

REDACTED

Federal Housing Finance Agency
Office of Inspector General



**Administrative Investigation of an
Anonymous Hotline Complaint
Alleging Use of FHFA Vehicles and
FHFA Employees in a Manner
Inconsistent with Law and
Regulation**



OFFICE OF INSPECTOR GENERAL
Federal Housing Finance Agency

400 7th Street SW, Washington, DC 20219

December 6, 2016

[REDACTED]
Federal Housing Finance Agency
400 7th Street SW
Washington, DC 20219

Re: Hotline Complaint

Dear [REDACTED]:

The Federal Housing Finance Agency (FHFA) Office of Inspector General (OIG) conducted an administrative investigation of an anonymous hotline complaint alleging that [REDACTED] tasked FHFA employees to drive your wife on personal errands including shopping trips, and tasked subordinate FHFA employees to make personal travel arrangements for your wife.

The administrative investigation conducted by FHFA-OIG included: collection and review of relevant laws, regulations, Agency policies, emails and calendar entries of certain FHFA employees maintained on the Agency's email server, daily calendar entries for [REDACTED], and airline reservations for [REDACTED] and family members; and interviews of ten current or former Agency employees, some more than once. FHFA provided all documents that we requested and all FHFA employees whom we interviewed were candid and cooperated fully with us.

Summary of Findings

Our findings, which we discuss in detail below, based on the evidence obtained during our administrative investigation, are:

1. Information obtained during our administrative investigation did not substantiate the allegation that [REDACTED] tasked FHFA employees to drive his wife on personal errands, including shopping trips from January 1, 2014, through August 31, 2016 (Review Period). We found no evidence during the Review Period that: [REDACTED] wife was transported by an FHFA employee in an FHFA vehicle to run personal errands; and/or that [REDACTED] wife rode in an FHFA vehicle when she was not in the company of [REDACTED].
2. In the course of our inquiry into the first allegation of the anonymous hotline complaint, we found evidence of 57 dates on which FHFA employees were scheduled to transport [REDACTED] to or from airports for personal travel. The FHFA employee with primary responsibility for transporting [REDACTED] recalled to us that some of the travel

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scheduled for these dates was cancelled but estimated that he drove [REDACTED] to or from airports on about 50 of those occasions. Because FHFA employees did not maintain usage logs for the leased vehicle used to transport [REDACTED], we were unable to determine with certainty the actual number of times that FHFA employees transported [REDACTED]. We found that this use of an FHFA leased vehicle was inconsistent with the applicable statute, 31 U.S.C. § 1344(g), implementing regulations, and FHFA's Vehicle Use Policy, approved by the former FHFA Acting Director in June 2011.

We found that [REDACTED] was advised by [REDACTED] and other Agency officials shortly after he joined FHFA that the Agency intended to provide [REDACTED], including transportation to airports and that [REDACTED] accepted the use of an FHFA vehicle and driver to transport him to and from airports in connection with his personal travel. Based on our review of the evidence obtained during this administrative investigation, we found that [REDACTED] relied on [REDACTED] and other Agency officials, with long-standing government experience, to ensure that his transportation in FHFA vehicles was appropriate. We found no evidence that [REDACTED] knew that the Agency's provision of this transportation during the Review Period was inconsistent with federal law.

During our administrative investigation, we learned that FHFA's Office of General Counsel (OGC) prepared a memorandum for [REDACTED] in February 2012 (February 2012 OGC Memo) that explained in detail the statutory and regulatory requirements for home-to-work transportation. We did not determine whether [REDACTED] received or reviewed this memorandum. Other FHFA officials responsible for providing transportation to [REDACTED], told us that they: were not aware of this February 2012 OGC Memo; lacked knowledge about the governing statutory and regulatory requirements; and believed that they were following the Vehicle Use Policy when they authorized or provided home-to-work and office-to-airport transportation to [REDACTED] as a safety precaution. None of these employees sought guidance from FHFA's OGC until after March 2016, when certain of them became aware of the OIG's administrative investigation. Even after FHFA senior officials were made aware that [REDACTED] use of FHFA transportation to and from area airports in connection with his personal travel was inconsistent with the Vehicle Use Policy, FHFA continued to provide this transportation through the end of the Review Period. [REDACTED]

[REDACTED] reported to us that, in March 2016, he provided a copy of the Vehicle Use Policy to [REDACTED] and spoke with him to ensure that he understood that policy and followed it. [REDACTED] recalled that [REDACTED] stated that he was aware of that policy and was following it. We found no evidence that, as of the end of the Review Period (August 31, 2016), [REDACTED] was aware of the statutory and regulatory requirements governing use of an FHFA vehicle or knew that the Vehicle Use Policy failed to track those requirements.

