
Office of Inspector General

Audit Report

Accountability and Use of Airport Revenues
Queen City Municipal Airport

Federal Aviation Administration

Report Number: R3-FA-7-002

Date Issued: January 30, 1997





US. Department of
Transportation

Office of the Secretary
of Transportation

Office of Inspector General

Memorandum

Subject: **ACTION: Report on Accountability and Use of Airport**
Revenues, Queen City Municipal Airport, FAA Date **January 30, 1997**
Report Number: R3-FA-7-002

From: *Lawrence H. Weintrob*
Lawrence H. Weintrob Reply to
Assistant Inspector General for Auditing Attn of **JA-1**

To: **Federal Aviation Administrator**

We are providing this report for your comments and action on the finding and recommendations. Since you did not respond to our October 16, 1996, draft report, there are no management comments in this report. A synopsis of the report follows this memorandum.

Please provide written comments to this report within 60 days in accordance with Department of Transportation Order 8000.1 C. For concurrences, please provide a description of the specific actions taken or planned for each recommendation and estimated completion dates. Please comment on the reasonableness of our estimated cost savings. For any nonconcurrency, we would appreciate an explanation of your position. Please feel free to propose alternative courses of action to resolve the finding and recommendations in an effective manner.

I appreciate the courtesies and cooperation extended to our audit staff during the audit. Please call me at (202) 366-1992, or Harry H. Fitzkee at (410) 962-3612, if you have questions or need additional information concerning this report.

Attachment

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U.S. Department of
Transportation

Office of Inspector General

Accountability and Use of Airport Revenues at Queen City Municipal Airport

Federal Aviation Administration

Report Number R3-FA-7-002

January 30, 1997

Objective

The objective of the audit was to determine the validity of allegations that the city of Allentown, Pennsylvania (Sponsor), diverted airport revenues. Specifically, airport users alleged the Sponsor (i) sold Queen City Municipal Airport (airport) land without proper credit to the Airport Fund, (ii) overcharged the Airport Fund for services, (iii) allowed commercial businesses to use airport land without paying rental fees, (iv) deposited the fixed-based operator's rental payments into the General Fund, and (v) used airport land and facilities for non-aviation purposes without paying rental fees. In reviewing the allegations, we also evaluated Federal Aviation Administration (FAA) monitoring of the Sponsor to ensure airport generated revenues were used for capital improvements and operating expenses of the airport.

Conclusion

We found four of the five allegations were not valid. The Sponsor (i) properly credited the Airport Fund with \$700,000 from the sale of airport property, (ii) employed a comprehensive, fiscally sound, cost allocation plan to support service costs charged to the Airport Fund, (iii) collected rent from a commercial business using airport land, and (iv) deposited the fixed-based operator's rental payments to the Airport Fund. However, the fifth allegation was valid. The Sponsor used airport facilities and land rent free, and diverted revenues from the Airport Fund.

Monetary Impact

The airport lost about \$2.6 million in revenues during the period November 1984 through March 1996 because the Sponsor used airport property rent free for non-aviation related activities. Additionally, the Sponsor diverted funds totaling \$195,000.

SYNOPSIS



U.S. Department of
Transportation

Office of Inspector General

Recommendations

We recommend the FAA Administrator (i) require the airport Sponsor to: (a) implement a system that ensures the Airport Fund receives reasonable compensation for all leased property, (b) establish leases and reimburse the Airport Fund with reasonable compensation for the Sponsor's future non-aviation uses of all airport property, and (c) ensure airport revenues are used only for airport purposes; (ii) consider assigning or transferring title of the airport to an eligible non-Federal public agency if the Sponsor does not take satisfactory corrective action; (iii) require the Sponsor to pay the Airport Fund the \$2.4 million in lost revenues for the use of the airport hangar and surrounding land used rent free from 1984 to 1996; (iv) require the Sponsor to reimburse the Airport Fund the current fair-market value (estimated at \$182,407) for land occupied by the fire station and training facility; and (v) require the Sponsor to pay the Airport Fund \$195,000 for revenues diverted through March 1996, and to reimburse the Airport Fund for future revenues which could be diverted during the remaining life of the maintenance contract.

Management Position

FAA did not respond to the October 16, 1996, draft report. Therefore, management's official position on the finding and recommendations discussed in this report are not presented.

