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# HUMAN CAPITAL MANAGEMENT:

Controls Over the Use of Temporary Management Assignments  
Need Improvement


Report No. OIG-E-2012-009 | March 28, 2012





## Memorandum

**To:** Gordon L. Hutchinson, Acting Chief Financial Officer  
Barry Melnkovic, Chief Human Capital Officer

**From:** Calvin Evans, Assistant Inspector General, Inspections and Evaluations 

**Date:** March 28, 2012

**Subject:** *Human Capital Management: Controls Over the Use of Temporary Management Assignments Need Improvement* (Report No. OIG-E-2012-009)

Amtrak employs about 3,100 management and 17,900 union workers, and often uses union employees to temporarily fill management positions. Since August 2001, 1,476 Amtrak union employees have temporarily filled these positions.<sup>1</sup> Amtrak's use of union workers to fill temporary management positions is important because it allows the company to fill critical management vacancies in a timely way, and provides opportunities for union workers to develop their management and leadership skills, which could help move them into permanent management positions. To the extent that Amtrak does not properly manage the process to fill these positions, it risks not having appropriate management oversight of its activities, inefficiencies in operations, and missed opportunities to develop future managers and leaders.

We initiated this evaluation after receiving a complaint from a union employee who had worked in a temporary management position. The employee alleged that he should have received back pay—as did some other union employees who worked in temporary management positions—in response to labor agreements resolving Amtrak's 7-year

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<sup>1</sup> Amtrak's Temporary Management Assignment (TMA) policy describes the processes and procedures for managing union employees in these positions.



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labor dispute with its 13 unions. These agreements were signed between January and May 2008.<sup>2</sup> As part of the settlement, Amtrak agreed to pay its union employees retroactive wage increases (back pay) for the period July 1, 2002 through March 31, 2008, totaling about \$262 million. However, Amtrak decided that union employees in temporary management assignments (TMA) were not entitled to the back wages because they were paid a premium to take the management assignments. In spite of this decision, some temporary management employees were still paid back wages because they were not properly recorded in Amtrak's payroll system<sup>3</sup> as being on temporary management assignments. The complaining worker cited these inconsistencies in the retroactive wage increases.

Our report discusses whether Amtrak (1) consistently managed employees in temporary management positions during the labor negotiation period, (2) appropriately managed TMA labor rates after negotiations concluded, and (3) is properly managing TMA employees today. We focused on employees in Amtrak's Transportation Department, which comprises about 9,000 (43 percent) of Amtrak's management and union employees. For a detailed discussion of our evaluation methodology, see Appendix I. We performed this evaluation in accordance with our statutory responsibilities contained in the Inspector General Act of 1978, as amended.

## **SUMMARY OF RESULTS**

Amtrak inconsistently managed Transportation employees in temporary management positions between August 2001 and May 2008. Weak controls over implementation of the TMA policy enabled some field managers to circumvent the policy, which led to 177 employees exceeding the 180-day limit on temporary management assignments and the improper coding of 57 employees in the payroll system. This had financial consequences for Amtrak, with these 57 employees potentially being paid for some hours they may not have worked. Further, 47 of these employees likely received some

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<sup>2</sup> To resolve Amtrak's dispute with its unions, the President of the United States appointed an emergency board under Section 10 of the Railway Labor Act of 1926, as amended (45 U.S.C. sections 151 and 160) to mediate and recommend solutions to the dispute. For a chronology of Amtrak's recent labor negotiations, see Appendix II.

<sup>3</sup> The payroll system is part of Amtrak's enterprise resource management system. The Human Capital Management module in the system handles both payroll and human resources transactions.

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additional back pay for this period, although they were ineligible to receive it because they were working in temporary management positions. According to officials from the Finance Department, determining the exact amount of funds improperly paid to these employees would require a significant investment of time and resources. Our analysis of the pay data for these employees also indicates that it would be challenging to identify the amount of improper back pay paid to these employees in order to potentially recover the funds.

