



# FAA

Report AV2024010  
December 13, 2023

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## FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement



## FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

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*Self-initiated*

Federal Aviation Administration | AV2024010 | December 13, 2023

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### What We Looked At

Since 2014, the Federal Aviation Administration's (FAA) Airport Improvement Program has obligated more than \$3.18 billion to eligible airports each fiscal year for airport development and planning. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy) to define airport revenue and identify permitted and prohibited uses of that revenue. FAA amended this policy in 2014 to address revenue use for aviation fuel taxes. Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

### What We Found

Since amending its Revenue Use Policy, FAA has made progress confirming whether State and local Government laws comply with the amendments. However, the Agency has not yet tested or validated if the compliant jurisdictions use the proceeds from aviation fuel taxes according to the jurisdictions' approved action plan. Without testing the jurisdictions' approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. In addition, the Agency has not taken enforcement actions against the five jurisdictions that are not yet in compliance with the amendments. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance that encouraged the Agency to postpone enforcement. By potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

### Our Recommendations

We made three recommendations to improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion. FAA concurred with our recommendations and provided appropriate actions and completion dates. We consider all recommendations resolved but open pending completion of the planned actions.

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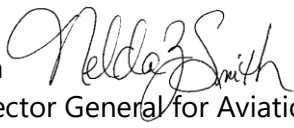


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## Memorandum

Date: December 13, 2023

Subject: ACTION: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement | Report No. AV2024010

From: Nelda Z. Smith   
Assistant Inspector General for Aviation Audits

To: Federal Aviation Administrator

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The Federal Aviation Administration (FAA) supports the Nation's aviation needs by providing Federal assistance through grants-in-aid to airports around the country. Since 2014, FAA's Airport Improvement Program (AIP) has obligated more than \$3.18 billion to eligible airports<sup>1</sup> each fiscal year for airport development, planning, and noise compatibility programs. As a condition of receiving these funds, grantees are bound by the Airport and Airway Improvement Act of 1982 (AAIA), as amended, which imposes restrictions on how airport sponsors (i.e., airport operators) may use their revenue.<sup>2</sup> Generally, airports can only use revenue for the capital and operating costs of the airport, the local airport system, or other facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. At the direction of Congress, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy),<sup>3</sup> which defined airport revenue and identified permitted and prohibited uses of that revenue. FAA amended this policy in November 2014 to address revenue use

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<sup>1</sup> Eligible airports are public-use airports that contribute to the needs of civil aviation, national defense, and the Postal Service. They must be published in FAA's National Plan of Integrated Airport Systems.

<sup>2</sup> 49 U.S. Code (U.S.C.) § 47107(b)(1).

<sup>3</sup> 64 Fed. Reg. 7696 (February 16, 1999).

for aviation fuel taxes (Amendment).<sup>4</sup> Any other use inconsistent with this policy is considered unlawful revenue diversion.<sup>5</sup>

Previous Office of Inspector General (OIG) audits have identified weaknesses in FAA's oversight of airport sponsors, which did not prevent or detect charges for services that were not provided to airports, indirect costs improperly allocated to airports, and payments of less than fair market rent for use of airport property. For example, our audit of Los Angeles World Airports identified \$7.87 million in unsupported charges.<sup>6</sup> Another OIG audit found \$40.9 million in potential revenue diversions at five airports due to ineligible payments to airport sponsors and other organizations.<sup>7</sup>

Given the importance of promoting effective stewardship of taxpayer dollars used to support the Nation's airports, we initiated this audit. Our objective was to assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion. For this audit, we focused on FAA's efforts to ensure compliance with FAA's rules for collecting and using aviation fuel taxes.

We conducted this audit in accordance with generally accepted Government auditing standards. Exhibit A details our scope and methodology. Exhibit B lists the organizations we visited or contacted, and exhibit C lists the acronyms used in this report.

We appreciate the courtesies and cooperation of Department of Transportation (DOT) representatives during this audit. If you have any questions concerning this report, please contact me or Marshall Jackson, Program Director.

cc: The Secretary  
DOT Audit Liaison, M-1  
FAA Audit Liaison, AAE-001

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<sup>4</sup> 79 Fed. Reg. 66282-88 (November 7, 2014).