Office of Inspector General Comments

We have requested FAA to provide a response to the final report within 60 days.

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I. INTRODUCTION

Background

The Federal Surplus Property Act of 1944, as amended (Surplus Property Act), authorized the transfer of surplus Federal property to any state, political subdivision, municipality, or tax-supported institution for the development, improvement, operation, or maintenance of a public airport. The Federal Aviation Administration (FAA) has sole responsibility for determining and enforcing compliance with the terms, conditions, reservations, and restrictions contained in the documents transferring surplus Federal property.

FAA promotes the development of a system of airports to meet the Nation's aviation needs by providing Federal assistance through grants-in-aid. FAA grants-in-aid fund airport development, airport planning, and noise compatibility programs. The financial assistance is provided through the Airport and Airways Improvement Act of 1982, as amended (AAIA). As required by the AAIA, the grant recipient must provide written assurances prior to FAA grant approval. FAA is responsible for ensuring commitments, including compliance with grant assurances, are met. The city of Allentown, Pennsylvania (Sponsor) received a total of \$2.3 million in AAIA grants between 1989 and 1992. At the time of our audit, the Sponsor has neither requested nor received any grants from FAA since 1992.

In February 1948, the Federal Government transferred an airport originally built for test flights of World War II aircraft to the Sponsor. The transfer included two runways, a hangar, and 387.5 acres of land, now known as the Queen City Municipal Airport (airport). The transfer deed stated the land, buildings, and facilities were to be used solely for public airport purposes. Since 1959, FAA released the Sponsor from the deed restrictions on 178.9 acres, allowing the land to be sold and developed for non-aviation uses.

The Sponsor maintained an Airport Fund for the deposit of airport revenues and payment of airport expenses. Since 1981, the Sponsor utilized a fixed-based operator for maintenance and daily operation of the airport. During the period January 1, 1984 through December 31, 1994, the Sponsor reported airport operating revenues of \$296,644 and operating expenses of \$1,052,366 for a net operating loss of \$755,722.

Objective, Scope, and Methodology

The objective of the audit was to determine the validity of allegations that the Sponsor diverted airport revenues. Specifically, airport users alleged the Sponsor (i) sold airport land without proper credit to the Airport Fund, (ii) overcharged the Airport Fund for services, (iii) allowed commercial businesses to use airport land without paying rental fees, (iv) deposited the fixed-based operator's rental payments into the General Fund, and (v) used airport land and facilities for non-aviation purposes without paying rental fees. In reviewing the allegations, we also evaluated FAA monitoring of the Sponsor to ensure airport-generated revenues were used for capital improvements and operating expenses of the airport.

The audit was conducted in accordance with Government Auditing Standards prescribed by the Comptroller General of the United States. We conducted the audit during April and May 1996 at FAA Headquarters, Harrisburg Airports District Office, the Sponsor, and the airport. We evaluated the adequacy of FAA monitoring of airport revenues during the period January 1, 1984 through March 31, 1996. Our review was expanded to prior periods as necessary to meet the objective. We interviewed Harrisburg Airports District Office officials responsible for monitoring and oversight activities at the airport, reviewed airport grant and correspondence files, and obtained a copy of the Sponsor's airport layout plan.

At the Sponsor, we reviewed accounting records supporting transactions posted to the Airport Fund and evaluated Sponsor leases and airport property maps. We reviewed documents supporting all transfers, releases, and sales of land originally granted for airport development under the Surplus Property Act. We also reviewed reports prepared by independent public accountants engaged to conduct single audits of the Sponsor. We observed property usage, land improvements, and buildings at the airport.

Management Controls

We reviewed FAA Harrisburg Airports District management controls to the extent necessary to determine the validity of the allegations. The review included grant management controls for monitoring the collection and use of airport-generated revenues. In addition, we reviewed Sponsor controls over land leases; fee, rental, and investment revenues; and disbursements to ensure compliance with the Surplus Property Act and AAIA. We determined FAA elected not to enforce the requirements of

the Surplus Property Act and the AAIA. This management control weakness is discussed in Part II of this report.

Prior Audit Coverage

No Office of Inspector General reports have been issued on accountability and use of airport revenues at the airport during the past 5 years.