We also found that FHFA employees maintained no usage logs for those vehicles used by [REDACTED] that were not leased from the General

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Services Administration (GSA) in contravention of 31 U.S.C. § 1344(f). These employees reported that they believed that usage logs were not required for such vehicles.

3. With respect to the second allegation in the anonymous hotline complaint, we found that [REDACTED] tasked subordinate FHFA employees on 28 occasions to research and/or book 52 airline flights for his or his family members' personal travel. We further determined that [REDACTED] tasked subordinate FHFA employees to research or book airline flights for [REDACTED] wife on three occasions when she accompanied him on official travel. Pursuant to 5 C.F.R. § 2635.102(b), we sought the opinion of FHFA's Designated Agency Ethics Official (DAEO) regarding whether [REDACTED] use of subordinate employees to research and/or make airline reservations for [REDACTED] personal and/or family member travel were "required in the performance of official duties or authorized in accordance with law or regulation" under the Standards of Ethical Conduct for Employees of the Executive Branch. The DAEO opined, in writing, that the researching and/or booking of airline reservations for personal travel by [REDACTED] or his family by subordinate FHFA employees were not "required in the performance of official duties or authorized in accordance with law or regulation" as contemplated under 5 C.F.R. § 2635.705(b), and that "no procedures authorizing such actions exist in FHFA policies, supplemental ethics regulation or law."

Discussion of Findings

No Evidence Found to Substantiate Allegation of Personal Use of an FHFA Vehicle by [REDACTED] Spouse

As discussed more fully below, 31 U.S.C. § 1344, Passenger Carrier Use (Section 1344), and its implementing regulations, authorize federal agencies to provide transportation for official purposes. The anonymous hotline complaint alleged that [REDACTED] tasked FHFA employees to drive his wife on personal errands including shopping trips. Our review of electronic and hard copy documents, including emails and calendar entries, and our interviews of Agency employees, including [REDACTED], found no evidence to substantiate this allegation and found no evidence that [REDACTED] wife was transported by an FHFA employee in an FHFA vehicle to run personal errands.

[REDACTED] Use of an FHFA Vehicle for Transportation To and From Airports in Connection with Personal Travel Is Inconsistent with Section 1344 and Implementing Regulations

In the course of our administrative investigation of the allegations in the anonymous hotline complaint, we found evidence of 57 dates on which FHFA employees were scheduled to transport [REDACTED] to or from airports for personal travel during the Review Period. The FHFA employee with primary responsibility for transporting [REDACTED] recalled to us that some of the travel scheduled for these dates was cancelled but estimated that he drove [REDACTED]

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█████ to or from airports on about 50 of those occasions.¹ Because FHFA employees did not maintain usage logs for the leased vehicle used to transport █████, we were unable to determine with certainty the actual number of times that FHFA employees transported █████ to and from airports in connection with personal travel during the Review Period.

For 56 of these 57 dates, FHFA documents show that FHFA employees were scheduled to transport █████ in a vehicle leased by FHFA to or from area airports in connection with his personal travel to █████. The FHFA employee primarily responsible for transporting █████ reported to us that he customarily picked up █████ at FHFA headquarters, stopped at █████ apartment in █████ for █████ to pick up his bags or a computer, and then drove █████ to an area airport for his flight to █████. For the return trips, he reported that he typically picked up █████ at an area airport and dropped off █████ at his apartment █████, at █████ request. For one of the 57 dates, we identified that an FHFA employee traveled to Philadelphia International Airport to pick up █████ on his return from a personal trip to █████.

