



U.S. DEPARTMENT OF TRANSPORTATION  
**OFFICE OF INSPECTOR GENERAL**

**FAA Needs To Enhance the Oversight and  
Management of Its Overflight Fee  
Program**

**FAA**

Report No. FI2018011

December 11, 2017





## FAA Needs To Enhance the Oversight and Management of Its Overflight Fee Program

*Self-initiated*

Federal Aviation Administration | FI2018011 | December 11, 2017

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### What We Looked At

The Federal Aviation Reauthorization Act of 1996 gave the Federal Aviation Administration (FAA) authority to charge overflight fees to most aircraft operators that fly in U.S.-controlled airspace but do not depart or land in the United States. However, several airlines and air transport associations have sued FAA, stating that the Agency lacked a reliable methodology for determining overflight fees, and the courts frequently overturned FAA's practices. While the 2001 Aviation and Transportation Security Act states that overflight fees must be reasonably related to FAA's costs for providing overflight services, and the Agency's determination of those costs is not subject to judicial review, we have previously found issues with FAA's process for collecting the fees. Accordingly, we initiated this audit to assess FAA's policies and procedures for ensuring that (1) overflight fees are accurately computed, (2) exceptions are appropriately applied, and (3) fees are collected or referred to the Department of the Treasury (Treasury) for collection in accordance with Federal laws and regulations.

### What We Found

FAA invoices aircraft operators for millions of dollars in overflight fees, but it does not have sufficient policies and procedures to ensure those fees are computed accurately. Moreover, FAA provides little oversight to the contractor who determines which flights are charged overflight fees and only minimal support to the personnel who generate the invoices. FAA's policies and procedures also do not explain when to apply exceptions to the Federal requirement to send invoices only when monthly overflight fees are equal to or exceed \$250. As a result, some users have been billed incorrectly. Finally, FAA does not ensure that its overflight-fee debt-collection efforts comply with Federal laws and regulations. Based on our statistical sample, we project that invoices totaling \$7.98 million (91.6 percent of the \$8.71 million in the universe) have issues with timely referrals to the Treasury.

### Our Recommendations

We made six recommendations to help FAA strengthen its internal controls and ensure the accuracy, appropriateness, and collection of overflight fees. FAA fully concurred with all six recommendations as written.

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## Memorandum

Date: December 11, 2017

Subject: ACTION: FAA Needs to Enhance the Oversight and Management of Its  
Overflight Fee Program | Report No. FI2018011

From: Louis C. King   
Assistant Inspector General for Financial and Information Technology Audits

To: Federal Aviation Administrator

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The Federal Aviation Reauthorization Act of 1996 gave the Federal Aviation Administration (FAA) authority to charge overflight fees to most aircraft operators that fly in U.S.-controlled airspace<sup>1</sup> but do not depart or land in the United States.<sup>2</sup> These fees are based on an FAA-established rate multiplied by the distance traveled by the aircraft. However, several airlines and air transport associations have sued FAA, stating that the Agency lacked a reliable methodology for determining overflight fees. Between 1997 and 2001, each time a case was heard, the courts overturned FAA's practices because the Agency could not sufficiently explain how overflight fees were directly related to the cost of the services rendered. In 2001, Congress passed the Aviation and Transportation Security Act (ATSA), which states that overflight fees must be reasonably related to FAA's costs for providing overflight services and that the Agency's determination of those costs is not subject to judicial review.

FAA uses a contractor to determine which flights are charged overflight fees. Then staff at FAA's Enterprise Services Center (ESC)<sup>3</sup> generate and send monthly invoices and delinquency notices regarding those fees; ESC also refers eligible delinquencies to the Department of the Treasury (Treasury). In a prior audit on DOT's delinquent debt, we identified issues with FAA's process for collecting

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<sup>1</sup> U.S.-controlled airspace is defined as all airspace over the territory of the United States or allocated to the United States by the International Civil Aviation Organization (ICAO) or other countries.

<sup>2</sup> Some exceptions are Government aircraft and users who accrue less than \$250 in overflight fees on a monthly basis.

<sup>3</sup> FAA's Enterprise Services Center (ESC) provides support services, including transaction processing and financial reporting, to DOT's Operating Administrations and other Federal agencies.

overflight fees,<sup>4</sup> noting that as of September 30, 2013, FAA had 1,666 invoices for delinquent overflight fees, totaling \$13.3 million.<sup>5</sup> Additionally, our audit of FAA's financial statements for fiscal years 2012 and 2013 identified errors in overflight-fee transactions that amounted to over \$100 million.<sup>6</sup>

Accordingly, we initiated this audit to assess FAA's policies and procedures for ensuring that (1) overflight fees are accurately computed, (2) exceptions are appropriately applied, and (3) fees are collected or referred to Treasury for collection in accordance with Federal laws and regulations.

We conducted our work in accordance with generally accepted Government auditing standards. We selected 3 statistical samples, totaling 212 out of 2,016 overflight-fee invoices as of June 30, 2016. The results of our statistical sample allowed us to project across the entire universe of invoices. We were unable to completely test for accuracy because we could not replicate the original overflight data FAA used to calculate fees. See exhibit A for more detailed information on our scope and methodology and exhibit B for a list of the entities we visited or contacted.

