers Volunteer Rather Than Being Designated

We found that some BFO transactions were reviewed by BFO staff other than supervisory accountants. BFO procedures now permit voucher transactions recorded in the RRB's financial reporting system to be approved by designees, while other procedures require review by supervisory accountants. We found that some transactions that require review by supervisory accountants were reviewed by designees. When the OIG inquired about procedures to document the designees, OIG auditors were informed that the designees are BFO staff who volunteer to review the transactions.

Effective documentation assists in management's design of internal control by establishing and communicating the who, what, when, where, and why of internal control execution to personnel.

BFO staff stated that in December 2016, accounting supervisors decided to take volunteers from BFO accounting staff to begin approving vouchers in the RRB's financial reporting system due to understaffing. The only documentation BFO could provide to support how, why, and when this decision was made was an email asking the BFO financial systems manager to update a BFO accountant's general ledger access profile to permit approval of voucher transactions.

Approval of voucher transactions by volunteers within BFO staff increases the risk of errors in financial recording, thus potentially impacting the agency's financial statements.

Recommendation

9. We recommend that the Bureau of Fiscal Operations develop and document criteria for the transition of nonsupervisory staff from voucher preparer to voucher approver.

Management's Response and Our Comments

BFO did not concur with recommendation 9 and stated that the current process allows accounting supervisors to approve experienced accountants who volunteer to approve vouchers in the agency's financial reporting system. They also stated that where volunteers are necessary, they will be selected based on experience and competency. They went on to state that the current process maintains flexibility to execute its mission under periodic resource constraints. They also stated that they plan to hire two new senior accountants who, with supervisory personnel, will be responsible for voucher review.

While the OIG acknowledges that resource constraints can pose difficulties and that flexibility is needed, our concern remains for BFO management to ensure that staff with elevated responsibilities be appointed rather than volunteer. Although they state that new hires will be charged with review responsibilities, our concerns remain for the volunteer process that remains in place. While BFO indicates that volunteers will be chosen based on experience and competence, without documented criteria, this process might not be adequately implemented. Given BFO's significant responsibilities for financial reporting for the entire agency, it is crucial that only those with the required experience and competency work in the capacity of reviewers.

UNITED STATES GOVERNMENT
MEMORANDUM

FORM G-115f (1-92)
RAILROAD RETIREMENT BOARD

January 19, 2017

TO: Heather J. Dunahoo
Assistant Inspector General for Audit

FROM: Shawna R. Weekley
Deputy Chief Financial Officer

SHAWNA WEEKLEY

SUBJECT: Draft Fiscal Year 2017 Financial Statement Audit Letter to Management

A. FINANCIAL REPORTING:

The Office of Inspector General (OIG) continues to render a disclaimer opinion on the RRB's financial statements and cites lack of access to National Railroad Retirement Investment Trust (NRRIT) auditors as justification. In a previous audit report the OIG suggested that the Board establish an independent committee that would work to identify a functional solution to enable communication between the OIG and NRRIT's auditor. By teleconference on December 1, 2017, the RRB and OIG were informed that the Office of Management and Budget (OMB), the United States Department of the Treasury (UST), the Government Accountability Office (GAO) and NRRIT agreed to a functional solution that provides GAO audit personnel access to NRRIT's auditors. As stated in the OIG's draft letter to management, during the teleconference OIG auditors and RRB management were informed that NRRIT net assets will continue to be reported as assets of the federal government at the governmentwide level. The purpose of OMB, UST, and GAO intervention was to find a functional solution to resolve material weaknesses and the disclaimer of opinion that impact the governmentwide financial statements. The OMB, UST, and GAO believe that NRRIT's agreement to provide GAO audit personnel access to NRRIT's auditors satisfactorily resolves the disclaimer of opinion on the governmentwide financial statements stemming from the OIG's disclaimer of opinion on the RRB's financial statements. Since the RRB financial statements consolidate into the governmentwide financial statements, the RRB expects this arrangement adequately addresses the OIG's concerns.