<sup>5</sup> A "grandfather" provision (called "lawful revenue diversion") permits use of airport revenue for non-airport purposes if assurances, agreements, or governing laws that existed before September 2, 1982, allowed such use on a limited basis. Our audit scope does not include grandfathered airports, which we examined in *FAA Needs To More Accurately Account for Airport Sponsors' Grandfathered Payments* (OIG Report No. AV2018041), April 17, 2018. There are 9 grandfathered airport sponsors that own or operate over 30 airports. OIG reports are available on our website: [www.oig.dot.gov](http://www.oig.dot.gov).

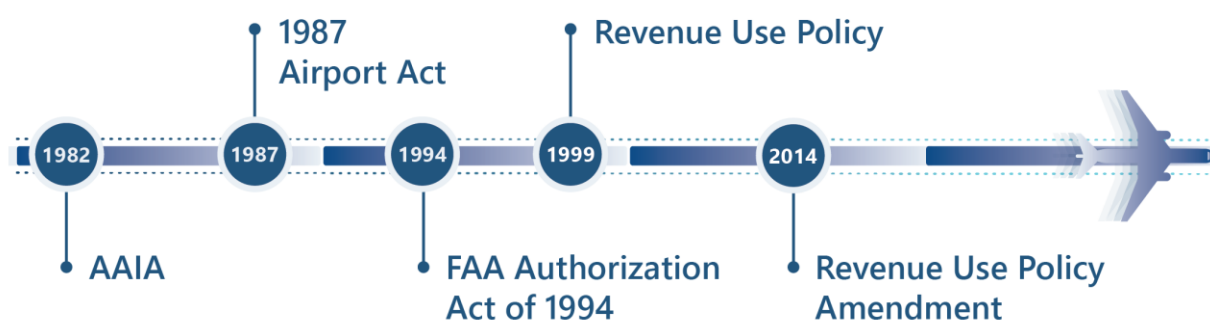
<sup>6</sup> *FAA Oversight Is Inadequate To Ensure Proper Use of Los Angeles International Airport Revenue for Police Services and Maximization of Resources* (OIG Report No. AV2014035), April 8, 2014.

<sup>7</sup> *Oversight of Airport Revenue* (OIG Report No. AV2003030), March 20, 2003.

## Background

A number of Federal laws and FAA policies govern use of airport revenue, including taxes on aviation fuel. See the figure below for a timeline of airport revenue-related laws.

Figure. Timeline of Revenue Protection Laws



Source: OIG analysis

The AAIA<sup>8</sup> generally requires airport sponsors receiving Federal assistance to use airport revenue for capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator. These facilities must be directly and substantially related to the actual air transportation of passengers or property or for noise mitigation purposes.

To further bolster AAIA's provisions, Congress passed the Airport and Airway Safety and Capacity Expansion Act of 1987 (1987 Airport Act)<sup>9</sup> and the FAA Authorization Act of 1994.<sup>10</sup> The 1987 Airport Act imposed further restrictions on airport revenue use to include any local taxes on aviation fuel in effect after December 30, 1987. State and local aviation fuel taxes may only be used to support a State aviation program, noise mitigation purposes, and land disposal funds for certain airport lands, including airport noise compatibility.<sup>11</sup>

In 1999, as required by the FAA Authorization Act of 1994, FAA published its *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use

<sup>8</sup> Pub. L. No. 97-248 (September 3, 1982), codified at 49 U.S.C. § 47107.

<sup>9</sup> Pub. L. No. 100-223 (December 30, 1987), codified at 49 U.S.C. § 47133.

<sup>10</sup> Pub. L. No. 103-305 (August 23, 1994).

<sup>11</sup> 49 U.S.C. § 47133(b). However, there are some exceptions. For example, grandfathered airports may use airport revenue for otherwise impermissible expenditures—i.e., nonoperating or noncapital uses.