Amtrak also did not adjust the rates of pay for employees who were properly recorded in TMA positions after the labor negotiations concluded in 2008. Because the 2001 TMA pay rates were not updated until July 1, 2009, retroactive union wages exceeded the rate of pay for TMA positions beginning July 1, 2005. Consequently, during this period, employees in temporary management positions received less pay than they would have received if they had remained in their union positions. Amtrak decided to adjust the pay of the employee who complained about this, but has yet to conduct a comprehensive review of other employees who may have been financially penalized because their time was properly coded in TMA positions. If Amtrak does not take action, employees who worked in temporary management positions and were properly coded in the payroll system may receive less compensation than they would have received while either working in—or coded as working in—union positions in this period, contrary to the intent of the TMA policy.

Transportation's management of employees in temporary management positions has improved since 2007, but several problems persist. Transportation initiated several controls to ensure that employees are properly promoted to TMA positions, to limit the improper use of certain job codes, and to ensure that employees do not exceed the 180-day limit for these assignments. However, some employees' assignments continue to exceed 180 days, in part because Transportation and Human Resources (HR)<sup>4</sup> do not reconcile data on employees in TMA assignments. Additionally, some TMA employees are still not properly coded in the payroll system. Therefore, by tightening controls over TMA employees, Transportation could improve its compliance with the policy, provide temporary management experience to more employees, and improve overall workforce planning. Finally, because of these weaknesses and because HR did not update the TMA rates of pay in 2011, Amtrak may face additional financial consequences involving

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<sup>4</sup> The official name of this office is now the Office of Human Resources, Labor Administration, and Diversity Initiatives, which is led by Amtrak's Chief Human Capital Officer.

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back pay and further pay inequity among some employees when the current round of labor negotiations that began in 2010 concludes.

To address the pay issues stemming from weaknesses in the management of TMA employees and avoid these problems in the future, we recommend that Amtrak determine whether it is cost effective to recover compensation paid to employees who were ineligible to receive back pay, address pay inequities that occurred from employees working in TMA positions, and take action to strengthen controls over the use of TMA positions to prevent these problems from occurring in the future.

In commenting on a draft of this report, management generally agreed with our recommendations, and is taking action to strengthen controls over TMA employees going forward. However, management determined that it would not take action to recover compensation or address past pay inequities for some employees who worked in TMA positions. Management's actions are responsive to our recommendations.

## **MANAGEMENT OF TMA EMPLOYEES DURING LABOR NEGOTIATIONS WAS INCONSISTENT**

Some Transportation field managers did not follow the TMA policy when filling temporary management positions between August 2001 and May 2008. Amtrak's TMA policy was issued in August 2001 by the then-Vice President of Human Resources and described how to manage union employees applying for and working in temporary management assignments. For example, assignments could not last more than 180 days, with some exceptions, and union employees could only be promoted after they applied for a position and the application was reviewed by HR and coordinated with each department, in accordance with Amtrak's employment policies. The policy also required identification of these employees in Amtrak's payroll system, using special job codes to ensure that they received the additional pay for these assignments. According to HR officials, the policy was reissued in October 2004 with the same guidelines, in order to emphasize the importance of properly managing TMA employees. However, this did not deter some field managers from circumventing the policy and allowing employees to work in temporary management positions irrespective of the TMA policy guidelines. This occurred in several areas, for example:

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- Many assignments lasted more than 180 days. We analyzed data compiled by Transportation for FY 2001 through FY 2008 and determined that 177 employees across the department had assignments that lasted more than the allowed 6 months, with 28 of these employees working in assignments lasting more than 1 year.
- Some employees were not properly identified in the payroll system. We analyzed data compiled by Transportation and Finance and found that 57 Transportation train and engine (T&E) employees working in temporary management positions were not identified in the payroll system using the special TMA pay codes in order to be paid an appropriate TMA daily rate. Instead, some Transportation field managers circumvented TMA procedures by using pay schemes to either pay employees extra hours or use pay adjustments under certain payroll labor codes that enabled field managers to pay employees without using an appropriate TMA daily rate.