The OIG also continues to report a material weakness related to financial reporting. The primary evidence provided to support the material weakness was documentation not stored in the Bureau of Fiscal Operations' financial reporting system of record. The documentation was, however, stored in hard copy and readily available for review as required by Government Accountability Office guidance, *Standards for Internal Control in the Federal Government* (GAO-14-704G). To suggest that the documentation was "missing," as the OIG did, is patently false and purposefully overstates the magnitude of the discrepancy. Upon review of the documentation, the OIG did not take exception with the accuracy or completeness of the documentation the RRB provided to support the validity of the transactions. Therefore, the Bureau of Fiscal Operations (BFO) disagrees that the evidence cited supports a material weakness.

B. CONTROL ENVIRONMENT:

The OIG continues to assert a second material weakness stating that the RRB's control environment may have a detrimental effect on the RRB's financial statements. The OIG bases this second material weakness on ineffective accountability enforcement as defined by OMB and GAO guidance. As previously reported, the RRB rejects this material weakness because the OIG has not provided sufficient evidence to support the assertion. The evidence provided only demonstrates that the RRB disagreed with OIG proposed action(s). The implication of this material weakness is that the RRB does not have the authority, or prerogative, to disagree with OIG audit findings or recommendations. Ceding that authority to the OIG compromises audit independence. Therefore, in the interest of preserving audit independence, and management's authority to disagree with audit findings and recommendations, the RRB must reject this material weakness.

C. OTHER MATTERS:

SEPARATION OF DUTIES AND CHANGES IN PROCEDURES

NON-CONCUR with the Finding as noted below.

This finding is erroneous because the BFO maintained adequate segregation of duties as defined by GAO *Standards for Internal Control in the Federal Government* (GAO-14-704G). The GAO standards for segregation of duties require separating responsibilities so that no one individual controls all key aspects of a transaction. The Inspector General's finding addresses non-compliance with, and changes to, the BFO's Accounting Procedures Guide (APG), an internal procedure document that contained a more stringent requirement than GAO standards require. However, a staffing shortage necessitated deviation from, and changes to, the BFO's APG. Despite this deviation the process maintained adequate separation of duties as defined by GAO. Specifically, and as noted by the OIG in this draft letter to management, no one individual controlled all aspects of the transactions. Additionally, while changes were made to the BFO's APG to compensate for a staffing shortage, the existing procedure provided sufficient control.

Recommendation 1: We recommend that the BFO adhere to documented RRB APG to ensure adequate separation of duties.

Management Response: CONCUR with Recommendation 1. The BFO will adhere to documented accounting procedures unless circumstances, such as staffing shortages, require deviation. Mitigating controls will be followed as necessary.

The BFO considers this recommendation closed and will, therefore, take no further action.

Recommendation 2: We recommend that the BFO reconsider whether a higher second level of review should be required for the calculation of transfers that the RRB receives from the National Railroad Retirement Investment Trust and document its consideration and conclusion.

Management Response: NON-CONCUR with Recommendation 2. The monthly NRRIT transfer transactions are reviewed by the Chief of Accounting and Budget before they are released to the NRRIT. Monthly emails from the Chief of Accounting and Budget to the NRRIT were provided as evidence of review. Also, per GAO *Standards for Internal Control in the Federal Government* (GAO-14-704G) adequate segregation of duties exists in the current process.

COST ALLOCATION PLAN

CONCUR with the Finding.

Recommendation 3: We recommend that the BFO prepare the Cost Allocation Plan Medicare Parts B, C, and D Administrative Costs annually and provide it as support for audit purposes by the dates specified during each financial statement audit.

Management Response: CONCUR with Recommendation 3. The BFO prepares a Cost Allocation Plan annually and will provide the most current version available for audit purposes.

The BFO considers this recommendation closed and will, therefore, take no further action.

LEGAL DETERMINATION

NON-CONCUR with the Finding as noted below.

Management Response: The auditors did not gather sufficient, appropriate evidence to support this conclusion. Therefore the RRB rejects this finding and questions the OIG's objectivity and therefore, audit independence. Further, the OIG did not adequately summarize RRB's response to Priority Audit Memorandum - Reliability of the Legal Representation Letter (PAM 18-01). Therefore, the RRB's response to PAM 18-01 is attached. We also note that the listing of "Recommendation" under this finding in the Table of Contents is misleading as no recommendation was made.