We appreciate the courtesies and cooperation of Department of Transportation representatives during this audit. If you have any questions concerning this report, please call Louis C. King Assistant Inspector General for Financial and Information Technology Audits, at (202) 366-1407.

cc: The Secretary  
DOT Audit Liaison, M-1  
FAA Audit Liaison, AAE-100

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<sup>4</sup> *Weak Internal Controls for Collecting Delinquent Debt Put Millions of DOT Dollars at Risk* (OIG Report Number FI-2015-065), July 9, 2015. OIG reports are available on our website: <https://www.oig.dot.gov/>.

<sup>5</sup> DOT reported these data to Treasury, as of September 30, 2013.

<sup>6</sup> *Quality Control Review of Audited Financial Statements for Fiscal Years 2013 and 2012* (OIG Report Number QC-2014-014), December 13, 2013.

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## Results in Brief

### **FAA invoices aircraft operators for millions of dollars in overflight fees but cannot ensure those fees are computed accurately.**

While FAA states that it accurately computes overflight fees, it acknowledges that, despite Federal requirements,<sup>7</sup> it does not have sufficient policies and procedures to ensure complete auditability of the overflight-fee calculation process. For example, due to inadequate guidance for the overflight-fee program, as well as insufficient documentation of the Agency's practices, we were unable to validate the accuracy of the overflight fees universe, which totaled \$24.3 million as of June 30, 2016.<sup>8</sup> While FAA officials informed us that original data used to compute overflight fees are archived and never edited, they could not reproduce the original data files. Moreover, we found that FAA provides little oversight to its contractor, who manipulates flight data without obtaining the Agency's approval; and we could not replicate the contractor's changes to determine their validity. Furthermore, FAA provides only minimal support to the ESC employees who generate overflight-fee invoices based on the data the contractor provides, which further hinders its ability to ensure that accurate invoices are issued. FAA officials told us they recognize that additional guidance would improve the Agency's process for computing overflight fees. Without such improvements, FAA will continue to lack visibility into the process its contractor uses to determine which flights are charged overflight fees and provide inadequate support to the ESC employees generating invoices, which may result in a substantial loss of revenue.

### **FAA appropriately applied exception rules in most but not all cases.**

Federal law<sup>9</sup> requires overflight-fee invoices to be sent only when monthly fees are equal to or exceed \$250, but we found some users were billed monthly for less than that amount. This is largely because FAA's policies and procedures do not explain if and when to apply exceptions. We also found an instance where FAA did not issue a refund or credit for a \$21 fee billed before November 19, 2001, although we did not find any similar occurrences in subsequent years. Without comprehensive guidance in place, FAA runs the risk of billing aircraft users inappropriately and falling out of compliance with Federal laws and regulations.

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<sup>7</sup> Federal Records Act (Title 44, United States Code, section 31); Office of Management and Budget (OMB) Circular A-123; OMB Circular A-129.

<sup>8</sup> FAA billed almost \$800 million in overflight fees from fiscal year 2006 through fiscal year 2016.

<sup>9</sup> Title 14, Code of Federal Regulations (CFR), appendix B, part 187.

## FAA does not ensure that its overflight-fee debt-collection efforts comply with Federal laws and regulations.

Treasury defines a debt as delinquent after 30 days, but FAA's standard operating procedures give foreign debtors 60 days to pay. Furthermore, under the Digital Accountability and Transparency Act of 2014 (DATA Act), delinquent debts must be referred to Treasury within 120 days, but ESC employees told us that, due to a lack of staff, such referrals do not consistently occur. According to Treasury, the longer debts remain delinquent, the greater the risk they will become uncollectible. Based on our statistical sample, we project that invoices totaling \$7.98 million (91.6 percent of the \$8.71 million in the universe) have issues with timely Treasury referrals.<sup>10</sup> While FAA officials stated the Agency does follow Treasury's requirements, we found that was not the case with debt-collection activities, such as managing installment payments or requiring training for all personnel who handle debt collections. Noncompliance with laws and regulations increases the risk that FAA will be unable to collect its overflight fees and use those funds to support other programs.<sup>11</sup>

We are making six recommendations to help FAA strengthen its internal controls and ensure the accuracy, appropriateness, and collection of overflight fees.

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## Background

FAA charges two types of overflight fees: *en route* fees are charged for airspace where primarily radar-based air traffic services are provided, and *oceanic* fees are charged for airspace where primarily procedural air traffic services are provided. Users (aircraft operators) are assessed a fee for every 100 nautical miles (or portion thereof) they fly in U.S.-controlled airspace. The rates differ depending on whether a plane is crossing en route or oceanic airspace (see table 1). Overflight fees are calculated by multiplying the appropriate rate with the mileage flown, and then invoices are generated in a multistep process conducted by FAA's Office of Financial Analysis, Office of Performance Analysis, and ESC (see exhibit C).