According to Finance officials, it would be difficult and time-consuming to determine precisely whether employees were paid for hours they did not work because only the employees' supervisors could certify that the hours recorded were valid. Due to the time that has elapsed since these hours were recorded and the employee turnover that has occurred, we did not attempt to determine whether the employees worked these hours. Nonetheless, we reviewed data compiled from Finance and determined that 4,187 days were charged to the "conference" labor code, totaling about \$1 million in pay for these 57 T&E employees between July 1, 2002 and December 1, 2007. Ten employees in this group accounted for over 2,375 days of pay under this code, which appears to be excessive. According to Finance officials, the conference code should only be used to record time for employees spent in conference with managers for training or business purposes.

Further, Amtrak management did not implement controls to ensure that employees were properly promoted into TMA positions. The TMA policy required HR to distribute a monthly report of employees temporarily promoted to management positions to the Division General Superintendent or Department Assistant Vice President. This report has been automatically generated and issued monthly since 2001, but HR has not required Transportation's senior managers to reconcile the monthly report with their field managers and provide feedback on the actual numbers of employees working in temporary management positions. According to Finance officials, the 57 T&E employees who were not properly identified in the payroll system

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using the proper TMA pay codes would have been identified had better controls been in place.

Moreover, some employees may have improperly received back pay. We found that 47 of the 57<sup>5</sup> T&E employees received some back pay for the time they worked in temporary management positions although they were ineligible to receive back pay when working in these positions. According to Finance officials, this likely occurred because these employees were not properly coded in the payroll system and appeared as if they were working in union rather than management positions. These funds were paid in two installments, with the first one of \$342,895 paid in May 2008. We briefed responsible senior Amtrak officials in February 2009 that these employees may have been ineligible to receive some of the back pay. Although we were told that management would address this issue, no changes were made and a second installment of \$515,448 was paid in May 2009 (for a total of \$858,343). Had Amtrak management responded more quickly to the facts presented, the May 2009 payment could have been reviewed, and at least some of the additional payments could have been prevented if they were improper.

Determining what portion of the \$858,343 in back pay was improper is difficult. Finance advised us that it would be necessary to review each day that the employees worked in temporary management positions and the hours billed to various labor codes in order to estimate how much of the back pay was proper. However, as discussed, confirming these hours with employees and their supervisors would be very difficult. Finance officials estimated that a significant amount of resources would need to be invested to conduct this analysis, and that doing so could potentially outweigh the benefits of identifying the amount and recovering the funds. Our analysis of the payroll data for these employees supports Finance's statements regarding the level of effort needed to determine the scope and amount of improper back pay.

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<sup>5</sup> Ten of the 57 employees left Amtrak prior to December 1, 2007, and were therefore ineligible to receive back pay provided to union employees.

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## **TMA LABOR RATES WERE NOT REVISED AFTER LABOR NEGOTIATIONS WERE CONCLUDED**

The labor rates for TMA positions were not revised until about a year after labor negotiations were concluded in 2008. The TMA policy established a daily rate of pay in 2001 for each temporary management position. According to HR officials, they attempted to peg the TMA daily rate at about 7–10 percent higher than the employee’s current daily rate (depending on the position). These rates were not adjusted during the labor negotiation period, and pay for TMA positions remained at 2001 rates until Amtrak issued a revised TMA policy in July 2009, about a year after Amtrak reached agreement with its unions.

Amtrak has not yet comprehensively addressed this issue. In responding to the employee complaint discussed above, officials from HR, Labor Relations, and Transportation met on April 15, 2008, and agreed to adjust the employee’s pay. It was management’s intention to pay this employee the difference in the rate of pay between what he received when assigned to a temporary management position and his regular union position rate of pay after the retroactive wage increase.<sup>6</sup> These officials also acknowledged at that time that other employees may be entitled to retroactive pay adjustments but, according to the then-Assistant Vice President of HR, did not initiate a review of other employees’ records to determine whether they deserved similar pay adjustments.