Policy).<sup>12</sup> The policy describes prohibited and permitted uses of airport revenue and outlines FAA's enforcement policies and procedures. Examples of prohibited uses of airport revenue are using airport revenues for general economic development, marketing and promotional activities unrelated to airports or airport systems, and direct or indirect payments that exceed the fair and reasonable value of services and facilities provided to the airport. The Revenue Use Policy also requires recordkeeping and reporting requirements for the use of airport revenue and that an airport sponsor maintain a self-sustaining rate structure to the extent possible.

In 2014, FAA amended the Revenue Use Policy to clarify requirements for the use of proceeds from State and local taxes on aviation fuel. The amended policy (Amendment) generally requires grantees to use all proceeds from new and existing taxes that did not qualify for grandfathering from revenue use requirements on State aviation programs or for airport-related purposes. Recognizing that many States, territories, and localities might encounter challenges meeting the requirements of the Amendment, FAA gave them a 3-year grace period, until December 8, 2017, to comply. In addition, direction in the Senate Transportation, and Housing and Urban Development Committee's report accompanying the FAA appropriation bill for fiscal year 2018 encouraged FAA to postpone enforcement of the Amendment's requirements.<sup>13</sup> Similarly, in fiscal year 2020, the committee encouraged the Secretary to continue working with State and local governments to develop a path forward for obtaining full compliance with the Amendment.<sup>14</sup> FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

State and local Government taxes on aviation fuel sales can be imposed by either an airport sponsor or a non-sponsor. However, only an airport sponsor or Block Grant State<sup>15</sup> under the AIP provides assurance that revenues from aviation fuel taxes will be used as required by Federal regulations. For taxes imposed by non-sponsor State and local governments, FAA expects airport sponsors to inform these entities of Federal requirements on the use of aviation fuel tax revenue and to take action. FAA also expects sponsors to use their influence to

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<sup>12</sup> 64 Fed. Reg. 7696 (Feb. 16, 1999), amended by Policy and Procedures Concerning the Use of Airport Revenue; Proceeds From Taxes on Aviation Fuel, 79 Fed. Reg. 66282, (November 7, 2014).

<sup>13</sup> Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2018 (S. 1655), S. Rep. No. 115-138, p. 48 (July 27, 2017).

<sup>14</sup> Senate Committee Report on the Transportation and Housing and Urban Development and Related Agencies Appropriations Bill for Fiscal Year 2020, p. 44 (S. 2520), S. Rep. No. 116-109 (Sept. 19, 2019).

<sup>15</sup> A Block Grant State receives AIP funds directly from FAA to fund certain State aeronautical agencies. As part of the State Block Grant Program these States agree to assume certain responsibilities related to administering the AIP that are otherwise performed by FAA (including project prioritization and selection), and to provide grants to smaller airports.

shape State and non-sponsor local taxation to conform to these Federal laws. In the Amendment, FAA clarified that if a non-sponsor State or local Government adopts a noncompliant tax, FAA would not take enforcement action against the airport sponsor because the sponsor is not responsible for the noncompliance. FAA reiterated that it would pursue enforcement action against a non-sponsor State or local Government that violates the Revenue Use Policy or Federal regulations. FAA's Office of Airport Compliance and Management Analysis (ACO) is responsible for ensuring that airport sponsors do not violate the Agency's amended Revenue Use Policy or other Federal revenue-use requirements. ACO comprises two groups:

- **Financial Management Analysis Group.** Enforces statutory requirements of airport revenue use at commercial service airports, oversees single audit resolution, and performs mandated revenue reviews.
- **Airport Compliance Program.** Interprets, recommends, and develops policies for, and resolves matters that involve, airport sponsors' Federal obligations. The office also adjudicates formal complaints and FAA-initiated investigations<sup>16</sup> and monitors airport sponsor compliance with limits on the use of airport revenue.

To assess airport adherence to the Revenue Use Policy, ACO targets conducting financial compliance reviews of four airports a year, which are identified through formal or informal complaints, hotline tips, and industry recommendations. Any airports that are not reviewed are considered for selection in future years. During site visits, ACO reviewers meet with the airport's leadership team, hold interviews with appropriate staff, examine requested documentation, and tour the airport's facilities. Then ACO drafts a report with its findings and recommendations. Once ACO resolves all recommendations and airport sponsors implement corrective action items, the final report is disseminated to the airport sponsor and made available to the general public. Since 2005, ACO has conducted 32 financial compliance reviews and identified more than \$100 million in unlawful revenue diversion.