The two most recent single audit reports covering Calendar Years 1993 and 1994 on the Sponsor's financial statements contained no findings related to the Airport Fund.

II. FINDING AND RECOMMENDATIONS

We found four of the five allegations were not valid. The Sponsor (i) properly credited the Airport Fund with \$700,000 from the sale of airport property, (ii) employed a comprehensive, fiscally sound, cost allocation plan to support service costs charged to the Airport Fund, (iii) collected rent from a commercial business using airport land, and (iv) deposited the fixed-based operator's rental payments to the Airport Fund. However, the fifth allegation was valid. The Sponsor used airport land and facilities rent free, and diverted revenues from the Airport Fund. The results of our review relating to the fifth allegation are discussed below.

Finding: Sponsor Use of Airport Land and Facilities for Non-Aviation Purposes

The Sponsor used Federal surplus property for non-aviation purposes without compensating the Airport Fund. This occurred because FAA elected not to enforce the requirements of the Surplus Property Act and the AAIA in an attempt to encourage the Sponsor to become more actively involved with the promotion and development of the airport. As a result, the Airport Fund lost revenues totaling about \$2.6 million and the Sponsor diverted airport funds totaling \$195,000.

Discussion

The Surplus Property Act provides land can be transferred without cost to airport sponsors, subject to the terms, conditions, reservations, and restrictions on the use of the land. These restrictions include the condition that the property be used for airport purposes or as a source of airport revenue, if used for non-aviation business activities. The Surplus Property Act further provides, "When a term under this section [Title 49 United States Code 47152] is not satisfied, any part of the interest in the property reverts to the Government. . . ." The original deed for the airport, dated February 28, 1948, incorporates the requirements of the Surplus Property Act, including a provision reverting the land to the Federal Government for any breach of the deed restrictions.

FAA Order 5190.6A¹, dated October 2, 1989, Airport Compliance Requirements, states:

In lieu of a reverter action, the FAA may concur in an assignment or transfer of title to the property in question from the grantee in default to a willing non-Federal public agency eligible under the current program. The FAA must determine that the assignee is capable of fulfilling all the covenants of the instrument involved and that the transfer of title under these circumstances is essential to the continued operation, maintenance, and development of a public airport.

...

FAA Order 5190.6A also states, when Federal surplus property acquired for airport purposes is used for non-aviation purposes:

... it must produce income for the airport. This means that any lease or other rental agreement covering the use of surplus property at an airport must assure that fair rental value of the property will accrue to the airport and be available to meet airport expenses. Such property may not be rented at a discount to support community nonprofit organizations or to subsidize nonairport objectives.

FAA Order 5190.6A further states Federal surplus property:

... may be released for sale or disposal upon demonstration that such disposal will produce an equal or greater benefit (to the airport or another public airport) than continued retention of the land. . . . This objective is not met unless an amount equal to the net sale proceeds based on current fair market value of the property is realized as a consequence of the release and such amount is committed to airport purposes.

Land and Facilities Used Rent Free

The airport did not receive compensation for the Sponsor's non-aviation use of two Federal surplus properties. The airport lost revenues totaling about \$2.6 million, including \$2.4 million because a hangar and surrounding land was used by the Sponsor rent free as a municipal garage,

¹FAA Order 5190.6A superseded FAA Order 5190.6, dated August 24, 1973, which contained similar provisions.

and \$182,407 because the Airport Fund was not credited with the fair-market value of land used for a fire station and training facility.

Hangar Used as Municipal Garage- On September 14, 1965, FAA agreed to the Sponsor's request to utilize a hangar at the airport as a municipal garage. The Sponsor also used at least 5.8 acres of land surrounding the hangar for non-aviation purposes. The Sponsor erected a fence, took over existing storage sheds, constructed new storage sheds, and eventually built an operations center for another city department on airport land. The Sponsor did not request FAA approval for the modifications and new construction as required by the Surplus Property Act. We found the municipal garage provided little, if any, benefit to the airport since May 1981, when the fixed-base operator became responsible for maintenance of all other airport property.