According to our analysis of records of the other employees who were properly coded in the payroll system, these employees may have received less money while working in these positions than they would have received had they remained in union positions during this period. We compared the union rates of pay for engineer and conductor positions in Transportation to the TMA rates of pay for the management positions that engineers and conductors are generally upgraded to: road foreman and trainmaster, respectively. As shown in Table 1, the retroactive wage increases for union employees in the engineer and conductor positions began to outpace—retroactively—the rates of pay for TMA employees on July 1, 2005, which continued until those rates were revised on July 1, 2009. We brought this issue to the attention of HR several times during the course of our evaluation, but HR has not yet taken action to identify other employees who may meet similar criteria for a pay adjustment.

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<sup>6</sup> According to HR officials, the employee rejected the pay adjustment, in part because he believed that HR incorrectly calculated the adjustment and he would have been paid less than he should have been.



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**Table 1. Comparison of Retroactive Pay Rates to TMA Pay Rates for  
Engineer and Conductor Union and Management Positions<sup>a</sup>**

<b>Date</b>	<b>Union Position</b>	<b>Retroactive Hourly Rate of Pay</b>	<b>Management Position</b>	<b>TMA Hourly Rate of Pay</b>
7/1/2002	Engineer	\$28.56	Road Foreman	\$30.63
	Conductor	\$23.98	Trainmaster	\$25.63
7/1/2003	Engineer	\$29.42	Road Foreman	\$30.63
	Conductor	\$24.70	Trainmaster	\$25.63
7/1/2004	Engineer	\$30.38	Road Foreman	\$30.63
	Conductor	\$25.50	Trainmaster	\$25.63
<b>7/1/2005</b>	<b>Engineer</b>	<b>\$31.14</b>	<b>Road Foreman</b>	<b>\$30.63</b>
	<b>Conductor</b>	<b>\$26.14</b>	<b>Trainmaster</b>	<b>\$25.63</b>
7/1/2006	Engineer	\$32.07	Road Foreman	\$30.63
	Conductor	\$26.92	Trainmaster	\$25.63
7/1/2007	Engineer	\$33.03	Road Foreman	\$30.63
	Conductor	\$27.73	Trainmaster	\$25.63
7/1/2008	Engineer	\$34.35	Road Foreman	\$30.63
	Conductor	\$28.84	Trainmaster	\$25.63

<sup>a</sup>The bold text for 2005 denotes when union positions' pay rates began to exceed TMA pay rates.

Source: OIG analysis of TMA pay rates from 2001 through 2008, and retroactive wage settlements for 2002 through 2008

## **MANAGEMENT OF TMA EMPLOYEES HAS IMPROVED, BUT PROBLEMS PERSIST**

Transportation's administration of TMA employees improved during the course of this review, but some weaknesses continue. Transportation has centralized management over TMA employees, including processes to promote union employees into temporary management positions and limit the duration of these positions. Nonetheless, our analysis shows that some union employees still remain in these positions longer than 180 days, and are still not properly coded in the payroll system. Poor controls over TMA employees continue to limit Transportation's ability to provide temporary management experience to a range of employees and properly evaluate its personnel needs. Further, more timely revisions of the TMA pay rates should avoid pay inequities between employees in TMA positions and their union counterparts.

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## **Transportation Has Tightened Some Controls over TMA Employees**

Transportation has made some improvements to tighten controls over TMA employees. Some of the steps Transportation took to improve management of union employees assigned to temporary management positions are designed to address the problems we have highlighted. For example, Transportation officials stated that they have taken the following actions:

- Instituted processes (in September 2007) that centralized TMA promotions to help ensure that each applicant and assignment is reviewed and approved by the appropriate level of management. T&E field managers must complete a request form to authorize and promote union employees to TMA positions. Similarly, field managers of on-board services (OBS) employees (such as train conductors) must request the creation of a TMA position from the OBS desk at the operations center. The desk official then creates the position and assigns the employees to the appropriate job code in the payroll system, rather than this being done by the field manager.
- Initiated a monthly report (in February 2009) on the use of the conference labor code immediately after we discussed the apparent improper use of this code with them. Transportation officials review a monthly report of all days paid under this code to ensure that the time is authorized, legitimate, and follows payroll labor code guidelines. We reviewed these reports and our initial analysis shows that the use of the conference code is being reviewed and reconciled monthly by senior Transportation managers, thereby limiting potential misuse.
- Initiated two monthly reports (beginning in July 2011), after discussions with us, that list T&E and OBS employees working in TMA positions. These reports are now reviewed by senior Transportation managers to ensure that TMA assignments are properly authorized and do not exceed 180 days without managerial approval.

