



**November 14, 2012**

**To:** Finance and Administration committee  
**From:** Will Kempton, Chief Executive Officer  
**Subject:** Review of the Grievance and Arbitration Process

### **Overview**

The Internal Audit Department has completed a review of the grievance and arbitration process for union-represented employees and non-represented administrative employees of the Orange County Transportation Authority. The grievance and arbitration process is facilitated by the Labor and Employee Relations Department of the Human Resources and Organizational Development Division. Based on this review, the Internal Audit Department has determined that controls in place to ensure compliance with grievance and arbitration requirements in the collective bargaining agreements and the grievance policy for non-represented administrative employees are generally adequate; however, one recommendation has been made to improve documentation of delays in response time.

### **Recommendation**

Direct staff to implement recommendation provided in the Review of the Grievance and Arbitration Process, Internal Audit Report No. 13-513.

### **Background**

The Orange County Transportation Authority (OCTA) maintains collective bargaining agreements (CBA) with three unions. For union-represented employees, grievances are disputes, controversies, or claims of breach or violation of the terms of the respective CBA. Each of the three CBA's includes unique requirements for handling grievances. The grievance process has four defined steps that include written claims by a union representative and written responses by various levels of OCTA management and employee relations. At any stage, the grievance may be resolved or the claim may be withdrawn by the union. If the grievance remains unresolved, the final step of the process is arbitration.

For non-represented administrative employees there are two possible steps in the grievance process. The first step includes a hearing with the employee, the supervisor or manager, and Labor and Employee Relations staff. The second step includes a review of the grievance by the Executive Director of Human Resources and Organizational Development or his designee. A written decision from OCTA is required to be issued to the grievant within ten days of each step.

***Discussion***

Internal Audit found that eight out of 16 files reviewed reflected responses by OCTA that exceeded the time period allotted for response, per the respective CBA. The CBA's allow for time limits to be extended by agreement of the parties involved; however, there was no documentation on file to evidence agreement of the parties for these delays. Internal Audit recommended that management obtain and document agreement of the parties for any responses issued outside the stated time periods. Management concurred and indicated that, in the future, any delays will be documented and agreed to in writing.

***Summary***

Based on the review, Internal Audit has determined that controls in place to ensure compliance with grievance and arbitration requirements in the CBA's and the grievance policy for non-represented administrative employees are generally adequate; however, a recommendation has been made to improve documentation of delays in response time.

***Attachment***

- A. Review of the Grievance and Arbitration Process, Internal Audit Report No. 13-513.

**Prepared by:**



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**Approved by:**



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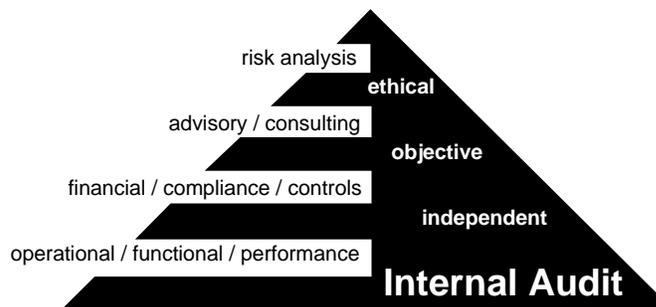
# Orange County Transportation Authority Internal Audit Department



## Review of the Grievance and Arbitration Process

**INTERNAL AUDIT REPORT NO. 13-513**

October 25, 2012



**Internal Audit Team:**

Janet Sutter, CIA, Executive Director, Internal Audit  
Gerry Dunning, CIA, CISA, CFE, Senior Internal Auditor

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**CONCLUSION**

The Internal Audit Department (Internal Audit) has completed a review of the grievance and arbitration process for union-represented employees and non-represented administrative employees of the Orange County Transportation Authority (OCTA). Based on this review, Internal Audit has determined that controls in place to ensure compliance with grievance and arbitration requirements in the collective bargaining agreements and the grievance policy for non-represented administrative employees are generally adequate; however, one recommendation has been made to improve documentation of delays in response time.

**BACKGROUND**

The grievance and arbitration process is facilitated by the Labor and Employee Relations Department of the Human Resources and Organizational Development Division. Staff in this group work closely with OCTA managers, union representatives, individual employees, contracted court reporters, and arbitrators.

OCTA maintains collective bargaining agreements (CBA) with three unions: Teamsters Local 952 covering coach operators, Teamsters Local 952 covering maintenance employees, and the Transportation Communications International Union (TCU) covering parts room and facilities maintenance employees. For union-represented employees, grievances are disputes, controversies, or claims of breach or violation of the terms of the respective CBA. Each of the three CBA's includes unique requirements for handling grievances. The union representative files the formal grievance on behalf of the union employee or, in some cases, the union may file a class action grievance on behalf of all OCTA employees in a union. The grievance process has four defined steps that include written claims by the union and written responses by various levels of OCTA management and employee relations. At any stage, the grievance may be resolved or the claim may be withdrawn by the union. If the grievance remains unresolved, the final step of the process is arbitration.

