
Office of Inspector General

Audit Report

Control of Appropriations

Federal Aviation Administration

Report Number: FE-1998-167

Date Issued: July 6, 1998





**U.S. Department of
Transportation**

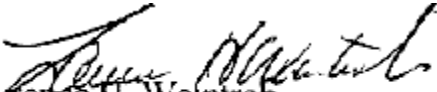
Office of the Secretary
of Transportation

Office of Inspector General

Memorandum

Subject: ACTION: Report on Control of Appropriations, FAA
Report No. FE-1998-167

Date: July 6, 1998

From: 
Lawrence H. Weinrob
Assistant Inspector General for Auditing

Reply to
Attn of:

To: Federal Aviation Administrator

I. INTRODUCTION

This report presents the results of our audit on Control of Appropriations within the Federal Aviation Administration (FAA). Our audit objective was to determine whether FAA's execution of its budget was consistent with appropriation law, appropriation acts, committee and congressional reports, and the intent of Congress. Within this objective, we determined whether FAA complied with internal reprogramming limitations established by Congress and made "assessments" to budget line items during Fiscal Year (FY) 1997 and the first half of FY 1998. The U.S. House of Representatives Report on Department of Transportation (DOT) and Related Agency Appropriations for FY 1998 defines "assessments" as "taxing" of programs to create a pool of funds for administrative expense and budget contingencies.

Background

On December 12, 1997, the Chairman of the Subcommittee on Transportation and Related Agencies requested that the Office of Inspector General (OIG) conduct an audit of the budget execution process in FAA, with a specific focus on the agency's internal controls of appropriated funds. In his request, the Chairman expressed concern that "FAA managers may be able to 'move money around' internally in ways which violate Congressional conference agreements on the distribution of appropriated funds and departmental reprogramming procedures." The Chairman further commented that "we have seen FAA taking funds from specific line items in a practice known as 'assessment', to create a pool of money

for management initiatives which were neither justified to, nor approved by, the Congress.”

On April 3, 1998, we discussed our audit results with a Subcommittee staff member. During this discussion, we were asked to report separately on reprogramming actions taken by FAA in regard to its FY 1997 request to Congress to reprogram \$34 million within the Facilities and Equipment (F&E) appropriation. The results of the reprogramming actions were detailed in our report on May 7, 1998 (Report Number: FE-1998-132).

Federal agencies submit budget requests to Congress about 9 months before the start of the fiscal year. FAA submitted its budget for FY 1998 to Congress on February 24, 1997. Congress, through its House and Senate subcommittees, holds extensive hearings and pass appropriation bills for each agency. Budget execution is the process by which agencies control the obligation and expenditure of funds provided in congressionally approved budgets. In executing the budget, agencies sometimes move funds within an appropriation, resulting in fund allocations to budget lines different than those approved by Congress. The movement of these funds is called reprogramming. Agencies also must establish internal controls to ensure funds are spent in accordance with appropriation law, appropriation acts, and requirements found in committee and conference reports.

For FYs 1997 and 1998, Congress appropriated these amounts for the F&E, Research, Engineering, and Development (RE&D) and Operations appropriations:

<u>Appropriation</u>	<u>FY 1997</u> (Thousands)	<u>FY 1998</u> (Thousands)
F&E	\$1,937,700	\$1,875,477
RE&D	208,412	199,183
Operations	<u>4,957,000</u>	<u>5,351,934</u>
Total	<u>\$7,103,112</u>	<u>\$7,426,594</u>

Congress distributed these funds to budget line items in each appropriation. The number of budget line items in each appropriation varied; for FY 1997 the F&E appropriation had 107, the RE&D appropriation had 30, and the Operations appropriation had 8. For FY 1998, the F&E appropriation had 106 budget line items, the RE&D appropriation had 28, and the Operations appropriation had 8.

Results-In-Brief

FAA established automated fund control systems to track reprogramming of the three appropriations. FAA included, in the design of the F&E and RE&D fund control systems, edits to alert fund managers that their proposed reprogramming action would exceed Congressionally imposed internal reprogramming thresholds. During FY 1997, FAA internally reprogrammed \$112.5 million. This represented about two percent of the total funds appropriated for FY 1997.

We found FAA (1) exceeded Congressionally established internal reprogramming thresholds in FY 1997 for three budget line items by \$8.7 million, (2) processed reprogramming actions in FYs 1997 and 1998 that resulted in “assessments”, (3) charged at least \$2 million to the wrong appropriation during FYs 1997 and 1998, and (4) permitted employees to work during FY 1998 on a RE&D program that did not receive FY 1998 funding. FAA agreed with the audit results, and has initiated corrective actions.