Section 1344 and its implementing regulations set forth the circumstances in which Federal agencies, including non-appropriated agencies such as FHFA, are authorized to use funds, obtained by appropriation or otherwise, for the maintenance, operation or repair of any passenger vehicle used to provide transportation for official purposes.² Section 1344(g) and its implementing regulation, 41 C.F.R. § 102-34.210, authorize the head of a Federal agency to use a government vehicle to transport an agency officer or employee between the place of employment and a mass transit facility, provided that certain conditions are met. Those conditions include:

- Determination in writing, by the head of a Federal agency, in his or her sole discretion, that transportation in an agency vehicle from the place of employment to a mass transit facility is appropriate and consistent with sound budget policy, which is valid for one year;
- No safe and reliable commercial or duplicative Federal mass transportation service exists that serves the same route on a regular basis;
- Such transportation is made available, space provided, to other Federal employees;
- Alternative fuel vehicles should be used to the maximum extent practicable;
- Transportation should be provided in a manner that does not result in any additional gross income for Federal income tax purposes; and
- Ridership levels must be frequently monitored to ensure the cost/benefit of providing and maintaining this transportation.

We found that none of these conditions were met here.

¹ Two other FHFA employees served as back-up drivers when █████ primary driver was unavailable. The back-up drivers each reported to us that they dropped off or picked up █████ at local airports on several occasions; however, they did not know whether those trips were for personal or official travel.

² Our review focused on two specific authorizations in this statute, 31 U.S.C. § 1344(b)(9), authorization for home-to-work, and 31 U.S.C. § 1344(g), authorization for office-to-mass transportation facility.

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Based on the facts learned during our administrative investigation, we found that [REDACTED] [REDACTED] FHFA employees to provide both [REDACTED] and [REDACTED] with transportation in FHFA vehicles, and that such transportation was inconsistent with Section 1344. Based on our review of these facts, we determined that [REDACTED] relied on [REDACTED] and other Agency officials, with long-standing government experience, to ensure that his transportation in FHFA vehicles was appropriate. As we now show, the Agency did not obtain the necessary determinations to provide home-to-work transportation under 31 U.S.C. § 1344(b)(9), or to provide office-to-mass transit transportation under 31 U.S.C. § 1344(g).

1. Authorization of “portal-to-portal” transportation for [REDACTED].

During the first half of 2012, [REDACTED] began receiving death threats by telephone, email, and social media regarding FHFA decisions relative to the housing market.

Section 1344(b)(9) authorizes federal agencies to provide home-to-work transportation when the head of that agency determines “that highly unusual circumstances present a clear and present danger, that an emergency exists, or that other compelling operational considerations make such transportation essential to the conduct of official business.” Implementing regulations, 41 C.F.R. Part 102-5, define the terms “clear and present danger” to mean:

[H]ighly unusual circumstances that present a threat to the physical safety of the employee or their property when the danger is: (1) Real; and (2) Immediate or imminent, not merely potential; and (3) The use of a Government [vehicle] would provide protection not otherwise available.

Any determinations made under 31 U.S.C. § 1344(b)(9) and implementing regulations, 41 C.F.R. Part 102-5, must:

- Be made solely by the head of the agency and be in writing (31 U.S.C. §§ 1344(d)(1), (3); 41 C.F.R. §§ 102-5.40, 102-5.55);
- Identify the name and title of the affected employee, the reason for the home-to-work authorization, and the expected duration of the transportation (31 U.S.C. § 1344(d)(1); 41 C.F.R. § 102-5.120);
- Be limited to 15 calendar days, which can be extended for unlimited 90-day periods upon a finding by the head of the agency that the circumstances giving rise to a “clear and present danger” are continuing (31 U.S.C. §§ 1344(b)(9), (d)(2); 41 C.F.R. § 102-5.65);
- Be reported to chairs of Senate and House oversight committees no later than 60 calendar days after the first determination and subsequent determinations may be consolidated into a single report and submitted quarterly (31 U.S.C. § 1344(d)(4); 41 C.F.R. §§ 102-5.110, 102-5.115); and
- Be documented with usage logs or other records to verify that the home-to-work transportation was for the authorized purpose. (31 U.S.C. § 1344(f); 41 C.F.R. § 102-5.120).

