

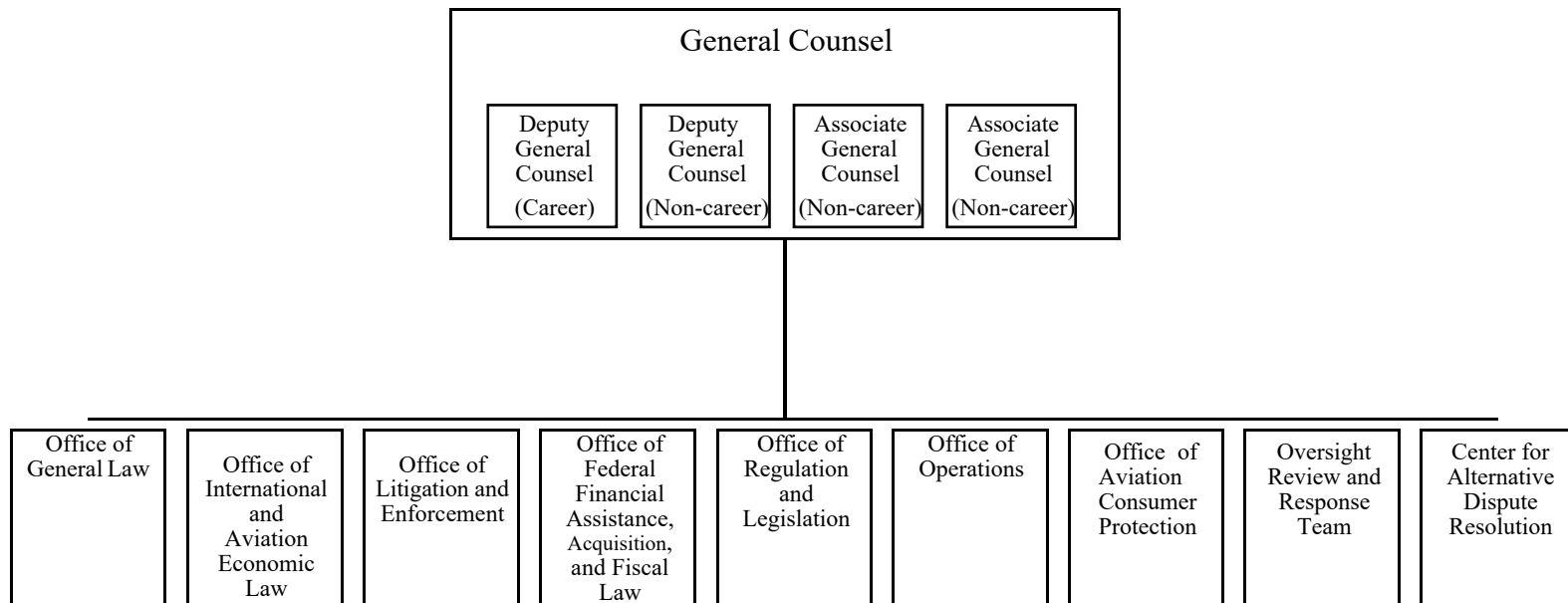
Subject: DEPARTMENT OF TRANSPORTATION ORGANIZATION MANUAL, OFFICE OF THE SECRETARY, OFFICE OF THE GENERAL COUNSEL

1. PURPOSE. This order defines the mission and functions of the Office of the General Counsel for the U.S. Department of Transportation (Department or DOT).
2. CANCELLATION. DOT Order 1101.9A, Department of Transportation Organization Manual, Office of the Secretary, Office of the General Counsel, dated 1/11/2021.
3. REFERENCES.
  - a. 49 U.S.C. § 102(e)(1) (establishing the position of the General Counsel)
  - b. 49 CFR §§ 1.26–1.27b (describing the responsibilities of the General Counsel and documenting the delegations of authority to the General Counsel and subordinate officials)
4. EXPLANATION OF CHANGES.
  - a. The Office of General Law was replaced by two offices: the Office of General Law and the Office of Federal Financial Assistance, Acquisition, and Fiscal Law.
  - b. Functions related to legislation were moved within the organization: the Office of Regulation was renamed the Office of Regulation and Legislation, and the Office of Legislation was abolished.
  - c. Functions related to aviation economic matters concerning airports and air carriers were moved within the organization from the Office of Operations to the Office of International Law, and the Office of International Law was renamed the Office of International and Aviation Economic Law.
5. MISSION. As chief legal officer of the Department and legal advisor to the Secretary, the General Counsel has final legal authority within the Department on all matters arising within or referred to the Department.