Scope and Methodology

Our audit included a review of fund controls and budget execution by FAA during FY 1997 and the first half of FY 1998. Our audit included the F&E, RE&D, and Operations appropriations. We did not include the Grants-in-aid for airports appropriation.

We conducted the audit in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States. We performed our audit work between January and May 1998. In conducting the audit, we (a) reviewed appropriation law, conference reports, Congressional internal reprogramming authority for FAA, and DOT and FAA guidance and regulations related to administrative control of funds and reprogramming of appropriations, (b) interviewed DOT and FAA budget and program/project personnel to obtain information on budget line items, formal and informal reprogramming actions and systems in place for administrative control of funds, (c) applied internal reprogramming thresholds against each budget line item to determine whether any were exceeded, (d) evaluated internal reprogramming actions to determine whether they were an “assessment” as described by the Subcommittee, (e) performed a detailed review of practices and procedures used in administering fund control and budget execution on five F&E budget lines, five RE&D budget lines and one Operations budget line, and (f) determined whether \$125 million of contract payments complied with appropriation law.

II. ANALYSES AND RECOMMENDATIONS

FAA Exceeded Congressionally Established Thresholds for Internal Reprogramming On Three Budget Line Items During FY 1997

FAA is authorized by Congress to transfer funds within specific limits of each budget line item.¹ The limits differ for each appropriation. In general, the maximum funds authorized to transfer into, or from, a budget line is 4 percent for the Operations appropriation, 15 percent for F&E, and 25 percent for RE&D of the budget line item amount available for obligation. Funds are available for obligation for 1 year for the Operations appropriation, and 3 years for the F&E and RE&D appropriations. If FAA determines the limits need to be exceeded, FAA must request a formal reprogramming of funds through the Secretary of Transportation to Congress for approval.

FAA exceeded the Congressional limits for 3 of 145 budget line items by a total of \$8.7 million in FY 1997. FAA did not follow specific congressional direction, or did not seek reprogramming authority from Congress. The appropriations, specific budget line items, and the reprogramming actions are:

Operations Appropriation - Research and Acquisition Budget Line. As of September 30, 1997, FAA had exceeded the 4 percent internal reprogramming limit by 9.4 percent, or \$7,332,720 for 1 of the 8 budget line items funded by the Operations appropriation. Although Congress appropriated about \$78 million for this budget line, the FAA budget allowance recorded in FAA's automated budget system showed about \$89 million. This \$11 million difference was primarily an \$8 million FY 1997 transfer from one budget line (Air Traffic Services) to the Research and Acquisitions budget line as a result of a 1996 internal reorganization. FAA made a formal reprogramming request to Congress to approve the reorganization, but the request was disapproved. However, FAA did not reverse the transfer and restore these funds to the original budget line and amounts approved by Congress.

F&E Appropriation - System Engineering and Development Budget Line. FAA uses this budget line to fund contractor engineering and technical support for national air system modernization. Congress appropriated \$31,341,000 for this budget line. As of September 30, 1997, FAA had transferred a total of \$5,165,300, which was \$464,150 in excess of the 15 percent reprogramming

¹ Authority to move funds within specific thresholds is provided in Senate Report Number 101-398 accompanying DOT's FY 1991 Appropriation Bill (101st Congress, 2nd session, pp. 54-56, as modified by Senate Report Number 102-148 accompanying DOT's FY 1992 Appropriation Bill (102nd Congress, 1st session, p. 54). These requirements are incorporated in Departmental Revised Reprogramming Guidelines dated October 23, 1996, and FAA Order 2500.3F entitled Reprogramming Appropriated Funds dated June 6, 1994.

authority. FAA used these transfers to primarily support payments for postal costs.

F&E Appropriation - Corporate Systems Architecture Budget Line. FAA uses this budget line to plan, develop, and maintain data processing systems. Congress appropriated \$6.5 million for this budget line. As of September 30, 1997, FAA had transferred \$1,862,267, which was \$887,267 in excess of the 15 percent reprogramming authority. FAA transferred the funds to modernize the procurement system.

FAA Levied “Assessments”

The request for our audit identified “assessments” as a method FAA managers used “to ‘move money around’ internally in ways which violated Congressional conference agreements” In his letter dated December 12, 1997, the Chairman stated FAA assessed budget lines “to create a pool of money for management initiatives which were neither justified to, nor approved by, the Congress.”