On September 7, 1984, the Sponsor requested that FAA release the hangar and surrounding land occupied by the municipal garage from the terms of the surplus property deed of transfer. In a letter, dated November 8, 1984, FAA denied the request stating:

In reviewing your request it becomes apparent that the purpose for permitting release of surplus airport property and structures has been forgotten, that is, that lands and structures which have been deeded to the City under the Surplus Property Act are to be utilized for airport purposes. When such lands and structures which are excess to aviation needs are used for non-aeronautical purposes the airport sponsor is expected to receive fair market value for the uses, and in the event of disposal, fair market value for sale of the property. In either case, the 'airport fund' should benefit from the income. In the case of the hangar converted to a garage, the City should have been crediting the airport fund with a fair market value rental for the use of the facility as a garage. . . .

In October 1994, the Sponsor hired a contractor to perform maintenance on non-airport equipment and vehicles at the hangar. As part of the contract proposal, the Sponsor determined the lease cost for the portion of the hangar to be used by the contractor should be \$130,000 annually.

The Sponsor continues to use the remaining portion of the hangar and its surrounding land rent free. Using the proposed lease cost of \$130,000, we calculated the rental rate the Sponsor should have paid the Airport Fund for the hangar since notified by FAA in November 1984. Using the rental

rate of adjoining unimproved airport land leased to a commercial business, we calculated the rental rate the Sponsor should have paid the Airport Fund for the land surrounding the hangar. We also used the average annual Consumer Price Index published by the U.S. Department of Labor to adjust annual lease rates from their base years. We determined the airport lost approximately \$2.4 million between November 1984 and March 1996.

Released Land Used for Fire Station and Training Facility In 1974, the Sponsor constructed a fire station and training facility on 5.1 acres of airport land. The land was part of 14.8 acres of unimproved land which FAA had released in 1963 for non-aviation use from the terms of the original deed of transfer. The Sponsor had previously sold the other 9.7 acres of land between July 1970 and August 1973, and properly credited the Airport Fund with the proceeds.

The airport is a general aviation airport which is not subject to FAA requirements for on-site fire services. In addition, the land on which the fire station and training facility were constructed is not within airport boundaries shown on the current airport layout plan.

The Sponsor did not credit the Airport Fund with the fair- market value of the land. We estimated the value of the fire station land using the sale prices of 9.7 acres of airport land sold between July 1970 and August 1973, and 3.1 acres of adjacent airport land sold in 1992. We adjusted the sale prices by the Consumer Price Index from the base years and estimated the current value at \$35,766 per acre, or a total of \$182,407 for the 5.1 acre parcel occupied by the fire station and training facility.

Revenue Diversion

As a condition of receiving airport development grants, the Sponsor provided written assurances it would comply with provisions contained in AAIA Section 511(a)(12), which state:

. . . all revenues generated by the airport, if it is a public airport, and any local taxes on aviation fuel . . . will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property. . . .

Under Title 49 United States Code Section 47106, the Secretary of Transportation has the authority to withhold grant funds for violations of grant assurances. In addition, the FAA Reauthorization Act of 1994 and the Department of Transportation Fiscal Years (FY) 1994 and 1995 Appropriation Acts included provisions to curtail revenue diversions by airport sponsors. The FY 1994 and 1995 Appropriation Acts each state:

None of the funds provided by this Act shall be made available to any State, municipality, or subdivision thereof that diverts revenue generated by a public airport in violation of the provisions of the Airport and Airway Improvement Act of 1982, as amended.

We found the Sponsor diverted airport-generated revenues for non-airport related purposes by offsetting expenses for maintenance services. In April 1994, the Sponsor solicited bids for non-airport equipment maintenance services at the municipal garage located in the hangar at the airport. The Sponsor's solicitation included a rental charge for about 70 percent of the hangar at an annual lease rate of \$130,000. The Sponsor selected a contractor who proposed to perform the services for an annual contract price of \$1,270,418.

However, instead of collecting the proposed rent, the Sponsor awarded the contract for an annual price of \$1,140,418 (\$130,000 less than the proposal) and reduced the annual rental payments for the hangar to \$1. The contract price for the non-airport equipment maintenance services was paid for from the Sponsor's General Fund. In accordance with FAA Order 5190.6A and AAIA, the contractor's proposed rent should have been

collected and deposited into the Airport Fund. By not collecting the annual rental fee of \$130,000, the Sponsor diverted the money from the Airport Fund to the General Fund.