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<sup>10</sup> Our \$7.98 million estimate has 90-percent confidence limits ranging from \$7.55 million to \$8.4 million.

<sup>11</sup> Revenue obtained from overflight fees helps fund DOT's Essential Air Service (EAS) Program.

Table 1. Overflight-Fee Rates

Effective Date	En Route*	Oceanic*
Through September 30, 2011	\$33.72	\$15.94
October 1, 2011, through September 30, 2012	\$38.44	\$17.22
October 1, 2012, through September 30, 2013	\$43.82	\$18.60
October 1, 2013, through September 30, 2014	\$49.95	\$20.09
October 1, 2014, and beyond <sup>12</sup>	\$56.86	\$21.63

\*Rates expressed per 100 nautical miles (nm), Great Circle Distance (GCD) from point of entry into point of exit from U.S.-controlled airspace.

Source: 14 CFR part 187.

FAA’s ESC provides several support services to DOT Operating Administrations and other Federal agencies, including transaction processing and financial reporting. ESC uses the Delphi Financial Management application to track debt and generate invoices and has standard operating procedures (SOP) that include guidance for overflight-fee collection.

The Department of the Treasury, specifically the Bureau of Fiscal Services, operates the Government’s collections system for managing Federal debt, guided by various laws and regulations. The 1996 Debt Collection Improvement Act (DCIA) was established to decrease delinquent debt and ensure timely collection.

In 2014, Congress passed the DATA Act to make information on Federal expenditures more easily accessible and transparent to taxpayers and policymakers. The act requires agencies to notify Treasury about any legally enforceable non-tax debt that is more than 120 days delinquent; the previous requirement was more than 180 days delinquent. If an agency fails to send notice about such debts, Treasury is required to notify Congress. According to Treasury regulations, if a debtor does not pay by the due date specified in the first billing notice, the date of delinquency becomes the date the agency mailed or delivered the billing notice.<sup>13</sup>

<sup>12</sup> On November 29, 2016, the Final Rule to update overflight fees, effective January 1, 2017, was published in the *Federal Register* and also announced the increase in FAA’s billing threshold from \$250 to \$400. This exception is effective January 1, 2017.

<sup>13</sup> Department of the Treasury, *Managing Federal Receivables: A Guide for Managing Loans and Administrative Debt* (revised March 2015).



*Treasury's Managing Federal Receivables: A Guide for Managing Loans and Administrative Debt* provides an overview of DCIA regulations as well as guidelines and procedures for managing debt-collection and related activities. According to this guidance, Federal agencies must ensure debtors are afforded due process, including a way to handle disputes. The constitutional right of due process requires agencies to provide each debtor with a notice explaining what he or she owes and an opportunity to dispute the debt or the intended debt-collection action.

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## FAA Does Not Have Comprehensive Policies and Procedures To Ensure That Overflight Fees are Accurately Computed

While FAA uses criteria to establish the Agency's overflight-fee rates, it has not established comprehensive policies and procedures to ensure that overflight fees are accurately computed or auditable, despite Federal requirements. The Agency also does not have internal controls to oversee the contractor who compiles the overflight-fee data and the ESC staff who prepare the invoices.

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## FAA Lacks Policies and Procedures To Ensure Overflight-Fee Data Are Properly Archived, Validated, and Kept Up to Date

The Federal Records Act and other Federal guidance require agencies to document their activities, file records for safe storage and efficient retrieval, and dispose of records according to Agency schedules. Data to support a debt owed to the Government should be maintained in the event the debt is disputed.

However, FAA employees do not have procedures for archiving or updating data in a consistent manner and rely on unvalidated information to prepare invoices for overflight fees. The original data files extracted from FAA's Traffic Flow Management System (TFMS) for the overflight-fee calculation process are changed during the quality control review process as data anomalies are removed. While FAA officials told us that overflight-fee data files are archived and are never edited, they subsequently acknowledged that changes in these files make it impossible to complete an audit from start to finish. As of June 30, 2016, we identified 590 open invoices for overflight fees, totaling almost \$14.3 million, and 1,426 delinquent debts, totaling almost \$10 million, for a total of \$24.3 million in open invoices. However, we were unable to validate the accuracy

and integrity of FAA's overflight-related data, which raises questions about the entire universe of \$24.3 million in open invoices<sup>14</sup> listed in the Department's Delphi accounting system at the time of our review.

FAA overflight-fee officials also are using data from a legacy file in TFMS that is not maintained regularly by the Agency and does not receive software updates. The data it contains may have reliability issues or be incomplete or inaccurate. According to TFMS program officials, they have asked overflight-fee officials to use updated software for the past 2 years.<sup>15</sup> FAA officials told us that they are working on it, but did not provide a timeline to show when they will begin using updated software.

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## **FAA Lacks Internal Controls To Oversee the Contractor and ESC Employees Who Run the Overflight-Fee Program**

FAA's inadequate monitoring of its contractor further hinders its ability to ensure the issuance of accurate invoices. FAA officials provide little to no oversight over the contractor who reviews and imports the mileage data used to calculate overflight fees into the Overflight Fee Collection System (OFCS). The contractor manipulates TFMS flight data without obtaining the Agency's approval. We observed the contractor edit and delete flights or segments of flights without FAA review.