FAA reprogrammed \$144.1 million between October 1, 1996, and March 31, 1998, including \$112.5 million in FY 1997.² Our audit identified \$28.4 million (\$18.4 million in FY 1997; \$10 million in FY 1998) was “assessments” as defined by the Subcommittee. FAA either processed reprogramming actions or withheld the authority to spend funds from a budget line in order to create pools of available funds. FAA obtained the funds by applying a fixed percentage to multiple budget lines or negotiating for donated amounts with fund managers. FAA used these pools to fund administrative expenses and budget contingencies. This practice reduced funding available to individual F&E and Operations appropriations budget lines approved by Congress.

² Congress established reprogramming guidelines for FAA as part of 1991 DOT Appropriations Committee Reports. At that time, the Senate provided “No assessments shall be levied against any FAA program, budget activity, subactivity, or project funded by the Transportation Appropriations Act unless such assessments and the basis therefore are presented to the Committees on Appropriations and are approved by such Committees, in compliance with these procedures”. The Conference Committee Report on FY 1991 DOT Appropriations dropped this prohibition from the final version of the FAA reprogramming guidance. Congress did not address assessments again until the 1998 DOT Appropriations. House Committee Report Number 105-188 provided “The Committee has learned that the Office of the Associate Administrator for Research and Acquisitions (ARA) has been ‘taxing’ facilities and equipment programs in order to create a pool of funds for administrative expenses and budget contingencies of that office . . . the Committee believes it improper for those funds to be supplanted by assessments on F&E programs. The Committee directs the FAA to discontinue this practice immediately.” The Report by the Conference Committee on DOT’s FY 1998 Appropriation (House Report Number 105-313) provided “The conferees agree with the direction of the House that the FAA is to discontinue the practice of ‘assessing’ F&E projects for administrative costs unrelated to the specific F&E program.”

F&E Appropriation “Assessments”

FAA reprogrammed \$8 million of F&E funds in FY 1997 to pay administrationwide postage costs. FAA collected the \$8 million from 20 F&E budget line items, although FAA had budgeted the postage expense in the Operations appropriation. The OIG Legal Counsel reviewed the transfer of the postage expense. In reviewing FAA’s decision to reprogram \$8 million of F&E funds in FY 1997 to pay administrationwide postage costs, we determined FAA had the necessary legal authority. We based our decision, in part, upon an opinion by the Comptroller General (33 CG 206) that “. . . there appears to be no requirement that the appropriation of the particular activity or bureau concerned be charged with the costs of mailings or growing out of its official functions and such costs may be charged to any appropriation or fund available through the department, agency, or establishment concerned.” However, the action constitutes an “assessment.” FAA did not assess any F&E budget line items for the first half of FY 1998.

Operations Appropriation “Assessments”

In FY 1997, FAA created a \$10 million contingency reserve by limiting each budget line allowance holder to an amount less than the amount set by Congress. A subsequent administrationwide internal reprogramming added \$405,000 to the 1997 reserve. FAA used the money in the reserve to implement a cost accounting system, a personnel reform system, and a user fee collection system. FAA also used the reserve funds to repair damage from a flood, and to cover funding shortfalls for printing and other DOT charges. In FY 1998, FAA again created the \$10 million contingency reserve.

In January 1996, FAA briefed the Congressional staff concerning the use of a contingency reserve during FY 1996. FAA identified the creation of the 1996 reserve as an internal reprogramming during its briefing. FAA also showed the status of the reserve on their 1996 quarterly reports to Congress. However, since 1996, FAA has not reported the reserves on the quarterly budget reports.

FAA Charged at Least \$2 Million To the Wrong Appropriation

Title 31, United States Code, Section 1301(a), states appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law. In Principles of Federal Appropriations Law, GAO interpreted that “Appropriations maybe used only for their intended purposes.”

FAA Order 2500.8A (Order) entitled, “Funding Criteria for Operations, Facilities and Equipment, and Research, Engineering and Development Accounts” defines the type of work to be performed under each appropriation. In general, the

Operations account funds the recurring administrative, operating, and maintenance costs of doing the agency's business. The F&E account generally provides for the capital investment for the agency by funding the procurement and installation of new equipment, facilities, and construction projects included in the Aviation System Capital Investment Plan. The RE&D account generally provides for research and development programs that improve the National Airspace System by increasing its safety, security, productivity, capacity, and environmental compatibility to meet the expected air traffic demands for the future.