RECORDING ERRORS

CONCUR with the Finding.

Recommendation 4: We recommend that the BFO review and update control procedures and workload priorities to ensure the efficiency and accuracy of the voucher review process.

Management Response: CONCUR with Recommendation 4. Target Date: August 31, 2018.

INTERGOVERNMENTAL ACTIVITIES

CONCUR with the Finding.

Recommendation 5: We recommend that BFO ensure payroll tax reconciliations and those pertaining to the Department of Labor are performed correctly and in a timely manner. We recommend that the BFO ensure payroll tax reconciliations and those pertaining to the

Department of Labor are performed correctly and in a timely manner.

Management Response: CONCUR with Recommendation 5. Target Date: August 31, 2018.

YEAR END ADJUSTMENTS

CONCUR with the Finding.

Recommendation 6: We recommend that the BFO revise and document manual and automated internal controls to ensure prevention of antideficiency violations.

Management Response: NON-CONCUR with Recommendation 6. The finding addresses a recording issue related to a year end adjustment. At no time did expenditures exceed appropriations, a fact borne out by very basic audit tests. To invoke The Antideficiency Act is imprudent, defies the principle of conservatism and casts further doubt on the OIG's objectivity. Specifically, purposefully inflating the magnitude/materiality of a deficiency, such as invoking The Antideficiency Act when the OIG's audit tests proved definitively that no Antideficiency Act violation existed, impugns audit credibility, and therefore, its objectivity and independence. The GAO's *Government Auditing Standards* states "the credibility of auditing in the government sector is based on auditors' objectivity in discharging their professional responsibilities. Objectivity includes independence of mind and appearance when providing audits, maintaining an attitude of impartiality, having intellectual honesty, and being free of conflicts of interest."

Recommendation 7: We recommend that BFO establish controls to ensure year end adjustment transactions are recorded on a timely basis.

Management Response: CONCUR with Recommendation 7. Target Date: October 31, 2017.

UNITED STATES STANDARD GENERAL LEDGER TRANSACTIONS

NON-CONCUR with the Finding as noted below.

The cause statement, "the discrepancies were caused because BFO was not using the USSGL as a guide..." is erroneous because the BFO is/was using the USSGL as a guide. There was simply a disagreement between the OIG auditors and RRB personnel on how to interpret the USSGL guidance as it relates to recording the cited transactions.

Recommendation 8: We recommend the BFO ensure transactions that comprise *new obligations and upward adjustments* for the Statement of Budgetary Resources include appropriate proprietary and budgetary accounts in accordance with the United States Standard General Ledger.

Management Response: CONCUR with Recommendation 8, corrective action complete.

The BFO considers this recommendation closed and will, therefore, take no further action. Specifically, the BFO adjusted the recording process for transactions of this type at the beginning of fiscal year 2018.

VOUCHER APPROVERS

NON-CONCUR with the Finding.

The OIG did not provide a regulatory basis to support the perceived deficiency. Therefore, the BFO non-concurs with the finding. Additionally, the current process maintains adequate separation of duties. Please see further discussion below in our response to recommendation nine.

Recommendation 9: We recommend that the BFO develop and document criteria for the transition of nonsupervisory staff from voucher preparer to voucher approver.

Management Response: NON-CONCUR with Recommendation 9. The current process allows accounting supervisors to approve experienced accountants who volunteer to approve vouchers on FMIS, which is sufficient for voucher processing internal controls. Additionally, the RRB is hiring two senior accountants who, with supervisory personnel, will be responsible for voucher review. In situations where volunteers are necessary they will be selected based on experience and competency while maintaining adequate separation of duties. The current process maintains flexibility to execute mission while maintaining adequate control under periodic resource constraints (i.e. staffing shortage).