Furthermore, FAA officials provide only minimal support to the ESC employees who generate overflight-fee invoices based on the data the contractor uploads into OFCS. Occasionally, these uploads are missing codes from the International Civil Aviation Organization (ICAO) or lack other methods of identifying airplanes, and unidentified flights accumulate on the exclusion report. Due to such insufficient information, sometimes ESC is unable to bill for overflight fees. As of October 17, 2016, ESC had \$718,411.02 in unbilled fees,<sup>16</sup> a potential and substantial loss of revenue. One ESC employee we interviewed said she does not have access to flight plans and, despite her requests, FAA Headquarters has not provided assistance to help her clear the exclusion report.

Unbilled overflight fees are also one reason the contractor's uploaded data and ESC's invoices do not reconcile. For example, we compared FAA's contractor's list of total overflight fees, sorted by fiscal year, to ESC's actual invoice totals (see

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<sup>14</sup> These data are from DOT's financial management system, Delphi, as of June 30, 2016.

<sup>15</sup> According to FAA's TFMS Program Office, overflight-fee officials should be using the software TFMdata.

<sup>16</sup> Unbillable overflights are compiled in an OFCS database, which contained 2,188 flights totaling \$718,411.02 in unbilled fees, as of October 17, 2016.

table 2). We found a \$2.8 million discrepancy. Both ESC and the contractor stated that the two lists cannot be reconciled due to carriers that cannot be located, unidentified tail numbers, and the fact that military/State aircraft are exempt from fees.

Table 2. Differences Between Overflight Fees Billed

Fiscal Year	Billable per FAA Contractor	Billable per ESC	Billable Differences
2006	\$45,448,833	\$44,923,435	\$525,398
2007	\$49,923,600	\$49,919,537	\$4,063
2008	\$53,870,657	\$53,821,287	\$49,370
2009	\$52,853,306	\$52,743,274	\$110,032
2010	\$52,871,405	\$52,596,619	\$274,786
2011	\$57,587,990	\$56,759,155	\$828,835
2012	\$65,964,991	\$65,533,192	\$431,799
2013	\$73,469,268	\$73,424,357	\$44,911
2014	\$87,614,799	\$87,401,742	\$213,057
2015	\$104,882,646	\$104,791,232	\$91,414
2016	\$111,436,857	\$111,202,252	\$234,605
<b>Totals</b>	<b>\$755,924,352</b>	<b>\$753,116,082</b>	<b>\$2,808,270</b>

Source: FAA's Air Traffic Organization and ESC billing office; OIG analysis.

As a result of these challenges with overseeing the contractor and ESC, FAA lacks the internal controls to confirm that its overflight-fee invoices are accurate, which could put millions of dollars at risk.

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## FAA Appropriately Applied Exception Rules in Most but Not All Cases

FAA does not have comprehensive policies and procedures<sup>17</sup> to ensure that exceptions—i.e., exemptions from payment—for overflight fees have been appropriately applied.<sup>18</sup> We reviewed 86 out of 2016 overflight-fee invoice transactions for exceptions and found that the rules had been applied correctly in most cases. However, when we reviewed the one invoice in our sample that ESC issued before November 19, 2001, and all invoices for amounts of less than \$250 as of June 30, 2016 (14 sample items), we found issues in 9 invoices, with a combined balance of \$887. Although the dollar amount is low from a DOT perspective, the number of invoices with issues (9 out of 15) is significant and illustrates that some aircraft users were billed inappropriately. As a result, FAA is not in compliance with Federal laws and regulations pertaining to overflight fees.

According to Title 14 of the Code of Federal Regulations (CFR), Federal agencies should not send out invoices for overflight fees unless the monthly total equals or exceeds \$250.<sup>19</sup> Yet we found 8 instances among the 14 (57 percent) invoices in our sample universe where users were billed for monthly fees of less than \$250. An ESC employee told us that seven of those invoices were connected to a single ICAO carrier identification number, which belongs to a company that rents its plane to various users. The company has an overall monthly bill that exceeds \$250, but its management does not believe it is responsible for overflight fees and asked ESC to bill the individual users. Each month, ESC contacts the company and requests tail numbers to determine the appropriate users; then it issues individual bills regardless of the dollar amount. The ESC employee stated she does these extra steps to recover the overflight fees owed to FAA. However, based on 14 CFR, if FAA cannot identify the user, then it should send an invoice to the registered owner.

We also found one instance where a user was not completely refunded or credited for a \$21 fee that had been billed prior to November 19, 2001, although there is no evidence of a similar lapse in subsequent years. In a Final Order published on July 21, 2004, FAA disposed of certain overflight fees it collected pursuant to Title 49 of the United States Code, section 45301. The Agency decided that each air carrier that paid overflight fees under the Interim Final Rule

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<sup>17</sup> FAA's policies and procedures cover the following areas: types of billing transactions, late/delinquent payments, collections, and deposits.

