

Compliance Review of the Austin-Bergstrom International Airport



**Conducted by the
Federal Aviation Administration
Airport Compliance Division ACO-100**

August 19, 2013 through August 30, 2013

January 14, 2014

The Federal Aviation Administration (FAA) Airport Compliance Division, ACO-1 conducted a compliance review at the Austin-Bergstrom International Airport to evaluate compliance with Federal statutes and FAA requirements. The FAA conducted this review at the City of Austin Department of Aviation (Airport) and at various government offices within the City of Austin, Texas (City).

The City is the Airport's owner and sponsor. It is responsible for ensuring the Airport complies with Federal statutes, the Airport Improvement Program (AIP) Grant Assurances and FAA Policy and Procedures Concerning the Use of Airport Revenue (Policy). The Airport is located within the City limits of Austin on the site of the former Bergstrom Air Force Base. The Airport opened on May 23, 1999, and it replaced the Robert Mueller Municipal Airport, which had until then served Austin's commercial airport needs. The site for the Airport became available when the Base Re-alignment Commission selected the base for closure. The Airport serves 9 million passengers annually. It has 181 aircraft based at the Airport and 13 air carriers that serve the Airport.

Airport sponsors agree to certain obligations when they accept Federal grant funds or Federal property transfers for airport purposes. The FAA enforces these obligations through its Airport Compliance Program. Unlawful revenue diversion is the use of airport revenue for purposes other than the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to air transportation or property. The Compliance Division has the responsibility to ensure airports adhere to this policy. The Compliance Division conducts a financial compliance review of several airports each fiscal year. These reviews disclose the airport's adherence to FAA grant assurances and the Policy Concerning the Use of Airport Revenue (Policy).

We reviewed the following areas at Austin-Bergstrom International Airport:

- Form 126 & 127 Reporting
- Transactions between the Airport and the City
- Noise Land
- Electric Usage
- Fleet Services
- Police
- Fire Fighting
- Uses of Airport Property
- Marketing/Air Carrier Incentives
- Cost Allocations

FAA Reporting

Section 111 of the *Federal Aviation Administration Authorization Act of 1994* established the requirement for commercial service airports to file financial reports with the FAA. These reports are the Financial Government Payment Report, Form 126 and the Operating and Financial Summary, Form 127. Form 126 reports the financial transactions between the Airport and governmental entities, and Form 127 reports Airport operating results.

We reviewed the information reported on both forms to determine if the City drew this information from its financial accounting system. We found the information traces to the City's trial balance and to its Comprehensive Annual Financial Report (CAFR). The City's outside accounting/auditing firm reported the CAFR fairly presented the City's financial position. Our review found the City's Forms 126, and 127 tied to its financial accounting system and CAFR.

Starting in 2009, the FAA added a statistical section to the Operating and Financial Summary. In this section, the FAA asked airports (with 25,000 enplanements or more) to provide information on enplanements, landings, full-time equivalent employees, and breakout costs that pertain specifically to security, fire, repairs, and marketing. The FAA requested this information in response to inquiries from stakeholders, industry groups, and the public. Providing this added information is consistent with the Act of 1994, which mandated airport sponsors provide the FAA and the public information on airport financial operations. To date, the City has not provided this information.

Conclusion: FAA was able to trace the amounts reported on Forms 126 and 127 to the Airport's accounting records. However, the City needs to provide the statistical section on the Form 127 from 2010 going forward.

Transactions Between the Airport and the City

In addition, to relying on the independent audit report, we also tested several transactions between the Airport and the City to determine if the City supported those transactions with journal entries, and detailed invoices. There was a cost allocation plan with indirect charges, which we discuss later in this report.

Conclusion: Based on our review of direct charges between the City and the Airport, we found the Airport to be in compliance with the Policy.

Noise land



Trailer park acquired with noise land funding

The Airport's noise program consists of 145 parcels which total to 192 acres. The Airport's funding for the program is a combination of Airport Improvement Program (AIP) grants and Airport revenues. The Airport began its program in 2005, and has almost completed the cycle of acquisition and disposal. One remaining item is the relocation of a mobile home park. The Airport acquired the park from its owner and is now relocating the residents. Austin Energy and the Austin Police department acquired some parcels. Austin Energy obtained its parcels through a bid process, and the Police paid for their parcels by paying the appraised fair market value. The Airport converted three parcels (ND 109, 110, and 111) to AIP eligible airport use. It sold the remaining parcels through a bid process. The Airport invested all sales proceeds (\$1,834,251) in AIP eligible projects. The FAA regional office approved all the acquisitions and dispositions of the parcels. The Airport did not convert any of the land to parks, recreation, or noise barrier use.

Conclusion: The Airport and City are in compliance with FAA Policy concerning the use and disposal of noise land. In addition, the Airport is current in its commitments to the FAA with regards to noise land.

Electric Usage

The Airport purchases its electricity from Austin Energy, which is a department of the City of Austin. From 2011 to 2012, the Airport's electric bill increased from \$4.4 million to \$5.2 million. Airport officials stated the reason for the increase was its participation in the Austin Green Power Partnership.