6. FUNCTIONS. The General Counsel:

- a. Exercises executive direction over:
  - The Office of General Law
  - The Office of International and Aviation Economic Law
  - The Office of Litigation and Enforcement
  - The Office of Federal Financial Assistance, Acquisition, and Fiscal Law
  - The Office of Regulation and Legislation
  - The Office of Operations
  - The Office of Aviation Consumer Protection
  - The Oversight Review and Response Team
  - The Center for Alternative Dispute Resolution
- b. Provides legal advice to the Secretary and Secretarial Offices, and supervision, coordination, and review of the legal work of all legal offices within the Department, except that of counsel to the Inspector General.
- c. Manages all legal aspects of legislative matters arising in or referred to the Department.
- d. Reviews and takes final action on applications for reconsideration of initial decisions not to disclose unclassified records in the Office of the Secretary, including the Office of Inspector General, under 5 U.S.C. § 552(a)(3).
- e. Participates in the preparation of emergency plans, programs, and procedures leading to the attainment and maintenance of an adequate state of emergency preparedness in the Department.
- f. Ensures uniform Departmental implementation of statutes and regulations governing public access to Departmental records, and for responding to requests for records of the Office of the Secretary.
- g. Exercises authorities delegated from the Secretary to the General Counsel at 49 CFR Part 1.

7. ORGANIZATION.



a. Office of General Law

- 1) Mission. To provide advice and services with respect to a broad range of general law issues, as they affect the policies and programs of the Department.
- 2) Functions. Under the executive direction of the General Counsel, the Office of General Law provides legal advice and services with respect to:
  - a) The manner by which the Department of Transportation perform its functions, including powers and duties of Departmental officials; Vacancies Act issues; facilities and asset management; information technology investment and management and capital planning; political activities; all matters relating to the Federal employment of personnel; and management of real property.
  - b) Interpreting and implementing the requirements of civil rights-related statutes, including equal employment opportunity, Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, and other civil rights matters; and providing representation of the agency in cases involving allegations of discrimination in Office of the Secretary employment matters.
  - c) Operation of an ethics program for DOT employees, including political appointees.
  - d) All Departmental intellectual property issues, including patent and patent infringement matters, copyrights, trademarks, and technical data.
  - e) Advice and assistance to the Office of Drug and Alcohol Policy and Compliance on drug and alcohol testing and control issues.

b. Office of International and Aviation Economic Law

- 1) Mission. To provide the legal services required to support the Department with respect to aviation economic and international transportation policies and programs.
- 2) Functions. Under the executive direction of the General Counsel, the Office of International and Aviation Economic Law:
  - a) Provides legal support for and facilitation of DOT's international programs in areas such as: transportation negotiations with foreign countries; Global Positioning System matters; international economic aviation licensing and regulatory matters; applications of airline alliances for antitrust immunity; implementation and negotiation of the International Mobile Equipment Financing Convention's sector-specific protocols; war risk insurance issues; international aviation sanctions; Committee on Foreign Investment in the United States (CFIUS) reviews; and transportation trade issues in the negotiation and implementation of trade agreements such as the United States- Mexico-Canada Agreement (USMCA), international maritime such as International Maritime

Organization, and interdiction of contraband.

- b) Assists in the formulation of the United States legal policy positions on international transportation and trade issues. Represents or oversees representation of DOT at interagency and international meetings, conferences, bilateral and multilateral negotiations, and similar matters involving international legal questions. Reviews all resulting international agreements. In addition, the Office chairs the North Atlantic Treaty Organization (NATO) Insurance Group and the Preparatory Commission for the Establishment of the International Rail Registry under the Rail Protocol to the Mobile Equipment Financing Convention.
  - c) Advises and counsels the Office of the Assistant Secretary for Aviation and International Affairs on all aspects of the regulation of foreign air transportation and on legal issues involving international transportation and trade the Office of Intelligence and Security on all international security matters; and other Departmental officials as appropriate.
  - d) Provides legal support on aviation economic matters related to airports and air carriers, including antitrust and competition issues, as well as slot exemption selection proceedings.
  - e) Provides legal support on the Department's programs concerning small communities, including the Essential Air Service program, the Alaska By-Pass and Mail Rates Program, and the Small Community Air Service Development Program.
  - f) Provides legal advice on airline antitrust and competition issues, including proceedings under 49 U.S.C. §§ 41308 (exemption from antitrust law) and 41309 (cooperative agreements and requests) concerning international air transportation and 49 U.S.C. §§ 41720 concerning airline joint ventures.
- c. Office of Litigation and Enforcement
- 1) Mission. To provide legal counsel for litigation in which the Department is a party or has an interest.
  - 2) Functions. Under the executive direction of the General Counsel, the Office of Litigation and Enforcement:
    - a) In coordination with the Department of Justice, provides legal counsel in litigation involving official acts by the Secretary, or employees of the Office of the Secretary, relating to more than one operating administration, and in litigation raising issues of broad or significant impact on transportation policy or the Department.
    - b) Determines, with the Department of Justice, whether litigation should be initiated and whether adverse decisions should be appealed.