<sup>18</sup> Exceptions are given to users who accrue less than \$250 in overflight fees on a monthly basis, Government aircraft, and planes flying Canada-to-Canada and Bahamas-to-Bahamas routes that do not stop in the United States.

<sup>19</sup> 14 CFR, part 187, appendix B.

or the Final Rule would receive a refund or credit<sup>20</sup> in an amount equal to the fees paid for services provided through November 19, 2001. The reimbursed amounts would be reduced if carriers had not paid for overflights that took place after that date.

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## FAA's Debt-Collection Efforts Are Not in Compliance With Federal Laws and Regulations

FAA does not ensure that its overflight-fee debt-collection efforts comply with Federal laws and regulations and that delinquent debts are referred to Treasury in a timely manner. Treasury's Bureau of Fiscal Services operates the Government's collections system for managing Federal delinquent debt. Its *Managing Federal Receivables* guidance provides an overview of regulations in the Debt Collection Improvement Act of 1996, as well as guidelines and procedures for managing debt collection and related activities.<sup>21</sup> Noncompliance with laws and regulations pertaining to debt collection increases the risk that FAA will not be able to collect its overflight fees. According to Treasury, the longer debts remain delinquent, the greater the risk they will become uncollectible.

We found a number of weaknesses in FAA's debt-collection and Treasury referral process; specifically:

- While FAA's standard operating procedures give foreign debtors 60 days to pay overflight fees, Treasury identifies a debt as delinquent if payment is not received by the due date specified in the initial invoice, usually 30 days after it was sent.
- FAA does not ensure debtors are given due process when it collects a debt. We found instances where debtors had not been notified that overflight bills were late. Treasury guidance states that if the delinquency is not resolved after the initial contact with the debtor, the agency must notify the debtor of the delinquent status with a "demand for payment" letter or dunning notice. We selected a statistical sample of 57 out of 395 overflight-fee invoice transactions that were between 0 and 120 days late and found that 39 had issues pertaining to noncompliance with debt-collection requirements regarding timely requests for payment. Based on our findings, we projected across the universe of invoices and estimated

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<sup>20</sup> A credit was given to operators that had unpaid overflight fees after November 2001. A refund was given to operators that did not owe any fees.

<sup>21</sup> Treasury, *Managing Federal Receivables*. The Bureau of Fiscal Services operates the Government's collections system for managing Federal delinquent debt.

that those with remaining balances totaling \$1.48 million, or 72.6 percent of the \$2.04 million in the universe, are noncompliant with Treasury requirements.<sup>22</sup>

- FAA does not charge late fees to foreign debtors.<sup>23</sup> According to Treasury guidance, unless prohibited by statute or contract, agencies are required to assess three separate and distinct types of late charges on all delinquent debts, including those owed by State and local governments—specifically, interest, penalties, and administrative costs. Interest compensates the Government for the loss or use of funds when a debt is not paid timely. Penalties discourage delinquencies and encourage early payment of the delinquent debt in full. Administrative costs cover the expense associated with collecting a debt. FAA’s noncompliance with Treasury guidance has cost the Agency just over \$9 million in uncollected late fees.<sup>24</sup>
- FAA neither has its own guidance nor follows Treasury’s guidance for managing overflight-fee installment payments. Per Treasury, if an agency cannot collect a delinquent debt in one lump sum, it should then attempt to collect the full amount in installment payments within a reasonable time (generally, less than 3 years). An agency should obtain a financial statement or credit report to verify the debtor’s claim of inability to pay. At that point, the agency and the debtor can agree to an installment plan, a legally enforceable written agreement that states all the terms and conditions, including those governing the assessment of interest and late charges. Yet FAA does not follow any of these steps when dealing with delinquent debt.
- FAA does not require training for its personnel who handle debt collections. Treasury requires Federal agencies to ensure that their personnel receive training about internal and Governmentwide credit- and debit-management regulations and procedures.
- FAA does not ensure delinquent overflight fees are referred to Treasury within 120 days of delinquency. We selected a statistical sample of 69 out of 1,179 overflight-fee invoice transactions that were more than 120 days late, and found that 62 delinquent debts had not been referred to Treasury timely. Based on our findings, we projected across the universe of invoices and estimated that those totaling \$7.98 million, or 91.6 percent of the \$8.71 million in the universe, have issues with timely

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<sup>22</sup> Our \$1.48 million estimate has 90-percent confidence limits ranging from \$1.42 million to \$1.54 million.

<sup>23</sup> FAA officials informed us during the audit that they had never done so but plan to start charging these fees soon.

<sup>24</sup> OIG calculated the uncollected late fees using Treasury guidance and FAA’s Financial Manual.

Treasury referrals.<sup>25</sup> According to the ESC employees we interviewed, this untimeliness is due to a lack of staff.