## **Some Weaknesses in the Implementation of TMA Policy Continue**

Some problems persist despite these controls. For instance, some TMA employees continue to remain in their assignments for more than 180 days. We reviewed the T&E reports generated from the payroll system for FY 2011 and found that 29 out of 76 employees' assignments (38 percent) exceeded this limit, although most of these

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assignments started before Transportation implemented its controls. We believe that these employees were able to exceed 180 days in their TMA positions in part because HR did not require Transportation managers to review and reconcile their monthly TMA reports with the official HR TMA report. We discussed this further with Transportation in October 2011; they implemented a control in the payroll system the following month to prevent employees from continuing in a TMA position beyond 180 days without appropriate approval.

Further, field managers may not be properly identifying TMA employees in the payroll system using the appropriate job codes. We reviewed Transportation's October 2011 TMA reports, which listed 27 T&E and 53 OBS employees working in TMA positions. However, the official report used by HR to track TMA employees listed different totals—37 and 46 employees, respectively. We could not readily determine from the information available which report, or combination of reports, contained accurate information because the systems used to generate the reports are not integrated and HR and Transportation managers do not reconcile the reports. These discrepancies suggest that the company has not yet taken a centralized approach to tracking the proper use and coding of TMA employees in the payroll system. This could lead to some employees again improperly receiving retroactive pay for union positions when their unions ratify current labor agreements.

### **Poor Controls Limit Employees' Management Opportunities and Transportation's Workforce Planning**

Transportation could further tighten its controls over the use of TMA positions and limit their duration if Transportation followed the TMA policy more closely. For example, the policy states that qualified candidates who applied and interviewed for TMA positions but were not selected should be placed on a list and rotated into those positions, rather than the same employee remaining in a lengthy assignment. However, Transportation is not creating qualified candidate lists to fill TMA positions, thereby limiting the number of employees who receive management experience through these temporary positions.

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Additionally, better controls over the use of TMA employees could also lead to improvements in workforce planning.<sup>7</sup> The TMA policy states that management positions expected to be vacant more than 180 days are subject to Amtrak's normal posting requirements for permanent positions. However, according to Transportation officials, due to Amtrak's current management hiring freeze, the use of TMA positions has increased and these assignments have been extended beyond 180 days because it is easier to establish a TMA position than to attempt to justify a permanent management position and follow the hiring plans that Transportation has developed.<sup>8</sup> While some TMA positions exist to meet the company's immediate business needs, our analysis indicated that most of the positions that exist beyond 180 days are being used in lieu of creating a permanent management position. Thus temporary management assignments are being regularly used to augment management staff rather than addressing these management shortages through proper workforce planning.

### **TMA Rates of Pay Were Not Updated in 2011**

HR has not taken steps to ensure that TMA rates keep pace with union salaries. Although HR reissued the TMA policy in 2009 and 2010 with updated rates of pay, it did not do so in 2011. Amtrak is again in a period of labor uncertainty, with three of 13 unions not yet having ratified new labor agreements covering the period July 1, 2010 through December 31, 2014. The ten agreements include back pay for union employees retroactive to July 1, 2010, upon ratification. A union representing some T&E employees (such as conductors) has yet to ratify the new labor agreements, and union rates of pay may again outpace TMA rates if the rates are not revised annually. This could again put Amtrak in a situation in which it may underpay employees who work in temporary management assignments.