Attachment:
Response to Priority Audit Memorandum – Reliability of the Legal Representation Letter (PAM 18-01)

CC: Dan Fadden, Senior Executive Officer/Director of Field Service
Ana Kocur, General Counsel
John Walter, Chief of Accounting and Budget
Jeff Baer, Director of Audit Affairs and Compliance

UNITED STATES GOVERNMENT

MEMORANDUM

FORM G-115f (1-92)

RAILROAD RETIREMENT BOARD

November 22, 2017

TO: Heather J. Dunahoo
Assistant Inspector General for Audit

FROM: Ana M. Kocur
General Counsel ANA KOCUR

Shawna Weekley
Deputy Chief Financial Officer SHAWNA WEEKLEY

SUBJECT: **Response to Priority Audit Memorandum – Reliability of the Legal Representation Letter (PAM 18-01)**

This is in response to Priority Audit Memorandum 18-01. In such memorandum the Office of the Inspector General (OIG) concluded that there was a financial statement internal control concern and questioned the integrity of the General Counsel, both without ever having completed a full inquiry during the course of the audit to ensure the auditors had all sufficient and appropriate evidence.

The failure to complete a full inquiry raises questions regarding the audit's compliance with the provisions of the 2011 Government Auditing Standards, commonly referred to as the generally accepted government auditing standards (GAGAS), as well as the American Institute of Certified Public Accountants (AICPA) Statements on Auditing Standards (SAS), standards to which OIG audits are subject. GAGAS "contains requirements and guidance to assist auditors in **objectively acquiring and evaluating sufficient and appropriate evidence** and reporting the results." GAGAS ¶ 1.05 (emphasis added). The AICPA SAS AU-C § 500.05 defines "appropriateness" as "[t]he measure of the quality of audit evidence (that is reliability in providing support for the conclusions on which the auditor's report is based)" and "sufficiency" as "[t]he measure of the quantity of audit evidence. The quantity of the audit evidence needed is affected by the auditor's assessment of the risks of material misstatement and also by the quality of such audit evidence."

AU-C section 500 also discusses audit procedures for obtaining audit evidence. One such procedure is inquiry. AU-C § 500.A23 defines "inquiry" as "seeking information of knowledgeable persons, both financial and non-financial. Inquiry is used extensively throughout the audit." AU-C § 500.A25 further states as follows:

> Although corroboration of evidence obtained through inquiry is often of particular importance, in the case of inquiries about management intent, the information available to support management's intent may be limited. In these cases, understanding management's past history of carrying out its stated intentions, management's stated reasons for choosing a particular course of action, and management's ability to pursue a specific course of action may provide relevant information to corroborate the evidence obtained through inquiry.

To support its conclusions, the OIG relies solely on communications by staff from both the Office of General Counsel (OGC) and the Bureau of Fiscal Operations (BFO) to find that such communications "provided undue pressure and influence on OGC in making its legal determination." OIG further speculated that "based on the timing of conversations and changes to the likelihood determination that, had discussions not ensued between BFO and OGC, the amount would have been recorded as a contingent liability." Finally, the OIG asserts that "[c]ontingency determinations should be made free of pressures related to financial statement reporting and provide impartial legal determinations of the likelihood of liability based on the legal expertise of OGC."

As is well known, the ultimate determination as to the likelihood of a contingent liability related to pending litigation is not made by staff, but is instead made directly by the General Counsel. At no point did the OIG conduct an inquiry with the General Counsel to have such individual provide her explanation of how she made the determination regarding the contingent liability in this instance. The OIG's failure to conduct sufficient inquiry with the General Counsel, the ultimate decision-maker, and instead completely rely on communications between staff as evidence for its conclusion, raises the question as to whether the intent here was to make a predetermined conclusion or actually arrive at the truth of the matter. AU-C § 200.A17 in defining "independence" as one of the ethical requirements of auditors notes that "[i]ndependence implies an impartiality that recognizes an obligation to be fair not only to management and those charged with governance of an entity but also users of the financial statements who may rely on the independent auditor's report."