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<sup>16</sup> See Rules of Practice for Federally Assisted Airport Enforcement Proceedings, 14 Code of Federal Regulations (C.F.R.) Part 16.



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## Results in Brief

**FAA has made progress implementing an amendment to its Revenue Use Policy but does not have a plan to verify or enforce compliance.**

Since amending its Revenue Use Policy in 2014 to explicitly include aviation fuel tax requirements, FAA has made progress confirming whether State and local Government laws comply with the amendments. Specifically, FAA has determined that 115 of 193 State and local jurisdictions have compliant laws, and that the remaining 78 jurisdictions are non-compliant, which FAA terms “qualified.” However, the Agency has not yet tested or validated if the compliant jurisdictions are using the proceeds from aviation fuel taxes according to the jurisdictions’ approved action plan. According to FAA officials, testing and validation have not occurred because the Agency is currently focused on working with remaining jurisdictions to align State and local laws with the Amendment. Without testing the jurisdictions’ approved action plan for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations. For example, we could not verify the Agency’s compliance determinations for 10 States and 1 territory we reviewed because FAA lacks an effective document control system. Lack of documentation hinders FAA’s ability to test a jurisdiction’s compliance with the Amendment. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance with the amended Revenue Use Policy. Almost 6 years after FAA’s December 8, 2017, deadline, five qualified jurisdictions—California, Kentucky, Nevada, Tennessee, and Guam—have not complied with the Amendment. According to Agency officials, the lack of testing, validation, and enforcement action is due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. In the meantime, by potentially diverting aviation fuel tax revenue from airports for non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports’ ability to remain self-sufficient and improve their infrastructure.

We are making three recommendations to improve FAA’s oversight policies and procedures for preventing and detecting airport revenue diversion.

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# FAA Has Made Progress Implementing an Amendment to its Revenue Use Policy but Does Not Have a Plan To Verify or Enforce Compliance

While FAA has made progress confirming whether State and local Government laws align with the 2014 amendments to its Revenue Use Policy, the Agency has not tested or validated if jurisdictions are using the proceeds from aviation fuel tax according to the jurisdictions' approved action plan. In addition, the Agency has not taken enforcement actions against qualified jurisdictions that are not yet in compliance.

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## FAA Reviewed State and Local Laws for Alignment With Its Policy but Lacks a Plan for Testing Compliance

FAA has determined that 115 jurisdictions—State and local governments—are compliant and 78 jurisdictions are qualified with the amended Revenue Use Policy. We focused our review on State governments and U.S. territories only. According to FAA, as of May 2023, 46 States and 4 U.S. territories are in compliance with the Amendment. These jurisdictions consist of airport sponsors and non-sponsors. To verify compliance, FAA required State and local governments to submit action plans detailing their processes for administering aviation fuel taxes. Each action plan had to include the following information:

1. The process to amend any noncompliant laws to conform to Federal law on use of aviation fuel tax revenues, and restructure general revenues to adapt to the dedication of aviation fuel tax revenue to airports and State aviation programs;
2. A commitment to undertake the legislative process; and
3. The process necessary to develop reporting requirements and tracking systems for discrete information on aviation fuel tax revenue; confirm that the accounting, tracking, and reporting mechanisms will be implemented to ensure airport revenue accounts receive on a timely basis an amount equal or exceeding the amounts collected as aviation fuel taxes; and the requirements to ensure the appropriations are implemented and are enforceable by State or local agencies.