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In February 2012, FHFA's OGC prepared a memorandum for [REDACTED] in which it addressed whether the death threats received by [REDACTED] could constitute the predicate "highly unusual circumstances" needed for home-to-work transportation.³ The 2012 OGC Memo accurately explained the statutory and regulatory requirements for home-to-work transportation. We did not determine whether [REDACTED] received or reviewed it. The Vehicle Use Policy, adopted in June 2011 and signed by the then-Acting FHFA Director, is summary in nature and omits a number of requirements set forth in 31 U.S.C. § 1344 and its implementing regulations.⁴

In light of the threats received by [REDACTED], the Agency retained Lennon Security Corporation (Lennon) to perform an executive threat and risk assessment and report on its findings. In its written report provided to FHFA (Lennon Report) in September 2012, Lennon found: [REDACTED] had been the focus of many newspaper and internet articles due to FHFA decisions regarding the housing market; FHFA's increased efforts were expected to create a period of tension in the housing industry; and that [REDACTED] and his family "continue to receive very serious threats from various sources." The Lennon Report recommended that FHFA provide security for the [REDACTED] "in and around the workplace, when traveling on organizational business and at his residence." It identified some of the requirements for home-to-work transportation pursuant to 31 U.S.C. § 1344(b)(9) that the 2012 OGC Memo had explained, and recommended that FHFA provide [REDACTED] with "portal-to-portal" transportation (without defining the locations covered by that recommendation), an additional security driver, and a security-trained escort.

After receiving the findings and recommendations in the Lennon Report, [REDACTED] determined that the death threats received by [REDACTED] warranted FHFA transportation, even though the statute makes clear that such a determination cannot be [REDACTED]. According to FHFA's [REDACTED], [REDACTED] directed her to provide portal-to-portal transportation to [REDACTED] as well as [REDACTED]. [REDACTED] informed us that they thought FHFA documented the [REDACTED] initial decision to provide security-related transportation to [REDACTED], but neither could find that written documentation. Witnesses reported to us that FHFA provided FHFA transportation to [REDACTED] for security reasons from September 2012 until [REDACTED]. Because no vehicle usage logs were kept for these trips, we were unable to determine whether FHFA provided [REDACTED] with office-to-airport transportation for his personal travel during this period.⁵

We found no evidence that FHFA employees complied with the statutory or regulatory requirements when providing the previously described transportation to [REDACTED].

³ When this administrative investigation began, the individual identified as [REDACTED] and [REDACTED]

⁴ Among other things, the Vehicle Use Policy lacks any requirement that the Agency notify Congressional oversight committees, keep vehicle logs to verify that home-to-work transportation is for an authorized purpose, or make periodic written determinations of a "clear and present danger" when providing its employees with home-to-work transportation beyond the original 15-day period.

⁵ Employees in FHFA's Facilities Management Office told us they believed that usage logs were not required for vehicles that were not leased from the GSA and the vehicle reserved for use by [REDACTED] was not leased from GSA.

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2. Authorization of home-to-work and office-to-airport transportation for [REDACTED].

The Lennon Report assumed that the threats received by [REDACTED] and recommended that the Agency “strategize appropriate decisions as to which vulnerabilities should be addressed first in order to mitigate the most perilous threats and vulnerabilities to [REDACTED].” Shortly after [REDACTED] joined FHFA on [REDACTED], [REDACTED], and [REDACTED] provided [REDACTED] with a security briefing as part of an onboarding briefing on January 15, 2014. [REDACTED] recalled that during the onboarding briefing, [REDACTED] reported that death threats had been made against [REDACTED].

[REDACTED] reported to us that she was unaware of any specific threats to [REDACTED] and explained that FHFA kept the same security precautions in place for [REDACTED] because it was not sure that the threats were over. [REDACTED] advised us that he was unaware of any threats against [REDACTED].⁶

At the onboarding briefing, [REDACTED] stated that he did not believe he needed security for his home-to-work commute, and declined FHFA’s offer to provide regular home-to-work transportation. We found no evidence that [REDACTED] accepted home-to-work transportation, other than a handful of trips from his home to early morning meetings outside FHFA on housing-related matters, and one instance in which [REDACTED] insisted on driving [REDACTED] home after building security raised concerns about an individual who appeared at the FHFA seeking to speak with [REDACTED].