As the OIG failed to conduct an inquiry, we state here as follows:

1) The initial assessment made in the email dated October 23, 2017 as to the classification of the contingent liability at issue was not made by the General Counsel or with her knowledge. When the General Counsel learned of it she directed that a communication be sent to clarify what the **General Counsel's** ultimate determination would be;

2) BFO staff **did not** contact the General Counsel in an attempt to influence her decision-making;

3) BFO communications with OGC **did not** influence the General Counsel's decision; and

4) The General Counsel unequivocally states that in making her determination she was not concerned with or influenced by the potential impact on financial statement reporting, and did in fact make an impartial legal determination of the likelihood of liability based on her legal expertise.

The audit function that the OIG performs is an important one. As stated in GAGAS, "GAGAS contains requirements and guidance to assist auditors in objectively acquiring and evaluating evidence and reporting the results. When auditors perform their work in this manner and comply with GAGAS in reporting the results, their work can lead to improved government management, better decision making and oversight, effective and efficient operations, and accountability and transparency for resources and results." GAGAS ¶ 1.05. However, in order to achieve such results both management and other end-users of audits must have confidence that all applicable audit standards and requirements were followed.

cc: Dan Fadden, Senior Executive Officer
John M. Walter, Chief of Accounting and Budget
Jeffrey G. Baer, Director of Audit Affairs and Compliance
Eunice Kirk, General Attorney

Status of Prior Letter to Management Audit Recommendations Since February 2017

We have reviewed the implementation of recommendations resulting from prior audits of the RRB's financial statements. The table below presents a summary of the current status of recommendations that were pending when we issued our Letter to Management dated February 16, 2017, in connection to our audit of the RRB's fiscal year 2016 financial statements.

		Status of Corrective Action	
Bureau and Audit Recommendation	**Audit Area**	**Completed As Of**	**In Progress**
BUREAU OF FISCAL OPERATIONS			
The Bureau of Fiscal Operations should strengthen its internal controls over the review and approval process to ensure that all vouchers are properly prepared, are only prepared after completion of a transaction, have sufficient documentation, and are approved by designated officials. (RRB OIG Audit Report 14-02, Recommendation No. 1)	Accounting		X
The Bureau of Fiscal Operations should develop and implement new controls for financial reporting. (RRB OIG Audit Report 15-05, Recommendation No. 2)	Accounting		X
The Bureau of Fiscal Operations should develop and implement a policy to inform the financial statement auditors of significant internal control deficiencies as predefined by financial statement auditors each year. (RRB OIG Audit Report 16-04, Recommendation No. 1)	Accounting		X
The Bureau of Fiscal Operations should develop and implement controls to ensure that posting logic changes remain in compliance with United States Standard General Ledger guidance. (RRB OIG Audit Report 16-04, Recommendation No. 3)	Accounting	November 2017	
The Bureau of Fiscal Operations should design and implement new controls, policies, and/or procedures for the reconciliation of the statement of net cost to budget note to ensure that amounts are fully supported. (RRB OIG Audit Report 16-04, Recommendation No. 4)	Accounting		X

Status of Prior Letter to Management Audit Recommendations Since February 2017

Bureau and Audit Recommendation	Audit Area	Status of Corrective Action: Completed As Of	Status of Corrective Action: In Progress
BUREAU OF FISCAL OPERATIONS CONTINUED			
The Bureau of Fiscal Operations should update the RRB's official record in its financial reporting system to include the missing documentation cited in this finding to ensure that they have adequate support to validate the transactions. (RRB OIG Audit Report 17-03, Recommendation No. 1)	Accounting	May 2017	
The Bureau of Fiscal Operations should improve controls to ensure consistency between transactions recorded on the voucher input form and the actual entry in the Financial Management Integrated System. (RRB OIG Audit Report 17-03, Recommendation No. 6)	Accounting		X
The Bureau of Fiscal Operations should ensure that general ledger accounts used in supporting schedules for financial interchange calculations are consistent with those used on the face of the voucher. (RRB OIG Audit Report 17-03, Recommendation No. 7)	Accounting		X
The Bureau of Fiscal Operations should implement document review and approval procedures to ensure that accurate responses are provided for the financial statement checklists as provided in the Financial Audit Manual. (RRB OIG Audit Report 17-03, Recommendation No. 8)	Accounting		X
RAILROAD RETIREMENT BOARD			
The Board Members should establish an independent committee that will work to identify a functional solution that will enable communication between the OIG and the National Railroad Retirement Investment Trust's component auditor and achieve compliance with American Institute of Certified Public Accountants standards. (RRB OIG Audit Report 15-05, Recommendation No. 8)	Accounting	Despite a response of nonconcurrence, the OIG believes this recommendation should be implemented and will track its status.	
EXECUTIVE COMMITTEE			
The Executive Committee should direct RRB management to elevate RRB OIG auditor concerns regarding application of authoritative guidance and laws and regulations for Executive Committee determinations when RRB management disagrees with RRB OIG auditor assessments. (RRB OIG Audit Report 17-03, Recommendation No. 2)	Control Environment	Despite a response of nonconcurrence, the OIG believes this recommendation should be implemented and will track its status.	