We assessed FAA's compliance determinations by reviewing the action plans and corresponding documents submitted by State governments and U.S. territories. We did not identify any material issues with FAA's reviews of 36 States and 3 territories. However, we could not verify the Agency's compliance determinations for 10 States and 1 territory because FAA lacks an effective document control system as required by Federal Internal Control Standards.<sup>17</sup> Specifically, we identified the following issues:

- FAA only provided one document each for Alaska, Idaho, and American Samoa, which did not provide sufficient information for evaluating compliance. The document for each jurisdiction is missing details on aviation fuel tax rates, legislation establishing each tax rate or any changes to tax rates, and financial documentation showing that aviation fuel tax revenue was used as intended. Idaho was the exception, as its documentation did include aviation fuel tax rates.
- FAA did not provide pertinent correspondence to and from the State that would provide an understanding of how the Agency determined compliance for Mississippi, New Hampshire, North Dakota, Ohio, Oregon, Washington, and Vermont.
- FAA did not save or archive the initial action plan and supplemental response(s) for the State of Nebraska, although the documents are referenced in the Agency's correspondence to the State.

FAA also did not provide compliance letters for any of these 11 jurisdictions. Such letters are meant to capture the key aviation fuel tax facts that FAA reviewed to determine compliance. Letters were also missing for 16 States where we did not identify any material issues with FAA's review. Agency officials stated that they did not provide compliance letters at the beginning of their review process; rather, they updated the FAA website to reflect the compliance status. However, based on our review, FAA has not retroactively issued compliance letters. According to FAA, the Agency will issue compliance letters to jurisdictions that have not received letters by December 31, 2023. The lack of letters and above-mentioned documentation hinders FAA's ability to test a jurisdiction's compliance with the Amendment since these documents serve as records of the Agency's compliance determination.

Although FAA has confirmed that State and local laws align with the Amendment, FAA has not validated if jurisdictions are following the law through testing. According to FAA officials, this is because the Agency is currently focused on obtaining compliance from qualified jurisdictions and has not been authorized to begin enforcement action for the Amendment. Moreover, according to Agency

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<sup>17</sup> *Standards for Internal Control in the Federal Government* (GAO-14-704G), September 2014.

officials, testing and validation have not occurred due to congressional guidance in committee reports accompanying the FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement. Without testing the jurisdictions' approved action plans for using aviation fuel taxes, FAA cannot ensure that revenue is used for aviation-related purposes as required by Federal regulations.

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## Four States and One U.S. Territory Are Not in Compliance With the Amended Revenue Use Policy

Almost 6 years after FAA's December 8, 2017, deadline to comply with the amended Revenue Use Policy, four States and one territory remain qualified<sup>18</sup> with the Amendment. Furthermore, FAA has not taken enforcement action or explained the steps it will take to move the qualified jurisdictions into compliance—even though the Revenue Use Policy outlines FAA's enforcement policies and procedures. According to Agency officials, this is due to congressional guidance in the committee reports accompanying FAA appropriations bills for fiscal years 2018 and 2020 that encouraged the Agency to postpone enforcement.

According to FAA, the following jurisdictions are not in compliance with the Revenue Use Policy amendment. We verified the following information from FAA by reviewing actions plans, tax legislation, and correspondence between FAA and these jurisdictions.

- **California (Non-Sponsor)** continues to divert revenue for nonairport purposes. In 2019, after FAA's repeated inquiries, the California Department of Finance submitted an action plan that identified annual tax proceeds estimated at \$55 million over the next 5 years to be spent on transportation projects. State officials note that these proceeds will provide direct benefits to California's airport system, and they plan to use them as offsets against the aviation fuel tax proceeds. However, the State did not submit documentation of the actual proceeds collected from aviation fuel taxes from fiscal year 2017 to present. Moreover, the State has not given FAA a breakdown of aviation fuel tax receipts collected by local jurisdictions and airport sponsors within California.

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<sup>18</sup> FAA refers to airport sponsors or non-sponsors that have not complied with the amended Revenue Use Policy as "qualified" with the Amendment.