Contract Payments

For the 18 months ended March 31, 1998, FAA paid about \$1.1 million from the wrong appropriation. For example, under one contract, FAA paid invoices of about \$691,000 with operations appropriation money for two contract line items funded with F&E and RE&D appropriations. For two other contracts, FAA charged expenses to an appropriation that was not cited in the contract documents.

We also found contracts funded with multiple appropriations do not have separate and distinct contract line items for funding sources. Of the total \$125 million of invoices we reviewed, FAA paid \$117 million under mixed contract line items that could use either F&E or RE&D funding. We found FAA pays invoices using the oldest appropriation first when a contract has multiple funding sources to a single deliverable or service, and there is no other way to determine the fund citation. Accounting personnel did not receive sufficient information to accurately and properly charge the correct appropriation for work performed. As a result, invoices for work performed cannot be identified to the proper appropriation to support that funds are spent for their intended purpose.

Employees Detailed Between Appropriations

We found individuals performing F&E work were paid from the RE&D appropriation and reimbursed for travel expenditures from a special operations appropriation. Under FAA Order 2500.8A, salaries and benefits are to be budgeted for and paid from the account where the positions are authorized. The Order also states all travel costs are to be paid from the account where the traveler's salary is funded. The Order provides that when personnel perform work for other than the appropriation in which their salary, benefits, and travel are funded, these costs are to be transferred to the benefitting appropriation. The costs of these RE&D funded employees were not transferred to the F&E program resulting in more than \$907,183 in FY 1997 and FY 1998 personnel and travel costs improperly paid from the RE&D and Operations Appropriations.

Beginning in October 1996, a group of individuals assigned to the RE&D Airport Security program at the Technical Center in Atlantic City, New Jersey, were

detailed to Washington, DC. The purpose of the detail was to create a new organization responsible for purchasing explosives and weapons detection systems at airports. In FY 1997, Congress provided about \$144 million in F&E funds to procure these systems. Yet the cost of these positions was never transferred from the RE&D to the F&E appropriation.

FAA Employees Were Working On a RE&D Program That Did Not Receive FY 1998 Funding

Congress has the authority to review and enact legislation, which provides FAA with funding to conduct approved programs. DOT Reprogramming Guidance issued October 23, 1996, states, "Items specifically denied by Congress in the appropriations process" are not justified for reprogramming purposes. FAA Order 2500.3F, "Reprogramming Appropriated Funds," states "Programs which were specifically denied by the Congress, OMB, OST, or the Administrator shall not be undertaken."

FAA requested \$1.2 million in its FY 1998 budget for continuation of a RE&D program entitled General Aviation/Vertical Flight. Although Congress did not approve any FY 1998 funds for the program, we found that as many as eight employees continued to work on the program, with four currently assigned. These employees were working on prior year projects and planning for future General Aviation/Vertical Flight requirements. Through February 1998, FAA had expended about \$200,000 of FY 1998 RE&D funds to pay personnel costs for the unfunded program.

Recommendations

We recommend the FAA Administrator:

1. Comply with Congressionally established reprogramming guidance as implemented through Departmental and FAA reprogramming guidelines.
2. Report to Congress the establishment of any reserve of Operations appropriations that are not previously approved by Congress.
3. Reverse payments made to the incorrect appropriation and charge to the correct appropriation.
4. Ensure sufficient information is submitted to accounting personnel to accurately and properly charge the appropriation for work performed.

5. Comply with FAA Order 2500.8A, which requires salaries, benefits, and travel expenses to be charged to the proper appropriation and related benefiting program.
6. Reassign personnel working on the General Aviation/Vertical Flight program to a funded FY 1998 RE&D program.

Management Response

This report was discussed with FAA's Assistant Administrator for Financial Services on June 10, 1998. He agreed with the findings and recommendations.

FAA took immediate corrective actions and discontinued assessing the F&E appropriation for mail costs in FY 1998. FAA initiated a review of the \$2 million charged to the wrong appropriation and was in process of charging the correct appropriation(s). We also were informed by FAA officials that RE&D personnel were reassigned to RE&D programs that received FY 1998 funding.

Office of Inspector General Comments

Please provide written comments, within 15 days, identifying specific actions taken or planned for each recommendation.

We sincerely appreciate the cooperation and assistance of FAA representatives. If you have any questions, please call me at (202) 366-1992, or John Meche at (202) 366-1496.