[REDACTED] recalled that during the same onboarding briefing, [REDACTED] and [REDACTED] informed [REDACTED] that he would be transported from FHFA to mass transportation facilities for security reasons, and that [REDACTED] should accompany him into transportation hubs. It appears to us that FHFA employees mistakenly substituted the “clear and present danger” predicate for home-to-work transportation, pursuant to 31 U.S.C. § 1344(b)(9), for the predicate requirements for office-to-mass transit facilities pursuant to 31 U.S.C. § 1344(g). [REDACTED] recalled to us that he had a “robust” discussion with [REDACTED] at that briefing regarding his personal security and that he was left with the impression that FHFA had a “serious preoccupation” with his safety. Based on our review of the evidence, we determined that [REDACTED] relied on [REDACTED] and other Agency officials, with long-standing government experience, to ensure that his transportation in FHFA vehicles was appropriate. [REDACTED] reported to us that he thought the recommendation by

⁶ [REDACTED] reported to us that, during his tenure, there were two episodes which posed a possible threat to his security involving protestors [REDACTED].

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[REDACTED] that [REDACTED] travel with him and/or escort him into an airport was excessive and did not accept it.⁷

We found no evidence that [REDACTED] (or anyone else at FHFA) made a written determination that he faced a “clear and present danger” that warranted FHFA to provide [REDACTED] with home-to-work transportation.⁸ It appears to us that FHFA employees mistakenly substituted the “clear and present danger” predicate for home-to-work transportation, pursuant to 31 U.S.C. § 1344(b)(9), for the predicate requirements in 31 U.S.C. § 1344(g) for office-to-mass transit facilities. Nonetheless, we found no evidence that FHFA complied with the statutory and regulatory requirements for home-to-work transportation, discussed above, when it provided office-to-airport transportation for [REDACTED]. Similarly, we found no evidence that the Agency complied with the statutory and regulatory requirements for office-to-airport transportation outlined above when it provided such transportation to [REDACTED] in connection with his personal travel.

[REDACTED] was placed on administrative leave [REDACTED] and [REDACTED] was appointed and continues to serve in that position. Prior to learning of the OIG investigation into this matter in March 2016, [REDACTED] was aware that FHFA provided [REDACTED] with a government vehicle and a driver, but did not know that FHFA employees regularly drove [REDACTED] to and from area airports in FHFA vehicles in connection with his personal travel or whether FHFA provided home-to-work transportation for [REDACTED].⁹ [REDACTED] reported to us that she thought that her office was properly following FHFA’s Vehicle Use Policy when it provided an FHFA vehicle to transport [REDACTED] to and from area airports in connection with his personal travel. We determined that the [REDACTED] mistakenly believed that concerns about potential security threats to [REDACTED] would justify use of an FHFA leased vehicle for such transportation under the Agency’s Vehicle Use Policy.

[REDACTED] and [REDACTED] separately reported to us that each was unaware of the statutory and regulatory requirements for providing FHFA transportation to Agency employees, and were not aware of the February 2012 OGC Memo that detailed the legal requirements for providing transportation to [REDACTED]. [REDACTED] stated that she presumed that the Vehicle Use Policy was valid, and [REDACTED] stated that he did not know that the Vehicle Use Policy conflicted with the statutory and regulatory requirements. However, [REDACTED] did not seek an opinion from OGC on the legal requirements for providing transportation to Agency employees.

⁷ Subsequently, FHFA conducted security assessments on [REDACTED] that resulted in additional security measures. In [REDACTED] view, FHFA provided him with greater security than [REDACTED].

⁸ [REDACTED] stated that she did not know whether [REDACTED] had made the requisite written determination, pursuant to 31 U.S.C. § 1344(b)(9), at any time that a “clear and present danger” existed to warrant home-to-work transportation and reported that she was not aware that anyone else at FHFA determined, in writing, that a “clear and present danger” existed to support home-to-work transportation.

⁹ [REDACTED] reported to us that he first learned that FHFA was transporting [REDACTED] to and from area airports in March 2016. After learning about that practice, [REDACTED] reviewed the Vehicle Use Policy and asked [REDACTED] whether that practice complied with the policy. [REDACTED] informed him that FHFA was affording the same transportation to [REDACTED] and that it was operating under an exception to the policy.