Status of Prior Letter to Management Audit Recommendations Since February 2017

Bureau and Audit Recommendation	Audit Area	Status of Corrective Action: Completed As Of	Status of Corrective Action: In Progress
EXECUTIVE COMMITTEE CONTINUED			
The Executive Committee should develop and implement Executive Committee procedures for enforcement of RRB management responsibilities when RRB management does not take appropriate corrective actions in regard to the application of authoritative guidance and laws and regulations. (RRB OIG Audit Report 17-03, Recommendation No. 3)	Control Environment	Despite a response of nonconcurrence, the OIG believes this recommendation should be implemented and will track its status.	
The Executive Committee should direct RRB management to ensure that RRB OIG auditors are provided with timely notification of significant matters that could impact the RRB's financial statements. (RRB OIG Audit Report 17-03, Recommendation No. 4)	Control Environment		X
The Executive Committee should direct RRB management to ensure that they meet with RRB OIG auditors to discuss matters of significant importance as requested by RRB OIG auditors. (RRB OIG Audit Report 17-03, Recommendation No. 5)	Control Environment	February 2017	
OFFICE OF PROGRAMS			
The Office of Programs should identify and correct cases in which an incorrect Medicare Part B penalty is being collected. (RRB OIG Audit Report 09-02, Recommendation No. 12)	Medicare		X
The Office of Programs should assess the current control environment to determine what action may be necessary to minimize the risk of errors in Medicare Part B premiums. (RRB OIG Audit Report 09-02, Recommendation No. 13)	Medicare		X
OFFICE OF GENERAL COUNSEL			
The Office of General Counsel should develop and implement procedures and controls to ensure that the required Department of Justice forms are prepared. (RRB OIG Audit Report 15-05, Recommendation No. 12)	Legal Representation Letter		X

Status of Prior Letter to Management Audit Recommendations Since February 2017

Bureau and Audit Recommendation	Audit Area	Status of Corrective Action: Completed As Of	Status of Corrective Action: In Progress
BUREAU OF THE ACTUARY AND RESEARCH			
The Bureau of the Actuary should implement an expanded review and approval process to ensure that all statements and supporting schedules are accurate and consistent. (RRB OIG Audit Report 09-02, Recommendation No. 9)	Social Insurance		X
The Bureau of the Actuary should review and update management control review documentation. (RRB OIG Audit Report 09-02, Recommendation No. 10)	Social Insurance		X
The Bureau of the Actuary should develop and implement controls to ensure compliance with accounting standards and Office of Management and Budget requirements that impact social insurance reporting. (RRB OIG Audit Report 12-04, Recommendation No. 3)	Social Insurance		X
The Bureau of the Actuary should update the quality assurance steps and checklists in their Policies and Procedures for Actuarial Projections to include requirements for the Statement of Changes in Social Insurance Amounts. (RRB OIG Audit Report 12-04, Recommendation No. 4)	Social Insurance		X
The Bureau of the Actuary should modify their procedure for updating the Policies and Procedures for Actuarial Projections to include a comprehensive review of all sections and checklists, and ensure timely and full compliance with the new requirements. (RRB OIG Audit Report 12-04, Recommendation No. 5)	Social Insurance		X