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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

JOHN KEAST, STAFF DIRECTOR
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October 23, 2019

The Honorable Stephen Dickson
Administrator
Federal Aviation Administration
800 Independence Avenue, Southwest
Washington, D.C. 20591

Dear Administrator Dickson,

I am writing to express my disappointment in the Federal Aviation Administration's (FAA) lack of sufficient and timely responses to my repeated requests for information regarding agency practices. On April 2, 2019, I sent then-Acting Administrator Daniel Elwell a letter requesting information about training and certification of FAA Aviation Safety Inspectors. This letter was sent as a result of protected disclosures made to the Senate Committee on Commerce, Science, and Transportation by several FAA whistleblowers.

Following the FAA's responses to my initial request for information, on July 31, 2019, I sent then-Acting Administrator Elwell another letter requesting additional information as part of the committee's ongoing investigation of this matter. On September 5, 2019, committee staff agreed to prioritize and clarify several specific items in my July 31 letter to assist the FAA in expediting its response. To date, I have received only partial responses to fewer than half of the prioritized items. Most of my original requests remain outstanding.

I recognize that my July 31 letter requested a significant amount of documents, records of communications, and other information. However, committee staff attempted to assist the agency by narrowing the focus of my request. The FAA's apparent inability to respond to my requests in a complete and timely manner is a cause for concern.

On October 18, 2019, the FAA provided to Senate Commerce, Senate Appropriations, House Transportation and Infrastructure, and House Appropriations copies of instant messages from 2016 between then-Boeing chief technical pilot for the 737 MAX, Captain Mark Forkner, and another Boeing employee that Boeing had provided to the Department of Transportation. I am disturbed by the contents of these messages. These communications reveal that Captain Forkner harbored concerns about the Maneuvering Characteristics Augmentation System, a system that has emerged as a key factor in the two Boeing 737 MAX crashes. Still, Captain Forkner evidently decided it was appropriate to remove any mention of the system from pilot training and flight manuals for the Boeing 737 MAX. Captain Forkner also stated outright that he "basically lied to the regulators (unknowingly)."

On October 18, 2019, hours after Boeing's disclosure of these instant messages, the FAA also provided several redacted emails between Mark Forkner and FAA employees to the same committees. I had previously requested "all communications between Mark Forkner and FAA employees" in my July 31 letter. This specific request was subsequently prioritized by my staff in early September, but the committee only received these relevant documents as part of the FAA's response to Boeing's disclosure of instant messages. An FAA document production to the committee on October 4 purported to be responsive to my request for Mark Forkner's communications with FAA employees, but contained none of the disturbing emails disclosed on October 18. When committee staff inquired in writing on October 7 if the October 4 production was a *complete* response to my request for Mark Forkner's communications, my staff did not receive a response. In fact, the eighth and most recent document production received by my office at 6:55 p.m. on October 18 did contain emails from Mark Forkner to FAA employees, but, again, contained none of the emails disclosed earlier that day.

In addition to the content of the October 18 disclosures, I am concerned about the timeliness of and process by which they were communicated to both the FAA and the Senate Committee on Commerce, Science, and Transportation. It appears that Boeing knew of the instant messages between Captain Forkner and a fellow Boeing employee months before they were provided. I share the concerns that you expressed in your October 18 letter to Boeing CEO Dennis Muilenburg, and I am interested in his response.

I have serious questions about the document production process that provided these emails to the committee less than five hours after the provision of Boeing's disclosure of instant messages. This occurred more than 11 weeks after I first requested and subsequently prioritized the production of these documents as the chairman of a key committee of jurisdiction.

Because of the FAA's failure to produce documents in a timely, complete, and good-faith manner, the committee requests that FAA employees be made available to committee staff for interviews. I expect the FAA's full cooperation, and appreciate your prompt and urgent attention to this request as we work to schedule these interviews. Please direct any questions to Robert Turner or Steven Wall of the committee majority staff at (202) 224-1251.

Sincerely,



Roger F. Wicker
Chairman