The City enrolled all of its departments in the Green Power Partnership, so it is treating the Airport no differently than other similarly situated departments. The City does not add taxes or franchise fees to the Airport billing, so the airport only pays for its kilowatt usage. Austin

Energy meters on-airport business separately from the Airport. It provides the Airport with dual power feeds, which means in the event of the storm, the Airport will not lose power. For emergencies, the Airport has the same priority as the hospitals and the State Capitol.

Conclusion: Based on our review of electric usage at the Airport, we did not find any inconsistencies with our Policy.

Fleet Services

City Fleet Services manages 80 of the airport's vehicles. Forty of the vehicles are off-road and provide services like maneuvering aircraft from the gate to the apron. With the exception of police vehicles, the Airport owns all of its vehicles. When Fleet Services sells an Airport vehicle, it reimburses the proceeds to the Airport. Airport employees perform most of the maintenance at the Airport maintenance facility. Fleet Services performs the major repairs at its off-Airport facility. For police vehicles, the Airport pays a monthly rate to the Police Department. The Airport found the monthly rate is less than the actual cost of maintaining the vehicles. In addition, the Airport owns a fleet of natural gas powered shuttle buses for transportation of passengers and employees to the Airport's parking lots. An independent contractor operates and maintains these buses.

Conclusion: Based on our review of Fleet Services at the Airport, we did not find any inconsistencies with our Policy.

Police

The City's Police Department provides policing to the Airport. The Airport Police Unit includes 40 sworn officers, plus 4 K-9 officers, 1 detective and 2.5 non-sworn officers. A typical day shift includes 1 lieutenant, 1 sergeant and 5 patrol officers. A typical night shift consists of 1 sergeant and 4 patrol officers. The non-sworn officers are dispatchers who work at the Central Texas Communications Agency (the 911 center). The Airport Police Unit oversees all activities related to law enforcement on the Airport and provides assistance with Airport security requirements, as required by the Transportation Security Administration (TSA).



In accordance with the memorandum of understanding between the Austin Police and the Airport, the Airport's reimbursement for police services is subject to budgetary control and Airport approval of expenditures. The Police Department agrees to provide a monthly billing based on actual costs, and it agrees to provide adequate documentation to support the billing. The Airport has three levels of approval for the police billings—finance, Security, and Aviation Director. The TSA reimbursements from police staffing of checkpoints goes the Airport. The Police Department stores its helicopters at Atlantic Aviation and pays fair market rent at Atlantic, at no cost to the airport.

The Airport Unit confines overtime to special situations like presidential visits. The Unit covers absences for vacation and sick leave on a straight-time basis, without charging additional overtime to the Airport. There is seldom a need to bring in officers from other units to cover police absences.

Conclusion: Police costs appear reasonable and we did not note any inconsistencies with our Policy.

Fire

The Aircraft Rescue and Firefighting Division (ARFF) is a unit of the Austin Fire Department. It oversees all activities related to fires on the Airport and provides initial response to medical calls. ARFF staffing includes a battalion chief, captain, lieutenant, and firefighters, who provide the Airport with 24 hour per day coverage. The Fire Department and Airport mutually agree to the staffing levels. These levels include 7 persons per shift. Overtime is minimal. Dispatching for fire services comes from the Airport Communications Center or from the Central Texas Communications Agency (911).

The ARFF unit provides (1) aircraft and airport firefighting, (2) fire prevention services (3) safety education and training, (4) medical first response, (5) response to large-scale emergencies and other calls such as alarm activations at the Airport, and (6) other services as



agreed upon by the Executive Director and the Fire Department. The Airport's Finance Division and Director of Operations approve the Fire Department invoices.

In accordance with the memorandum of understanding between the Fire Department and the Airport's reimbursement for fire-services is subject to budgetary control and approval of expenditures. The Fire Department will notify the Airport of any variance to the approved budget. It will also provide the Airport with monthly invoices that includes sufficient backup documentation. The costs are validated by the airport.

Conclusion: Based on our review, the costs charged for fire services appear reasonable. We did not note any inconsistencies with our Policy.

Properties

State of Texas. The State of Texas has a 99-year hanger lease on 13 acres of Airport land for a rent of \$1 per year. The lease has no provision for cancellation, except as remedy for a breach of contract. The Airport entered into this lease prior to its 1999 opening. With the closing of the old airport, the State had a need to relocate its aviation facilities. The lease came about as way for the City to settle relocation disagreements between it and the State. The State does pay fuel flowage fees of about \$30,000 per year, depending on their aircraft usage.

Conclusion: The Airport needs to ensure the State of Texas is paying rental rates that are compatible with other aeronautical users.



State of Texas Hangars

Commercial Leases. The airport has two large fixed base operators, Signature and Atlantic Flight Services. Plus, it has Air Cargo Operations and several other smaller commercial operators. The leases are land leases where the operator constructs its own facilities. The leases are competitively bid, and include a cost of living escalator that adjusts the lease every 5-years.

Conclusion: Based on our review of other commercial leases, we found the structure of the leases comply with our Policy and we noted no irregularities.