- **Kentucky (Non-Sponsor)** is maintaining a grandfather exemption from the Amendment because its tax legislation was enacted on or before December 30, 1987. However, the State increased its tax rate from 5 to 6 percent in 1990, after the grandfathering date. Kentucky has not given FAA any documentation about how it is using the proceeds from the 1 percent increase.
- **Nevada (Non-Sponsor)** has not responded to FAA's inquiries sent in 2017 and 2019 for clarification on issues the Agency found in the State's action plan. The last documented correspondence from the State is dated February 19, 2016. As a result, FAA cannot determine whether the excise tax or the county option tax on aviation fuel can be considered as grandfathered.
- **Tennessee (Block Grant State)** officials note that the State's business tax is a gross receipt tax on the privilege of doing business in Tennessee and is not specific to the sale, storage, or use of aviation fuel. Tennessee officials also state that the Amendment should not apply to its Environmental Assurance Fee because it is a fee rather than a tax. FAA has requested further information from the State but has not received a response.
- **Guam (Sponsor)** is maintaining a grandfather exemption from compliance with the Amendment because its tax legislation was enacted on or before December 30, 1987. The territory did not give FAA further details about its grandfathering status and recently notified the Agency that it had increased its excise tax rate on aviation fuel on January 1, 2018. Guam used the proceeds from this increase, which resulted in approximately \$5.17 million in revenue, for non-aviation related purposes. The territory has asked FAA to forgive its decision not to use the tax increase proceeds as required and stated the territory would comply with the Amendment by October 2021. However, Guam remains in a qualified status although its aviation fuel tax rate increase became effective 2 years after the territory submitted its action plan to FAA.

By potentially diverting aviation fuel tax revenue to non-aviation-related purposes, these jurisdictions increase the risk of hindering the airports' ability to remain self-sufficient and improve their infrastructure.

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## Other Matters

In addressing our audit objective, we initially planned to determine if airport sponsors had diverted other revenue in addition to fuel taxes from commercial

service airports. During this audit, we visited the Syracuse Hancock International Airport (SYR), where we interviewed Syracuse Regional Airport Authority (SRAA) senior officials and conducted a review of SYR for compliance with the Revenue Use Policy for fiscal year 2019. During our review, we identified recurring issues that FAA had reported in a 2014 compliance review of SRAA (see exhibit D). We subsequently reduced our commercial airport selection to just SYR due to time constraints, the volume of data, and other potential obstacles, such as data format and staff turnover at airports. Based on these considerations, we re-focused our work on aviation fuel tax requirements.

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## Conclusion

FAA provides billions of taxpayer dollars in Federal grants to ensure that U.S. airports remain self-sufficient and can invest in their own infrastructure. A key component for airports to stay self-sufficient is the revenue they collect, such as fuel taxes. Thus, airport revenue diversion diminishes the effectiveness and achievement of objectives of these Federal grants. While FAA has been working with jurisdictions to align State and local laws with the Amendment on aviation fuel tax revenue as directed by Congress, the Agency lacks a plan to test aviation fuel tax plans from compliant jurisdictions and enforce compliance in qualified jurisdictions. As a result, FAA is not well positioned to promote effective stewardship of the taxpayer dollars that were meant to support the Nation's airports.

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## Recommendations

To improve FAA's oversight policies and procedures for preventing and detecting airport revenue diversion, we recommend that the Federal Aviation Administrator:

1. Issue compliance letters to jurisdictions that FAA has determined to be in compliance with the Amendment to *Policy and Procedures Concerning the Use of Airport Revenue* (Amendment) but that have not received official notification of compliance.
2. Develop and implement a testing plan to assess whether jurisdictions are following FAA's requirements for compliance with the Amendment to the Revenue Use Policy.
3. Establish a plan of action to bring California, Kentucky, Nevada, Tennessee, and Guam into compliance with the Amendment to the Revenue Use Policy.

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## Agency Comments and OIG Response

We provided FAA with our draft report on October 23, 2023, and received its formal response on November 21, 2023. FAA's response is included as an appendix to this report. FAA concurred with all three of our recommendations and proposed appropriate actions and completion dates. Accordingly, we consider all recommendations resolved but open pending completion of the planned actions.

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## Actions Required

We consider recommendations 1 through 3 resolved but open pending completion of the planned actions.