- c) Responds to bankruptcy, debt-collection, and garnishment matters, including representation of the Department in any bankruptcy court litigation.
  - d) Coordinates with the Office of the Solicitor General in the Department of Justice on the Department of Transportation's position in all cases before the Supreme Court concerning the Department, its programs, or its policies.
  - e) Serves as agency counsel before Federal courts of appeal in petitions for review of the Department's aviation orders and its airports rates and charges orders, and of other Departmental actions as assigned.
  - f) Prepares and presents the Department's position in regulatory proceedings before Federal, State, and local agencies and commissions.
  - g) Oversees the litigation activities of the operating administrations and delegates litigation responsibility as appropriate.
  - h) Provides assistance and advice to the offices of the Chief Counsels on various enforcement-related matters through a DOT-wide enforcement practice group and other information sharing efforts; referral of administrative enforcement cases to the Justice Department for judicial enforcement; and review of enforcement-related orders and settlement agreements.
  - i) Recommends departmental policy changes based on issues raised in pending or concluded litigation.
  - j) Supervises the performance of the Department's responsibility under 49 U.S.C. § 47129 to resolve complaints concerning the reasonableness of airport fees.
- d. Office of Federal Financial Assistance, Acquisition, and Fiscal Law
- 1) Mission. To provide advice and services with respect to the broad range of Federal financial assistance programs, and acquisition and fiscal law issues as they affect achievement of the Department's policies and programs.
  - 2) Functions. Under the executive direction of the General Counsel, the Office of Federal Financial Assistance, Acquisition, and Fiscal Law provides legal advice and services with respect to:
    - a) Fiscal law, including the use of appropriated funds and fiscal management.
    - b) Financial assistance, including grant and loan application evaluation and selection processes for that assistance; external oversight of those processes and that assistance; application of Federal requirements, including Buy America; and the Department's grants policy.

- c) The acquisition of goods and services, including providing direct legal support for DOT-wide and OST acquisitions, serving on the Acquisition Strategy Board, and providing legal support for DOT acquisition policy.
  - d) Suspension and debarment, including both procurement and non-procurement (grants).
  - e) Direct legal support to the Office of the Chief Financial Officer and Assistant Secretary for Budget and Programs in connection with fiscal law and financial management, including legislative technical assistance to the Committees on Appropriations and legislative drafting associated with the annual President's budget.
  - f) Direct legal support to the Office of the Assistant Secretary for Transportation Policy in connection with all discretionary financial assistance programs administered from that office.
  - g) Direct legal support to the Office of Small and Disadvantaged Business Utilization, including its financial assistance programs and its role in agency procurements.
  - h) Direct legal support to DOT's Build America Bureau in connection with all aspects of complex Federal credit transactions, including transactions under the Transportation Infrastructure Finance and Innovation Act (TIFIA), Railroad Rehabilitation & Improvement Financing (RRIF) credit programs, and Title IX, with a particular emphasis on ensuring compliance with applicable statutes, regulations, policies, and program matters.
- e. Office of Regulation and Legislation
- 1) Mission. To provide leadership and legal support for regulatory and administrative law practice matters in the Department; to maintain the record (and make required service of the record) for Office of the Secretary (OST) formal and informal rulemaking proceedings; and to provide the full range of legal services required for the achievement of the Department's legislative program and objectives.
  - 2) Functions. Under the executive direction of the General Counsel, the Office of Regulation and Legislation:
    - a) Develops and recommends Departmental regulatory policies and procedures; furnishes legal counsel on administrative law issues involving rulemaking, matters governed by the Administrative Procedure Act and related statutes, regulations, Executive Orders, and Departmental policies; and assesses the operating administrations' practices to ensure conformity with such requirements.
    - b) Serves as the economic subject matter expert for the Office of the General Counsel and furnishes advice to the General Counsel on matters related to

economic impact of regulations.