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In March 2016, [REDACTED] and [REDACTED] became aware of OIG's investigation. [REDACTED] reported to us that he reviewed FHFA's Vehicle Use Policy after he learned of OIG's investigation and acknowledged that FHFA's transportation of [REDACTED] to and from area airports in connection with his personal travel was not authorized under the office-to-mass transit facility provisions in that policy.¹⁰ [REDACTED] informed us, however, that he had no reason to believe that [REDACTED] would have known that the Vehicle Use Policy was inconsistent with federal law when [REDACTED] accepted FHFA transportation to and from airports for his personal travel. Likewise, [REDACTED] reported that she had no reason to believe that [REDACTED] had any knowledge of the applicable regulatory requirements.

[REDACTED] reported to us that, in March 2016, he provided a copy of the Vehicle Use Policy to [REDACTED] and spoke with him to ensure that he understood that policy and followed it. [REDACTED] recalled that [REDACTED] stated that he was aware of that policy and was following it. To ensure compliance, [REDACTED] advised the [REDACTED] that FHFA should adhere to the Vehicle Use Policy and should not grant any waivers until the OIG investigation concluded.

From March 2016 through August 31, 2016, the end of the Review Period, FHFA continued to transport [REDACTED] to and from area airports in connection with his personal travel. [REDACTED] reported to us that he interpreted FHFA's Vehicle Use Policy to permit him to use FHFA transportation to and from area airports in connection with his personal travel. [REDACTED] stated that he understood that [REDACTED] had approved an exception to the Vehicle Use Policy [REDACTED] and had verbally authorized office-to-airport transportation for [REDACTED] personal travel during the January 15, 2014, onboarding briefing. According to [REDACTED], [REDACTED] likely would have reduced his verbal authorization to a written exception to the Vehicle Use Policy, had he remained in his position. [REDACTED] asserted to us that the airport transportation provided to him by FHFA is appropriate because he regularly works on FHFA business in the vehicle on the way to and from the airport. While [REDACTED] may, at some future point in time, make the determinations required by 31 U.S.C. § 1344(g) and its implementing regulations, he has not yet done so.

We recognize that the Ethics Reform Act of 1989, as amended, revised 31 U.S.C. § 1344 to permit heads of agencies to "prescribe by rule appropriate conditions for the incidental use, for other than official business, of vehicles owned or leased by the Government." Pub. L. 101-194, title V, § 503, Nov. 30, 1989, 103 Stat. 1755, as amended by Pub. L. 101-280, § 6(b), May 4, 1990, 104 Stat. 160. FHFA has not promulgated such a rule.

Through our review of FHFA documents and our interviews of FHFA employees, we learned that [REDACTED] wife accompanied him several times in an FHFA vehicle to and from area airports. Had [REDACTED] use of an FHFA vehicle to and from area airports been consistent

¹⁰ In April 2016, [REDACTED] and [REDACTED] drafted an exception to the Agency Policy to warrant FHFA transportation for [REDACTED]. [REDACTED] informed us that she did not speak to [REDACTED] about this proposed exception. [REDACTED] provided the draft determination to [REDACTED] for review but was advised to "stand down" to avoid any interference with the OIG administrative investigation.

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with the requirements of 31 U.S.C. § 1344(g), [REDACTED] spouse may have been able to accompany him, if FHFA had issued a rule permitting such use pursuant to the Ethics Reform Act of 1989, as amended. However, Section 4.0(K) of the Agency's Vehicle Use Policy is more restrictive than the implementing regulations for Section 1344 and does not permit non-FHFA employees to be transported with an FHFA employee, unless the passenger was or is conducting business with FHFA.¹¹

We recognize that the GSA regulations implementing Section 1344 define "official use" as "using a Government motor vehicle to perform your agency's mission(s), as authorized by your agency."¹² Because the GSA regulations place the obligation to determine "official use" on the Agency, we leave to FHFA the determination of whether the transportation of [REDACTED] in FHFA vehicles in the manner described above was an "official use." Should the Agency conclude that such use was not "official", it must identify and take necessary actions arising out of the use of FHFA employees to drive [REDACTED] to or from airports in FHFA vehicles for the 57 scheduled trips described above, of which 18 appeared to occur after regular business hours or on weekends, and may have resulted in FHFA incurring costs for employee overtime or compensatory time.¹³

[REDACTED] Use of Subordinates to Research and/or Book Personal Travel Reservations Is Inconsistent with Standards of Ethical Conduct