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## Conclusion

FAA has invoiced and collected millions of dollars in overflight fees since 2001 and relies on that revenue to fund other programs. While the Agency is striving to enhance its systems for determining and collecting those fees, due to a lack of oversight policies and other internal controls, it is not in compliance with Federal laws and regulations. Until FAA creates more robust and comprehensive policies that include all aspects of the overflight-fee process, it will be subject to questions about the integrity of the program and put funding for other activities at risk.

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## Recommendations

To help FAA strengthen its internal controls and ensure the accuracy, appropriateness, and collection of overflight fees, we recommend that the Federal Aviation Administrator:

1. Develop and implement policies and procedures to retain the original data files for purposes of validating the accuracy of the data being used to compute overflight fees.
2. Develop a timeline that indicates when FAA overflight-fee officials will start using updated software (that meet its system reliability requirements) for computing fees.
3. Develop and implement internal controls to oversee overflight-fee contractors, specifically, to review and approve flight data before the contractor submits them for billing.
4. Develop and implement internal controls to oversee Enterprise Service Center employees and require debt-collection training to ensure overflight fees are properly billed.
5. Establish policies and procedures that require staff to appropriately apply Federal laws and regulations and exclude aircraft users that are exempt or meet exception rules from receiving invoices for overflight fees.

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<sup>25</sup> Our \$7.98 million estimate has 90-percent confidence limits ranging from \$7.55 million to \$8.4 million.

6. Develop and implement policies and procedures to ensure that overflight-fee collection activities comply with Department of the Treasury requirements, such as:
  - a. Ensuring debtors are given due process; implementation of this recommendation could put \$1.48 million in funds to better use.
  - b. Assessing late charges on all delinquent debts; implementation of this recommendation could put \$9.3 million in funds to better use.
  - c. Making timely referrals of delinquent overflight fees to Treasury; implementation of this recommendation could put \$7.98 million in funds to better use.<sup>26</sup>

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## Agency Comments and OIG Response

We provided FAA with our draft report on September 21, 2017, and received its response on October 25, 2017, which is included as an appendix to this report. FAA fully concurred with all six of our recommendations as written. FAA stated that it has implemented actions for recommendations 1, 3, 4, and 5, and will provide documentation for its completed actions by November 30, 2017.<sup>27</sup> FAA added that it plans to implement actions for recommendations 2 and 6 by April 30, 2018. As a result, we consider all recommendations resolved but open pending a review of documentation supporting FAA's completion of its planned corrective actions.

FAA is incorrect in stating, in its comments, that we overestimated late charges and the amounts calculated as funds that can be put to better use because we failed to account for uncollectible invoices. Our audit tests identified such invoices and removed them from our estimates as appropriate. For example, as stated in the Scope and Methodology section of this report, we removed 845 invoices from the universe and used Treasury's guidance to make a fair assessment for uncollected late fees.

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<sup>26</sup> We are recommending actions that these funds be put to better use. As stated in the Inspector General Act of 1978, as amended, defines this as a recommendation by an office of inspector general that funds could be used more efficiently if management implements the recommended actions.

<sup>27</sup> In follow-up meetings on November 7, 2017, and December 6, 2017, FAA requested that we revise target action dates for recommendations 1, 3, 4, and 5 to January 31, 2018.



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## Actions Required

We consider recommendations 1 through 6 resolved but open pending completion of planned actions. If you have any questions concerning this report, please call Louis C. King, Assistant Inspector General for Financial and Information Technology Audits, at (202) 366-1407 or Kevin Dorsey, Program Director, at (202) 366-1518.

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## Exhibit A. Scope and Methodology

We conducted our work from August 2016 through September 2017 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To assess whether FAA has implemented effective policies and procedures related to overflight fees, we verified that (1) overflight fees are accurately computed, (2) exceptions are appropriately applied, and (3) fees are collected or referred to Treasury for collection in accordance with Federal laws and regulations.

To verify that overflight fees were accurately computed and exceptions were appropriately applied, we obtained an aging report, as of June 30, 2016, from ESC with 2,016 overflight-fee invoice transactions that had a total remaining amount of \$24.3 million. We stratified the universe into 4 strata and selected 86 transactions.

To test for accuracy, we downloaded invoices from the Overflight Fees Collection System (OFCS) and compared them to the hard copies provided by ESC.<sup>28</sup> In addition, we developed a worksheet to ensure the correct en route or oceanic rate was applied to each tested invoice and that the number of miles used to create the invoice corresponded to the amount billed. We also tested for exceptions to make sure invoices did not include flights from Canada to Canada, invoices of less than \$250 were not billed, none of the flights were Government or military related, and credits or refunds were applied appropriately per FAA's July 21, 2004, Final Order. We did not find any invoices with accuracy findings and found nine invoices with exception findings; they all occurred in census strata. Therefore, the projection for the exceptions is equal to the finding of \$887. The upper 90-percent confidence error limit was 2.8 percent of the remaining invoice amounts in the universe or \$680,000 for the accuracy findings and \$681,000 for the exception findings.<sup>29</sup>

We were unable to completely test for accuracy because we could not validate the accuracy or replicate the overflight-fee data used for billings. This accuracy test is step one in the process—performed at FAA Headquarters. FAA overflight-

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<sup>28</sup> Reviewing the work performed at ESC is step two in the process and test for accuracy.