- c) Provides legal counsel on Departmental activities governed by the Federal Advisory Committee Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, the Uniform Time Act, and other related statutes, regulations, and Executive Orders.
  - d) Serves as Departmental liaison to the Office of Management and Budget on rulemaking matters and as the OST liaison to the Office of the Federal Register.
  - e) Coordinates Departmental review of rulemaking documents, including supporting economic analyses.
  - f) Provides training on regulatory requirements and procedures, including economic principles related to regulatory analysis.
  - g) Develops the Department's Regulatory Agenda, its Regulatory Plan, and other rulemaking reports.
  - h) Coordinates the approval of all legislation and related materials originating in the Department, all reports on legislation from the other government agencies, and all congressional testimony by Departmental witnesses, other than those related to appropriations legislation for the Department.
  - i) Prepares legislative proposals, testimony, reports, analyses, and related briefing materials and documents, as needed, and provides legal counsel and information to Departmental offices regarding legislative matters, including serving as counsel to Departmental witnesses at congressional hearings.
  - j) Provides drafting services and information to congressional offices and committees.
- f. Office of Operations
- 1) Mission. To provide legal advice and services with respect to matters involving a broad range of operational issues related to the Department's policies and programs.
  - 2) Functions. Under the executive direction of the General Counsel, the Office of Operations provides legal advice and services with respect to:
    - a) Environmental and climate change matters.
    - b) Transportation security and emergency response activities.
    - c) Information and records management, privacy, and security, as well as information disclosure pursuant to requests under the Freedom of Information Act (FOIA), and



the Privacy Act.

- d) Uniform Departmental implementation of the Privacy Act, including preparation of the Department's annual FOIA report.
- e) Oversight by Congress, the Government Accountability Office, and the Office of Inspector General of the Department of Transportation.
- f) Maritime matters.
- g) Pipeline and hazardous materials transportation safety matters.
- h) Native American sovereignty and jurisdiction.

g. Office of Aviation Consumer Protection

- 1) Mission. To monitor compliance and investigate violations of the Department of Transportation's aviation economic, consumer protection, and civil rights requirements.
- 2) Functions. Under the executive direction of the General Counsel, the Office of Aviation Consumer Protection:
  - a) Formulates and enforces DOT's rules regarding the civil rights of air travelers with disabilities and other protected groups; consumer protection, including but not limited to, airfare advertising, on-time performance and code share disclosure, unrealistic scheduling, denied boarding compensation, tarmac delays, ticket refunds, baggage liability, and public charters; and aviation economic licensing requirements for both direct and indirect, U.S. and foreign air carriers.
  - b) Provides advice to the Department's decision maker in airline passenger consumer protection, and air carrier employee protection cases.
  - c) Enforces the prohibition in 49 U.S.C. § 41712 on unfair methods of competition in air transportation or the sale of air transportation.
  - d) Receives complaints from members of the public regarding air travel consumer issues; verifies compliance with the Department's aviation consumer protection requirements; provides guidance to the industry and members of the public on consumer protection matters; and makes available to the public information on consumer matters.

h. Oversight Review and Response Team

- 1) Mission. To provide legal services related to the Department's response to oversight and investigations of the Department—especially congressional oversight and investigations—ensuring that the Department is responsive to oversight requests

while protecting the Department's legitimate interests in confidentiality and deliberative decision-making.

2) Functions. Under the executive direction of the General Counsel, the Oversight Review and Response Team:

- a) Advises DOT operating administrations and OST offices responding to investigations and oversight requests, and manages and serves as the Department's point of contact on congressional oversight and investigations requests.
- b) Provides DOT operating administrations and OST offices with related legal services, including negotiating on accommodations with Congress and representing the Department at congressional interviews and oversight hearings.
- c) Advises DOT operating administrations and OST offices on broader legal and process questions related to oversight by Congress, the Government Accountability Office, and the Office of Inspector General of the Department of Transportation, in coordination with the Office of Operations.
- d) Serves as the Department's point of contact with the Office of Special Counsel, including advising on and managing referrals for agency investigation under 5 U.S.C. § 1213(c) of an alleged violation of any law, rule, or regulation, or an allegation of gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

i. Center for Alternative Dispute Resolution

- 1) Mission. To work with organizations and individuals to increase the knowledge, quality, and use of alternative dispute resolution (ADR). The Center provides ADR services and is an information resource to both DOT ADR providers and users.
- 2) Functions. Under the executive direction of the General Counsel, the Center for Alternative Dispute Resolution offers the following services:
  - a) Training and Education. The Center offers awareness and skill-based training workshops on topics including conflict management, communication, basic and advanced mediation, interest-based problem solving, negotiation, and representing clients in mediation.
  - b) Mediation and Facilitation Services and Consulting. The Center provides mediation, facilitation, and conflict coaching services that can help resolve disputes efficiently and effectively, and helps identify ADR providers outside of DOT.
  - c) Dispute Systems Design, Implementation, and Evaluation. The Center is responsible for developing ADR policy within DOT, and helps DOT

organizations design, implement, and evaluate ADR approaches to meet their needs.

A handwritten signature in blue ink, appearing to read "John E. Putnam", is positioned above a horizontal line.

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John E. Putnam  
General Counsel