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<sup>7</sup> We previously reported on Amtrak's workforce planning deficiencies. In a response to the report, Amtrak's Chief Human Capital Officer committed to improving workforce planning. See *Human Capital Management: Lack of Priority Has Slowed OIG-Recommended Actions to Improve Human Capital Management, Training, and Employee Development Practices*, Amtrak OIG-E-11-04, July 8, 2011.

<sup>8</sup> We previously reported, in 2009, that Transportation and HR developed plans to project and guide hiring decisions for management positions. See *Human Capital Management*, Amtrak OIG E-09-03, May 15, 2009.

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## CONCLUSIONS

Weak controls over the implementation of the TMA policy, coupled with inconsistent practices for paying back wages, may have serious financial consequences for Amtrak. Due to weak controls that allowed abusive and inconsistent management practices in the past, Amtrak now faces a challenging issue: determining whether it should invest the time and resources necessary to (1) recover back pay improperly paid to some employees and (2) provide additional pay to other employees who were properly coded in temporary management positions between July 2002 and June 2009, which would be necessary to comply with the intent of the TMA policy—to pay a premium rate to TMA employees. As some of these weaknesses continue today, Amtrak's ability to properly manage its workforce is limited. Moreover, if these weaknesses are not addressed, Amtrak may face additional financial consequences and pay inequity among employees in the future when the current round of labor negotiations concludes.

## RECOMMENDATIONS

To address the pay issues stemming from weaknesses in the management of TMA employees and avoid these problems in the future, we recommend that the

1. Chief Financial Officer determine whether his office should attempt to recover improper payments made to employees who were ineligible to receive back pay from July 1, 2002 through March 31, 2008.
2. Chief Financial Officer and Chief Human Capital Officer determine whether employees who were properly coded in temporary management positions between July 1, 2002 and June 30, 2009 should receive retroactive pay adjustments to address any pay inequities that resulted from HR's not adjusting TMA rates during this period.
3. Chief Human Capital Officer strengthen the management of TMA employees by instituting a process for reconciling monthly reports of the number of TMA employees.
4. Chief Human Capital Officer improve workforce planning policies and procedures to prevent managers from using TMA positions to inappropriately augment management staff.



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5. Chief Human Capital Officer institute a process to review the TMA policy annually and update the TMA rates of pay, as appropriate, to reflect increases in union rates of pay.

## **MANAGEMENT COMMENT AND OIG ANALYSIS**

In commenting on a draft of this report, management generally agreed with our recommendations, but determined that they would not attempt to recover improper payments made to employees who were not eligible to receive back pay because management believes that the costs to do so would outweigh the benefits of recovering the funds (recommendation 1). Management also determined that it would not perform an analysis to decide whether retroactive pay adjustments are warranted for employees who spent time working in properly coded TMA positions (recommendation 2). Further, management committed to improving their controls over current TMA employees (recommendations 3, 4, and 5) and provided us with their plans and time frames. We view these actions as responsive to our recommendations.

Amtrak management's letter commenting on the draft report is reprinted as Appendix III.

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Thank you for your cooperation during the course of this evaluation. If you have any questions, please contact me ([calvin.evans@amtrakoig.gov](mailto:calvin.evans@amtrakoig.gov), 202.906.4507) or Jason Venner, Senior Director, Inspections and Evaluations ([jason.venner@amtrakoig.gov](mailto:jason.venner@amtrakoig.gov), 202.906.4405).

cc: Joseph H. Boardman, President & CEO  
Donald A. Stadtler, Jr., Acting Vice President, Operations  
Eleanor D. Acheson, Vice President, General Counsel and Corporate Secretary  
Jessica Scritchfield, Senior Director, Internal Controls/Audit

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**Appendix I**

**SCOPE AND METHODOLOGY**

This report provides the results of our evaluation of Amtrak's policies and procedures when assigning union employees to temporarily fill management positions. Based on an Amtrak Transportation Department employee's complaint in November 2008, we initially focused on employees in Transportation who worked in temporary management positions during the labor negotiation period between August 1, 2001, and May 30, 2008. Based on our preliminary findings, we expanded the scope of our evaluation to also assess the management of employees currently working in temporary management positions in Transportation. Therefore, this report discusses whether Amtrak (1) consistently managed employees in temporary management positions during the labor negotiation period, (2) appropriately managed TMA labor rates after negotiations concluded, and (3) is properly managing TMA employees today. We performed our work from November 2008 through November 2011.