The anonymous hotline complaint alleged that [REDACTED] tasked subordinate FHFA employees with making personal travel arrangements for his wife. Based on our review of FHFA employee emails and interviews of FHFA employees, we found that [REDACTED] tasked subordinate FHFA employees (Employee A and Employee B) on 28 occasions to research and/or book 52 airline flights for his or his family members' personal travel. On 27 of the 28 occasions, FHFA employees made reservations for [REDACTED] to travel on 50 flights between [REDACTED]. On 2 of these 27 occasions, an FHFA employee also made reservations for [REDACTED] wife to accompany him [REDACTED]. On the 28th occasion, an FHFA employee researched and/or made roundtrip reservations – comprising one for [REDACTED] wife and one for [REDACTED] [REDACTED] – for a family trip to [REDACTED].

Employee A began booking personal travel for [REDACTED] shortly after [REDACTED] joined FHFA. Employee A could not recall whether [REDACTED] first asked Employee A to book his personal travel or whether Employee A volunteered to do it for him. Employee A reported to us that he/she found it unusual to be asked to book personal trips for [REDACTED], and told [REDACTED] that he/she did not mind booking [REDACTED] personal travel even though Employee

¹¹ During the course of our administrative investigation, we learned that [REDACTED] and his wife were transported in an FHFA vehicle to a funeral at Arlington National Cemetery, and thereafter [REDACTED] spouse was dropped off in Georgetown and [REDACTED] continued to an official meeting at the U.S. Treasury.

¹² 41 C.F.R. 102-34.200, entitled *Official Use of Government Motor Vehicles*.

¹³ For example, we found that [REDACTED] was picked up from Philadelphia International Airport on his return from a personal trip by an FHFA employee in an FHFA leased vehicle and driven back to Washington, D.C. on a Sunday, for which the Agency approved 9.15 hours in overtime for the driver who provided that transportation.

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A thought he/she was not supposed to do so.¹⁴ Employee A was tasked by [REDACTED] on 16 occasions to research and/or book 31 flights for [REDACTED] and/or his family. On 15 of these 16 occasions, Employee A researched and/or booked 29 flights for [REDACTED] to travel between [REDACTED]. On 1 of these 15 occasions, Employee A also made a reservation for [REDACTED] wife to accompany him [REDACTED]. On the 16th occasion, Employee A researched and/or booked roundtrip reservations for [REDACTED] wife and [REDACTED] for travel between [REDACTED] and [REDACTED].¹⁵

Employee B was tasked by [REDACTED] on 12 occasions to research or book 21 flights for [REDACTED] between [REDACTED], using his frequent flyer information and his personal credit card. On 1 of these 12 occasions, Employee B also made a reservation for [REDACTED] wife to accompany him [REDACTED]. Employee B considered this task to be part of his/her job-related responsibilities.

Regulations establishing the standards of ethical conduct for employees of the Executive Branch, 5 C.F.R. § 2635.705(b), direct that “an employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.” These standards apply to FHFA employees.¹⁶ Section 2635.705(b) provides the following example as guidance:

An employee of the Department of Housing and Urban Development may not ask his secretary to type his personal correspondence during duty hours. Further, directing or coercing a subordinate to perform such activities during nonduty hours constitutes an improper use of public office for private gain in violation of 2635.702(a).

Pursuant to 5 C.F.R. § 2635.705(b), we sought to determine whether [REDACTED] use of subordinate FHFA employees to research and/or make personal airline reservations for [REDACTED] his spouse, and family members was “required in the performance of official duties or authorized in accordance with law or regulation.” Because the conduct in issue involved [REDACTED], we sought an opinion from the Agency’s DAEO.¹⁷ We asked the DAEO to assume the following facts as a predicate for his opinion:

- From March 7, 2014, through July 27, 2016, at [REDACTED] request, subordinate FHFA employees researched and booked 27 airline reservations (amounting to 50 individual flights) for [REDACTED] personal travel to and from various destinations. On 2 of those 27 occasions, FHFA employees made accompanying airline reservations for [REDACTED] spouse.