The maintenance contract was awarded for 3 years, October 1994 through September 1997. During the 3 years of the contract, the Sponsor will divert \$390,000 in revenue from the Airport Fund, including \$195,000 already diverted during the period October 1994 to March 1996.

FAA Enforcement of the Surplus Property Act and the AAIA

Although FAA advised the Sponsor that it should be crediting the Airport Fund with the fair-market rental value of the facilities and land used as the city municipal garage, and was aware the Sponsor built a fire station and training facility on released land, it elected not to enforce the requirements of the Surplus Property Act and the AAIA. FAA officials advised us they did not enforce the requirements of the Surplus Property Act and the AAIA because they were attempting to encourage the Sponsor to become more actively involved with the promotion and development of the airport. They stated that enforcement of the Surplus Property Act and the AAIA would be detrimental to relations with the Sponsor and would hamper future promotion and development of the airport.

Conclusion

The Sponsor's long history of noncompliance with Surplus Property Act requirements and AAIA assurances demonstrates that the Sponsor has not acted in good faith to promote and develop the airport. Since the transfer of airport property in 1948, the Sponsor has considered closing the airport at least five times. The most recent instance occurred in 1992, when the Sponsor requested FAA guidance on the steps needed to cease operations at the airport so the Sponsor could acquire ownership of the property for other than aviation purposes.

Furthermore, the Sponsor's participation in the airport has been minimal since 1981, when a fixed-based operator assumed responsibility for daily operations and maintenance of the airport. Based on the information obtained during our audit, the Sponsor's primary concern is to retain rent free use of the airport hangar as the municipal garage. This conclusion is supported by the Sponsor's negotiations to transfer the airport land and operation to an airport authority. On October 2, 1995, the Sponsor provided FAA with a draft agreement to transfer the airport property to the

airport authority, while allowing the Sponsor continued use of the hangar as a municipal garage for 10 years. Under the agreement, instead of paying rent for the hangar, the Sponsor would provide fire and rescue services to the airport.

In a letter, dated February 13, 1996, FAA endorsed the transfer, but objected to negotiated conditions for use of the hangar. FAA stated:

We have never been impressed by the effort put forth by the City in its overall management and promotion of the airport. For that reason, we believe the proposed leasing of the Vultee hangar and adjoining property should reflect more tangible consideration for the long term interests of aviation in the Lehigh Valley.

The Sponsor's failure to collect rent, diversion of airport-generated revenue from the Airport Fund, and reluctance to promote and develop the airport represent a breach of deed restrictions and provide grounds for reverting the airport to FAA. FAA's approach of allowing Sponsor noncompliance with Surplus Property Act and AAIA requirements has not been successful.

Recommendations

We recommend the FAA Administrator:

1. Require the airport Sponsor to:
 - (a) implement a system that ensures the Airport Fund receives reasonable compensation for all leased property;
 - (b) establish leases and reimburse the Airport Fund with reasonable compensation for the Sponsor's future non-aviation uses of all airport property; and
 - (c) ensure airport revenues are used only for airport purposes.
2. Consider assigning or transferring title of the airport to an eligible non-Federal public agency if the Sponsor does not take satisfactory corrective action.

3. Require the Sponsor to pay the Airport Fund \$2.4 million for lost revenues from the rent free use of the airport hangar and surrounding land from 1984 to 1996.
4. Require the Sponsor to reimburse the Airport Fund for the current fair-market value (estimated at \$182,407) of land occupied by the fire station and training facility.
5. Require the Sponsor to pay the Airport Fund \$195,000 for revenues diverted through March 1996, and to reimburse the Airport Fund for future revenues which would be diverted for the remaining life of the maintenance contract.

Management Response

FAA did not provide a written response to our October 16, 1996, draft report.

Audit Comments

We have requested FAA to provide a response to the final report within 60 days.

MAJOR CONTRIBUTORS TO THE REPORT

These individuals were major contributors to the report on Accountability and Use of Airport Revenues at Queen City Municipal Airport.

Harry H. Fitzkee	Regional Manager
Earl Hedges	Project Manager
George E. Banks	Auditor-in-Charge
Wayne Heibeck	Auditor
Robert Meisenhelder	Auditor
Florence Scheiner	Administrative Support