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## Exhibit A. Scope and Methodology

This performance audit was conducted between June 2022 and October 2023. We conducted this 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To assess whether FAA's oversight policies and procedures are sufficient to prevent or detect airport revenue diversion, we reviewed applicable laws, regulations, and FAA policies and procedures such as FAA's *Policy and Procedures Concerning the Use of Airport Revenue* and *Proceeds From Taxes on Aviation Fuel*. We also reviewed the following FAA guidance: Airport Compliance Manual (5190.6B Change 1), Guide for Airport Financial Reports Filed by Airport Sponsors (150/5100-19D), and Compliance Guidance Letters. Further, we obtained publicly available data about airports that diverted revenue in the past and reviewed articles on occurrences of airport revenue diversion. We also interviewed representatives from FAA's ACO, FAA's New York Airports District Office and Eastern Regional Office, and the following aviation industry trade organizations: Airlines for America, Aircraft Owners & Pilot Association, Airports Council International North America, International Air Transport Association, National Air Transportation Association, and American Association of Airport Executives.

To determine how FAA assessed compliance with aviation fuel tax revenue requirements, we reviewed action plans, correspondence, financial documentation, tax legislation, and FAA compliance letter for 46 States and 4 U.S. territories. We also reviewed actions plans, correspondence, and tax legislation for four States and one territory that have yet to comply with Federal aviation fuel tax requirements. We communicated with FAA officials from ACO to determine the Agency's plan for testing jurisdictions' approved action plans for using aviation fuel taxes and taking enforcement action for jurisdictions that have not complied with Federal aviation fuel tax requirements.



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

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### **Department of Transportation**

FAA Headquarters

FAA Eastern Region Office

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### **Airport/Airport Sponsor**

Syracuse Hancock International Airport, NY

Syracuse Regional Airport Authority, NY

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### **Other Organizations**

Aircraft Owners and Pilots Association

Airlines for America

Airports Council International – North America

American Association of Airport Executives

International Air Transport Association

National Air Transportation Association

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## Exhibit C. List of Acronyms

AAIA	Airport and Airways Improvement Act of 1982
ACO	Airport Compliance and Management Analysis
AIP	Airport Improvement Program
DOT	Department of Transportation
FAA	Federal Aviation Administration
OIG	Office of Inspector General
PILOTS	Payments in Lieu of Taxes
SRAA	Syracuse Regional Airport Authority
SYR	Syracuse Hancock International Airport

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## Exhibit D. Review of Syracuse Regional Airport Authority for Compliance With the Revenue Use Policy: Summary of Findings

To conduct our work, we developed a universe of high-risk airport sponsors—based on historical data, prior audit results, annual financial reports, and recommendations from FAA and industry officials—and identified five commercial service airports<sup>19</sup> to review that were at the highest risk of diverting revenues. We initially visited SYR where we reconciled the SRAA's trial balance to its audited financial statements and judgmentally selected financial transactions for testing to determine whether airport-generated revenues were used in accordance with Federal regulations. Our review found that SYR did not adhere to the Revenue Use Policy's requirements for the disbursement of airport funds in four areas: ineligible payments in lieu of taxes (PILOTS), periodic adjustments to cost-allocation plans, little or no documentation for replacing facility rental payments with in-kind services, and payment of marketing costs to airlines instead of the direct service providers. These areas are described in further detail below.

- **PILOTS** help local governments perform vital services—firefighting and police protection, construction of public schools and roads, and search-and-rescue operations, etc.— but cannot exceed the value of services.<sup>20</sup> While three of SYR's PILOT payments concluded in 2012, SYR continued to make payments totaling more than \$35,000 to local taxing jurisdictions between 2012 and 2019.
- **Cost-Allocation Plan.** Currently operated by the SRAA, SYR was previously overseen by the City of Syracuse (City). A cost-allocation plan drafted during the transition period detailed how administrative services should be divided between the City and SRAA. The Revenue Use Policy states that airport sponsors should adjust cost-allocation plans to reflect changes to allowable actual expenses in the following accounting period. We found that SRAA's cost-allocation plan for fiscal year 2019 was based on actual costs from fiscal year 2016. However, SRAA did not reconcile the allocated costs to the actual expenses. We could not determine the exact financial impact because

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<sup>19</sup> Syracuse Hancock International Airport, Palm Springs International Airport, Shreveport Regional Airport, Phoenix Sky Harbor International Airport, and Dallas Love Field Airport.

<sup>20</sup> Revenue Use Policy, 2014.

the City did not provide SRAA with backup documentation for the costs allocated to SYR for 2019.