To address our objectives, we obtained and reviewed several versions of the TMA Policy (P/I 7.31.0) issued in 2001, 2004, and 2010, to understand how the policy was intended to be administered and to identify TMA rates of pay. We also obtained a series of reports from Transportation, HR, Information Technology, and Finance that identified employees temporarily promoted to management positions and the labor codes that were used to pay them. We identified the length of time these employees remained in these positions, the types of labor codes used to identify them in payroll and management systems, and compared these reports to determine whether management of these employees improved over time. In addition, we interviewed staff from these departments to understand their roles and responsibilities in managing union employees assigned to temporary management positions, and reviewed data and documents we received from them.

Our work was performed in accordance with government *Quality Standards for Inspection and Evaluation* and our statutory responsibilities contained in the Inspector General Act of 1978, as amended.

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**Appendix II**

**SUMMARY OF RECENT LABOR NEGOTIATIONS THAT  
 AFFECT TMA EMPLOYEES**

Table 2 lists the chronology of recent labor negotiations. These negotiations are governed by Section 10 of the Railway Labor Act of 1926, as amended

***Table 2. Chronology of Amtrak's Labor Negotiations  
 FY 2000 through FY 2015***

<b>Date or Period</b>	<b>Event</b>
December 31, 1999	Amtrak's agreements with its 13 unions expire
January 1, 2000	Amtrak begins negotiations and eventually enters into mediation with nine of its unions
October 25, 2007	Amtrak and unions reject arbitration offered by National Mediation Board (NMB) <sup>a</sup>
October 31, 2007	NMB releases nine non-operating unions from mediation
November 30, 2007	NMB recommends that the President of the United States create a Presidential Emergency Board (PEB) to avoid a labor strike
December 1, 2007	The President establishes PEB 242 to mediate the dispute and issue recommendations for a proposed settlement
December 30, 2007	PEB 242 issues a report to the President, which includes recommendations for the parties to reach an agreement
January through May 2008	Amtrak and its 13 unions settle labor disputes with agreements including \$262 million in retroactive wages to union employees
May 9 and 30, 2008	Amtrak pays eligible union employees 40% of the retroactive wage payments
May 1, 2009	Amtrak pays eligible union employees the remaining 60% of the retroactive wage payments
December 31, 2009	Amtrak's agreements with its unions expire
January 1, 2010 through December 15, 2011	Amtrak enters into agreements with 10 unions that include wage increases of 14.9% over 5 years (four unions have not yet ratified the agreements)
July 1, 2010	Amtrak begins paying the union wage increases
January 1, 2015	Current labor agreements expire

<sup>a</sup>The National Mediation Board is an independent federal agency that administers the Railway Labor Act.

Source: OIG analysis of Amtrak's recent labor negotiations as of December 15, 2011.

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**Appendix III**

**COMMENTS FROM THE ACTING CHIEF FINANCIAL OFFICER  
 AND THE CHIEF HUMAN CAPITAL OFFICER**

NATIONAL RAILROAD PASSENGER CORPORATION

## Memo



<p>Date March 21, 2012</p>	<p>From Gordon Hutchinson, Acting Chief          Financial Officer          Barry Melnkovic, Chief Human Capital          Officer <i>G. Z. H.</i></p>
<p>To Cal Evans, Assistant Inspector          General, Inspections and          Evaluations</p>	<p>Subject OIG Report; Human Capital          Management: Controls Over the Use of          Temporary Management Assignments          Need Improvements</p>
	<p>cc DJ Stadtler, Acting Vice President          Operations          Bob Lynch, Director Benefits          Charlie Woodcock, Chief Labor          Relations Officer          Jessica Scritchfield, Sr. Director, Internal          Controls / Audit</p>

This memo is in response to the Office of Inspector General ("OIG") evaluation report entitled, *Human Capital Management: Controls Over the Use of Temporary Management Assignments Need Improvements*, dated February 23, 2012.