For non-represented administrative employees there are two possible steps in the grievance process. The first step includes a hearing with the employee, the supervisor or manager, and Labor and Employee Relations staff. The second step includes a review of the grievance by the Executive Director of Human Resources and Organizational Development or his designee. A written decision from OCTA is required to be issued to the grievant within ten days of each step. There is no official arbitration process for non-represented employees.

Court reporters are used to record hearing sessions, as needed, under a blanket purchase order with Precise Reporting and Captioning Service Inc. (dba, Precise Reporting Service). Arbitrators are hired on an as needed basis; OCTA and the union split the cost of the court reporters and arbitrators.

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The Labor and Employee Relations Department maintains a log of all grievances as well as hard copy files. Each case is assigned a sequential number for reference and tracking purposes. The volume of activity for grievances and arbitrations for the calendar years 2010 and 2011, and for the period January 1 through July 31, 2012, was as follows:

| <b>Employee Group</b>     | <b>2010</b> | <b>2011</b> | <b>2012</b> |
|---------------------------|-------------|-------------|-------------|
| <b>Operations</b>         | 95          | 102         | 65          |
| <b>Maintenance</b>        | 4           | 8           | 5           |
| <b>TCU</b>                | 5           | 0           | 0           |
| <b>Admin</b>              | 1           | 0           | 1           |
| <b>Total Grievances</b>   | <b>105</b>  | <b>110</b>  | <b>71</b>   |
| <b>Total Arbitrations</b> | <b>17</b>   | <b>3</b>    | <b>1</b>    |

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**OBJECTIVES, SCOPE, AND METHODOLOGY**

The objective of this review was to determine the adequacy of controls in place to ensure compliance with grievance and arbitration requirements in CBA's and the administrative employee grievance policy and procedure. The scope of the review included grievances and arbitrations during the period January 1, 2010 through July 31, 2012. The review methodology included, but was not limited to, the following:

- Interview of OCTA's Labor and Employee Relations section manager to gain an understanding of the grievance and arbitration process;
- Review of CBA's for coach operators, maintenance workers, TCU staff and the Grievance Policy and Procedure for Administrative employees;
- Review of blanket purchase orders for court reporting services with Precise Reporting Services;
- Review of grievance logs maintained by Labor and Employee Relations;
- Review of a judgmental sample of grievance files to determine compliance with CBA's or OCTA policies and procedures and to determine that payments to third party vendors are properly supported and approved;
- Review of a judgmental sample of arbitration files to determine compliance with CBA's or OCTA policies and procedures and to determine that payments to third party vendors are properly supported and approved.
- Reviewed user access reports for the Caseload application (used to maintain coach operator discipline and training records) to determine that access to coach operator discipline and training records is appropriately limited.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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**Audit Comment, Recommendation and Management Response**

**Noteworthy Accomplishment**

The Labor and Employee Relations Department maintains a detailed log of all grievances. The log is sequentially numbered and includes the employee name and badge number, date filed, the employee relations representative assigned to the case, a brief description of the issue, and notes detailing the steps completed and related action dates. The log is an effective management tool to ensure all grievances are properly tracked.

**Grievance File Documentation**

Review of sixteen grievance files noted that, in eight cases, OCTA had provided written response to one or more steps in the process that exceeded the time period allotted for response, per the respective CBA.

The CBA's allow for time limits to be extended by agreement of the parties involved; however, there was no documentation on file to evidence agreement of the parties for these delays.

**Recommendation:**

Internal Audit recommends that management obtain and document agreement of the parties for any responses issued outside the stated time period.

**Management Response:**

Management concurs that improvement to grievance time limit extension documentation will be beneficial to the grievance process recordkeeping.

Time limits for grievance filing, appeal, or response may be extended upon mutual agreement in writing between the parties. In most cases when a time limit extension is needed, the past practice of OCTA and the unions typically has been to come to a verbal agreement. Generally, agreement for a time extension is mentioned in the OCTA grievance response letter. Should OCTA fail to respond within the grievance response time limits set forth in the collective bargaining agreements, the union has the option to appeal the grievance to the next step.

While there have not been disputes between OCTA and the unions over time limits, it is recognized that a written mutual agreement is a best practice. The Labor & Employee Relations Department will inform OCTA management involved in the grievance process that documentation of any mutual agreement for time limit extensions must be provided in writing to Labor & Employee Relations for the grievance file. In addition, the Labor & Employee Relations Department Manager will work cooperatively with the unions to ensure that each party has appropriate documentation concerning time limit extensions.