- **State Police Lease Agreement.** SYR has a police station on its premises, and a lease agreement allows the State police to provide in-kind services in lieu of rental payments to SRAA.<sup>21</sup> However, in 2014, ACO was unable to identify these in-kind services and recommended that SRAA develop a recordkeeping system. However, SRAA still had limited evidence to show that the recommendation had been implemented during our review. Airport officials indicated that this likely resulted from change in leadership and misunderstanding among the remaining personnel.
- **Air Carrier Incentive Program** allows airports to increase traffic by waiving or reducing landing fees, rental fees, or fuel flowage fees, in addition to other incentives. FAA recommends that airport sponsors pay any related marketing and advertising costs directly to the service provider because it reduces the risk that the sponsor will provide a direct air carrier subsidy and gives the sponsor greater control. However, FAA found that SRAA directly paid \$75,000 in marketing assistance to an airline to promote a new route. We also determined that SRAA reimbursed more than \$21,000 in 2019 to an airline for marketing and promotional activities. SYR officials informed us that this occurred because prior management lacked necessary financial controls.

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<sup>21</sup> These in-kind services include: (1) assist the Department of Aviation upon request from the mayor or appropriate City official; (2) meeting with the Commissioner of Aviation four times a year; (3) assist in the event of an air disaster; (4) assist in the event of a hijacking incident; (5) perimeter security by the State Police helicopter; and (6) K-9 support as requested.

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## Exhibit E. Major Contributors to This Report

MARSHALL JACKSON	PROGRAM DIRECTOR
DOMINIQUE LIPSCOMB	PROJECT MANAGER
DERRICKA BROADEN	PROJECT MANAGER
MARIA DOWDS	SENIOR AUDITOR
KAZI HASSAN	SENIOR ANALYST
JANE LUSAKA	SENIOR WRITER-EDITOR
MORGAN ATHERTON	WRITER-EDITOR
CHELSEA ARTLANTICO	LEGAL COUNSEL
CELESTE VERCHOTA	LEGAL COUNSEL
SHAWN SALES	SUPERVISORY VISUAL
	COMMUNICATIONS SPECIALIST
GEORGE ZIPF	SUPERVISORY MATHEMATICAL
	STATISTICIAN

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## Appendix. Agency Comments



### Federal Aviation Administration

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## Memorandum

Date: November 21, 2023

To: Nelda Z. Smith, Assistant Inspector General for Aviation Audits

From: Erika Vincent, Acting Director, Office of Audit and Evaluation, AAE-1 **ERIKA S VINCENT**

Subject: Federal Aviation Administration's (FAA) Response to Office of Inspector General (OIG) Draft Report: FAA Has Made Progress Verifying Compliance With Aviation Fuel Tax Requirements, but Challenges Remain With Testing and Enforcement

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ERIKA S VINCENT  
Date: 2023.11.21  
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The Federal Aviation Administration's (FAA) Airport Compliance Program ensures airport sponsors comply with the Federal obligations they assume when they accept Federal grant funds or transfer Federal property for airport purposes. The program serves to protect the public interest in civil aviation and ensure compliance with applicable Federal laws, FAA rules, and policies. In 2014, FAA required state and local governments to submit an action plan to FAA by December 8, 2017, to comply with FAA Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel, (79 Fed. Reg. 6628). Over the past nine years, FAA reviewed 193 action plans that outline the taxing jurisdictions' processes to amend any non-compliant laws and restructure general revenues, how the aviation fuel tax revenue would be dedicated to airports and/or State aviation programs, and a commitment to undertake the legislative process. FAA is committed to working with state and local governments to ensure compliance with the Amendment.

Upon review of OIG's draft report, FAA concurs with all three recommendations as written. We plan to implement recommendation 1 by December 31, 2023, and recommendations 2 and 3 by December 31, 2024.

We appreciate this opportunity to respond to the OIG draft report. Please contact Erika Vincent at [Erika.Vincent@faa.gov](mailto:Erika.Vincent@faa.gov) if you have any questions or require additional information about these comments.

U.S. Department of Transportation  
Office of Inspector General

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