Management's response to each of the five recommendations is detailed below.

**Recommendation 1:**

Chief Financial Officer determine whether his office should attempt to recover improper payments made to employees who were ineligible to receive back pay for the period July 1, 2002 through March 31, 2008.

**Management response:**

The OIG identified that the population of back pay paid to temporary management assignment employees during the aforementioned time period was approximately \$858,000. It would be difficult to determine precisely whether the employees were paid for hours they worked in temporary management positions and the hours billed to various labor codes to estimate the amount of back pay that was or was not proper considering the amount of time that has elapsed. We believe that a significant amount of time would need to be invested to conduct an analysis and that doing so would likely outweigh the benefits of identifying the amount of potential overpayments and recovering the funds. Therefore, we have determined that management should not attempt to recover potential improper payments made to ineligible employees.

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**Recommendation 2:**

Chief Financial Officer and Chief Human Capital Officer determine whether employees who were properly coded in temporary management positions between July 1, 2002 and June 30, 2009 should receive retroactive pay adjustments to address any pay inequities that resulted from HR's not adjusting TMA rates during this period.

**Management response:**

In connection with the OIG's recommendation 5, management will institute a process to review the TMA policy annually and update the TMA rates of pay going forward. Therefore, we have determined that we will not perform an analysis of employees who were properly coded in temporary management positions to determine if retroactive pay adjustments are warranted.

**Recommendation 3:**

Chief Human Capital Officer strengthen the management of TMA employees by instituting a process for reconciling monthly reports of the number of TMA employees.

**Management response:**

Management will institute and document a process for issuing official monthly TMA reports and ensuring these reports are appropriately distributed to Amtrak departments with TMA employees. Specifically, the Chief Labor Relations Officer with Amtrak IT will be responsible for developing these reports by May 15, 2012.

**Recommendation 4:**

Chief Human Capital Officer improve workforce planning policies and procedures to prevent management from using TMA positions to inappropriately augment management staff.

**Management response:**

Management will work to improve workforce planning processes and procedures to ensure TMA positions are not inappropriately used to augment management staff. Specifically, the Director Benefits with line management will be responsible for developing these monitoring processes by June 1, 2012.

**Recommendation 5:**

Chief Human Capital Officer institute a process to review the TMA policy annually and update the TMA rates of pay, as appropriate, to reflect increases in union rates of pay.

**Management response:**

In connection with recommendation 4, the Manager of Compensation will evaluate the TMA policy and daily rates of pay and update them as needed by May 1, 2012. The TMA daily rates of pay will be assessed on an annual basis going forward, or as may be needed more frequently.



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**Appendix IV**

**ABBREVIATIONS**

HR	Human Resources
NMB	National Mediation Board
OBS	on-board services
OIG	Office of Inspector General
PEB	President's Emergency Board
T&E	train and engine
TMA	temporary management assignment

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**Appendix V**

**OIG TEAM MEMBERS**

Calvin Evans, Assistant Inspector General, Inspections and Evaluations

Jason Venner, Senior Director, Inspections and Evaluations

Ed Vogel, Jr., Senior Operations Analyst

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## OIG MISSION AND CONTACT INFORMATION

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<b>Amtrak OIG's Mission</b>	<p>Amtrak OIG's mission is to</p> <ul style="list-style-type: none"> <li>• conduct and supervise independent and objective audits, inspections, evaluations, and investigations relating to Amtrak programs and operations;</li> <li>• promote economy, effectiveness, and efficiency within Amtrak;</li> <li>• prevent and detect fraud, waste, and abuse in Amtrak's programs and operations;</li> <li>• review security and safety policies and programs; and</li> <li>• review and make recommendations regarding existing and proposed legislation and regulations relating to Amtrak's programs and operations.</li> </ul>
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<hr/>	
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