¹⁴ Employee A also recalled asking [REDACTED] whether Employee A was required to make personal travel reservations for [REDACTED] and relayed to him that Employee A was uncomfortable making those reservations. Employee A remembered that [REDACTED] responded that making personal trip reservations for [REDACTED] was not part of Employee A’s job responsibilities. [REDACTED] did not recall this conversation and was fairly certain that he would have recalled such a conversation had it occurred.

¹⁵ Employee A also made reservations for [REDACTED] spouse to accompany him on official travel.

¹⁶ 5 C.F.R. § 9001.101, entitled Supplemental Standards of Ethical Conduct for Employees of the Federal Housing Finance Agency, provides that 5 C.F.R. Part 2635 applies to FHFA employees and requires them to comply with the standards enumerated in Part 2635 and other applicable ethics regulations.

¹⁷ See 5 C.F.R. §§ 2635.102(b), 2638.203(b)(12).

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- From March 13, 2014, through May 6, 2014, at █████ request, a subordinate FHFA employee researched flights for █████ spouse and █████ for personal travel. The FHFA employee ultimately booked an airline reservation for █████ but did not book a reservation for █████ spouse.
- From March 7, 2014, through November 5, 2014, at █████ request, subordinate FHFA employees booked airline flights for three official trips made by █████ and researched or booked airline flights for █████ spouse who accompanied him on that official travel.

On November 10, 2016, FHFA's DAEO issued an opinion finding that the researching and/or booking of airline reservations for personal travel by █████ or his family by subordinate FHFA employees were not "required in the performance of official duties or authorized in accordance with law or regulation" as contemplated under 5 C.F.R. § 2635.705(b), and that "no procedures authorizing such actions exist in FHFA policies, supplemental ethics regulation or law."

Based on the information learned during this review, we found that senior FHFA officials did not understand the requirements in Section 1344 and its implementing regulations governing agency transportation of an employee. The Vehicle Use Policy, in force since June 2011, does not track the statutory and regulatory requirements and strict adherence to this policy would not satisfy these requirements. FHFA employees, however, have operated outside of this policy for a number of years. Even after FHFA senior officials became aware in March 2016 that █████ use of FHFA transportation to and from area airports in connection with his personal travel was inconsistent with the Vehicle Use Policy, FHFA continued to provide this transportation. Last, FHFA's DAEO found that █████ use of subordinate FHFA employees to research and/or book airline reservations for personal travel was inconsistent with the standards of ethical conduct set forth in 5 C.F.R. § 2635.705(b).

We recommend that the Agency take the following immediate actions:

1. Cease using FHFA vehicles and employees to provide transportation to Agency employees in a manner that is inconsistent with federal law and regulations;
2. Cease using FHFA employees to research or book personal travel for █████ or his family in contravention of 5 C.F.R. § 2635.705(b);
3. Revise its Vehicle Use Policy to track the requirements of Section 1344 and implementing regulations;
4. Maintain detailed usage logs for all leased vehicles;
5. Train employees tasked with providing FHFA transportation to █████ and other FHFA employees with the statutory and regulatory requirements;

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6. Adopt appropriate internal controls to ensure that the findings required by Section 1344 are made by the appropriate Agency employee, are documented in writing, and that requisite notices are provided; and
7. Retain all documentation relating to provision of transportation under Section 1344.

We are providing a copy of this letter memorandum to the Office of the White House Counsel, appropriate Congressional oversight committees, the U.S. Office of Government Ethics, and the FHFA DAEO.

Respectfully,



Laura S. Wertheimer
Inspector General



Federal Housing Finance Agency

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MEMORANDUM

March 31, 2017

TO: Leonard DePasquale
Chief Counsel, FHFA OIG

FROM: Alfred Pollard *Alfred Pollard*
General Counsel, FHFA

RE: Recommendations of FHFA OIG Administrative Investigation (December 6, 2016)

In reviewing the Administrative Investigation from FHFA Office of Inspector General, dated December 6, 2016, I am reporting that FHFA agrees with the recommendations made in the Investigation and am indicating that FHFA has undertaken actions that address all recommendations. FHFA will undertake activities to educate employees of the policies, requirements and protocols related to these matters on an ongoing basis.

Actions to meet the recommendations were overseen or undertaken by the Office of the General Counsel and by the Designated Agency Ethics Official and the Alternate DAEO; I serve as the DAEO as well as General Counsel.