<sup>29</sup> We used the Poisson Factor for 0 errors in stratum 2 of 2.3 divided by the stratum sample size to get the upper 90-percent confidence error limit.

fee officials could not reproduce the original data files they extracted from the Traffic Flow Management System (TFMS) for the scope of this audit, although they stated that the original data are archived and never edited. Several system complications prevented us from compiling a universe, which led us to conclude that we could not verify whether overflight fees are accurately computed.

To assess whether fees were collected in accordance with Federal laws and regulations, we obtained an aging report, as of June 30, 2016, from ESC with 395 overflight-fee invoice transactions between 0 and 120 days late. These transactions had a remaining amount of \$2.04 million. We stratified the universe into 2 strata and selected 57 unique transactions.

To verify that fees were referred to Treasury for collection in accordance with Federal laws and regulations, we obtained an aging report, as of June 30, 2016, from ESC with 1,179 overflight-fee invoice transactions that were more than 120 days late. These transactions had a remaining amount of \$8.71 million. We stratified the universe into 3 strata and selected 69 unique transactions.

We reviewed supporting documentation for sample items,<sup>30</sup> including invoices, demand letters, and evidence of communication with debtors and delinquent debt transferred to Treasury. Specifically, we assessed FAA's policies and procedures on debt-collection practices for compliance with Federal laws and regulations, such as DCIA, the DATA Act, and guidance from Treasury and the Office of Management and Budget.

We contacted and/or interviewed FAA officials from the Office of Financial Analysis (AFA), Office of Performance Analysis (AJR-G), Office of Security (AJR-2), Office of Air Traffic Systems (AJM-2), Office of the Chief Counsel (AGC), and the Enterprise Services Center (ESC). We also met with and observed the work performed by FAA's contractors from CGH Technologies Inc. Specifically, we watched a walkthrough of the flight data collection and the manual process to prepare the monthly files before the invoices are billed.

We determined the \$9.3 million in uncollected late fees by calculating interest, penalties, and administrative charges using Treasury's *Managing Federal Receivables* guidance. We did not calculate late fees on invoices with due dates from May 2016 (31–60), June 2016 (0–30), or July 2016 and August 2016 (current). As instructed by Treasury, we did not compound any interest. We also did not include any transaction with a remaining amount of less than \$250 to ensure we assessed late fees exclusively on overflight-fee invoices. From our universe of 2,016 invoices, we calculated the interest and administrative charges for 1,202 transactions and penalties for 1,135 transactions. We removed a total of 845 records from the universe—93 records from May 2016 (31–60), 148 records

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<sup>30</sup> We reviewed a total of 212 unique debts in the sample.

from June 2016 (0–30), 250 records from July 2016 (current), and 192 records from August 2016 (current). We also removed 162 records for transactions under \$250. To calculate the interest, we used Treasury’s Current Value of Funds Rate for the period in which the debt became delinquent. We assessed administrative charges on invoices that were 61 days or older at 1.5 percent, as stated on the overflight-fee invoices. We assessed penalties at 6 percent on invoices that were 91 days or older. To calculate the number of full months that an invoice had been outstanding, we selected the due date of the invoice and calculated the difference in months up to June 30, 2016.

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## **Exhibit B.** Organizations Visited or Contacted

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### **FAA Facilities**

Federal Aviation Administration (FAA) Headquarters, Washington, DC

FAA's Air Traffic Control System Command Center (ATCSCC), Warrenton, VA

FAA's Enterprise Services Center (ESC), Mike Monroney Aeronautical Center (MMAC), Oklahoma City, OK

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### **Other Organizations**

CGH Technologies Inc., Washington, DC

## Exhibit C. FAA’s Process for Generating Overflight-Fee Invoices

<b>1</b>	<b>OFFICE OF FINANCIAL ANALYSIS</b>
	Implements overflight fee rates via a Final Rule using the rulemaking process.
<b>2</b>	<b>OFFICE OF PERFORMANCE ANALYSIS</b>
	Flight data is collected daily from the Traffic Flow Management System.
	The database creates Overflight Fee for Service tables showing flights ready for review.
	The database creates track maps for each flight.
	The contractor performs quality control by manually reviewing the maps for each flight.
	The contractor uploads billable flights daily to FoxPro, a data management system.
	At the end of the month, a file is created in FoxPro to calculate the overflight fees.
	Overflight fee data are uploaded into the Overflight Fee Collection System (OFCS).
<b>3</b>	<b>ENTERPRISE SERVICES CENTER (ESC)</b>
	ESC extracts a final charges list report and works with the Office of Performance Analysis to resolve any discrepancies.
	The final charges list is transferred to the dataloader tool that posts the charges into Delphi, DOT’s accounting system.
	Delphi runs a discovery report to ensure that the final charges list is accurate and complete.
	Delphi generates an aging report; any item without a tail code (unique number or license plate assigned to an aircraft by FAA) or courier ID code (3-character code in OFCS) is put on an exclusion report. <sup>31</sup>
	ESC receives, reviews, and posts payments to Delphi from customers daily.
	If the customer does not pay by the due date, Delphi generates delinquency notices.
	Once debts are 120 days past due, ESC is required to refer them to the U.S. Treasury for collection.

Source: OIG analysis of FAA data.

<sup>31</sup> Unbillable overflights are compiled in an OFCS database, which contained 2,188 flights totaling \$718,411.02 in unbilled fees, as of October 17, 2016. The exclusion report must be manually worked by performing research to identify sufficient information so overflight fees can be billed to the appropriate aircraft user.

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## Exhibit D. List of Acronyms

AFA	Office of Financial Analysis, FAA
AGC	Office of the Chief Counsel, FAA
AJM-2	Office of Air Traffic Systems, FAA
AJR-G	Office of Performance Analysis, FAA
AJR-2	Office of Security, FAA
ATSA	Aviation and Transportation Security Act
CFR	Code of Federal Regulations
DATA Act	Digital Accountability and Transparency Act of 2014
DCIA	Debt Collection Improvement Act of 1996
DOT	Department of Transportation
EAS	Essential Air Service
ESC	Enterprise Services Center
FAA	Federal Aviation Administration
ICAO	International Civil Aviation Organization
OFCS	Overflight Fee Collection System
OIG	Office of Inspector General
OMB	Office of Management and Budget
TFMS	Traffic Flow Management System

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# Exhibit E. Major Contributors to This Report

KEVIN DORSEY	PROGRAM DIRECTOR
DORY DILLARD-CHRISTIAN	PROJECT MANAGER
CORDELIA BOSTIC	SENIOR AUDITOR
LAKARLA LINDSAY	SENIOR AUDITOR
FRANCISCO RAMOS-HILERIO	AUDITOR
ANGIE MOULTRIE	AUDITOR
PETRA SWARTZLANDER	SENIOR STATISTICIAN
WILLIAM SAVAGE	IT SPECIALIST
MAKESI ORMOND	STATISTICIAN
JANE LUSAKA	WRITER-EDITOR
SETH KAUFMAN	SENIOR COUNSEL



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## Appendix. Agency Comments



# Federal Aviation Administration

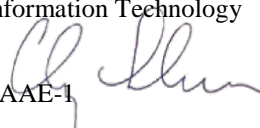
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## Memorandum

Date: October 25, 2017

To: Louis C. King, Assistant Inspector General for Financial and Information Technology Audits

From: H. Clayton Foushee, Director, Office of Audit and Evaluation, AAE-1 

Subject: Federal Aviation Administration's (FAA) Response to Office of Inspector General (OIG) Draft Report: FAA Needs to Enhance the Oversight and Management of Its Overflight Fee Program

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The FAA's overflight fee program collects over \$100 million each year from over 200,000 flights transiting U.S. airspace. The amount of revenue collected increases every year, and the Agency transfers all of that revenue to the Office of the Secretary, which funds the Essential Air Services (EAS) program. The FAA is committed to improving the accuracy and efficiency of the fee collection process and many of the OIG's draft report recommendations have already been implemented.

However, the draft report overstates the extent of overflight fee collection shortcomings, and the following comments are offered in response:

- The OIG draft report does not mention the dispute resolution process which enables customers to challenge what they believe to be erroneous charges by contacting the FAA before the due date. FAA works internally with the necessary organizations to evaluate the dispute and reaches a conclusion on the validity of the charge which is communicated to the customer. In approximately 400 customer invoices generated each month, the Enterprise Service Center (ESC) averages less than 10 disputes per month.
- The draft report statement that significant amounts of delinquent overflight fees and late charges can be put to better use is misleading in that it fails to take into account Executive branch guidance and approved processes for debt collection. Both the FAA Financial Manual and the Office of Management and Budget (OMB) Circular A-129 stipulate that accounts should be written off if an agency is unable to locate the debtor, if delinquent debts referred by the FAA to the Treasury Department are returned to the agency after unsuccessful attempts to collect payment, and if the debt is older than two years. The ESC adheres to the established OMB guidelines in making the determination that delinquent payments are uncollectible.

- The OIG's calculated late charges are overestimated since they appear to be based upon invoices that have been determined to be uncollectable per OMB guidelines.

Despite disagreement with certain OIG findings, the FAA concurs with all the draft recommendations as written. After recent discussions with the OIG, we have implemented recommendations 1, 3, 4 and 5 and will provide documentation of those completed actions by November 30, 2017. We plan to implement recommendations 2 and 6 by April 30, 2018.

We appreciate this opportunity to respond to the OIG draft report. Please contact H. Clayton Foushee at (202) 267-9000 if you have any questions or require additional information about these comments.

# U.S. DOT IG Fraud & Safety Hotline

[hotline@oig.dot.gov](mailto:hotline@oig.dot.gov) | (800) 424-9071

<https://www.oig.dot.gov/hotline>

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OIG conducts audits and investigations on behalf of the American public to improve the performance and integrity of DOT's programs to ensure a safe, efficient, and effective national transportation system.

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