Austin Energy Solar Farm. The City established this lease prior to the Airport's 1999 opening. The lease provides for Austin Energy to establish a solar farm on airport property. The lease assigned ownership of the electricity to Austin Energy. The Airport is not entitled to receive the electricity or receive compensation or credit for the value the electricity. The lease grants the Airport the opportunity to purchase the farm at any time during or upon termination of the farm. The agreement is effective for a period of 10-years after the farm became energized. After that, the Airport may extend or terminate the lease.

Conclusion: It is our understanding the Airport does not receive any benefit from this lease. The Airport needs to re-evaluate the terms of the lease and the operational capacity of the solar

farm to ensure the optimal advantage to the airport. At a minimum, the Airport should be receiving a fair market value for rent for the use of the land.

Solar Farm



National Guard. The Airport is home to the newly constructed Texas National Guard Helicopter Base. Remnants of the old base are being demolished. The Policy at Section VII, Paragraph F acknowledges that many airports provide facilities to military units with *aeronautical* missions at nominal lease rates. This practice is not inconsistent with the requirement for a self-sustaining airport rate structure. Military units with aeronautical missions may include the Air National Guard, aviation units of the Army National Guard, U.S. Air Force Reserve, and Naval Reserve air units operating aircraft at the airport. Reserve and Guard units typically have a historical presence at the airport that precedes the Airport and Airway Improvement Act of 1982, and provide services that directly benefit airport operations and safety, such as snow removal and supplementary ARFF capability. The Policy does not extend the provision for nominal rates to non-aeronautical military use. Based on our observation, there appears to be a substantial use of the property for non-aeronautical purposes, specifically for the storage of military vehicles. Land rental to, or use of land for non-aeronautical purposes at less than fair market value is a prohibited use of airport revenue.

Conclusion: The Airport needs to increase the rates charged to the National Guard for the portion of the property that pertains to non-aeronautical usage, at the soonest legal opportunity.



Texas National Guard Helicopter Unit



Texas National Guard Non-aeronautical use



Marketing

The City spends \$50,000 per year marketing the Airport. The focus is to advertise enhanced passenger amenities at the Airport. This includes live music at several locations within the terminal and art displays. Both the live music and the art displays focus on local artists. In addition, the Airport produces a newsletter, brochures videos, and trade show ads. The Airport also has a visitors booth, located in the baggage area and manned by volunteers. An employee from customer service oversees the booth. It contains some information on what to do while in Austin, but the main focus is directing visitors to taxis and shuttle buses. The Marketing staff provided examples of their advertising which included ads on concerts at the airport, a “Fly Austin” publication, and various ads promoting the convenience of the Airport.

The Airport is a member of the Austin Chamber of Commerce and it pays the standard corporate rate of \$2,500 per year for membership. Officials state the Airport does not need an executive or director level membership to work closely with the Chamber.

Based on our review we found:

- The Airport does not contract with the Conventions and Visitors Bureau or engage in tourism marketing.
- The Airport does not pay for travel agent tours of city sites.
- Marketing is not directed by the City; the Airport has complete control of the program.
- The Airport does not pay for any marketing staff located off the airport.

Incentives and Air Route Development

The Airport encourages air carriers to add new service and new routes by offering the carriers incentives for the added service. For expanded services to locations in the Continental United States, Mexico and Canada the Airport offers a 1-year program of waived landing fees up to \$100,000 and it offers in-terminal advertising. Southwest, United, U.S. Airways and Aero Mar have benefitted from this incentive. For trans-Pacific and Atlantic air carriers that offer expanded service, the Airport offers 2-years of waived landing fees, up to \$200,000 and in-terminal advertising. To date, no carriers have qualified, but the Airport is negotiating with a carrier, who may soon qualify. For new carriers, the Airport offers no rent and no landing fees, up to \$200,000 for 1-year, and it offers in-terminal advertising. Allegiant qualified for this incentive. The Airport has received no complaints from its other carriers about the incentive program. The Airport does send representatives to route development conferences. The Airport also subscribes to a route development database that provides information useful for building business cases for adding new service.

Conclusion: Based on our review of Airport marketing and Air Carrier incentives, we did not note any inconsistencies with our Policy.

Cost Allocations

The Budget Office prepares the City's cost allocation plan. It based the Fiscal Year 2012 plan on the amended budget for fiscal year 2009-10. The reason it uses budget instead of actual cost is that it can get a budget-based plan to City departments 3-months earlier than a plan based on actual costs. This 3-months allows the departments the extra time they need to prepare their own budgets for the coming fiscal year. The Budget Office then adjusts the budgeted costs to actual and applies the variances to the following year's cost allocation plan. The City-wide plan covers general fund administrative cost expenditures. Information Technology and Fleet Services are separate plans.

Our review found the City allocates general obligation debt rather than depreciation. In addition, the allocations that include full time equivalent employees are based on budgeted positions rather than actual. Determining allocations based on budget estimates are not a sufficient basis for reimbursement of government entities. The City is also allocating the costs of the Revenue Recovery Office to the Airport, which is not providing services to the Airport.

Conclusion: The City should adjust its allocations based on debt service and instead use depreciation and adjust its allocations that used authorized full-time equivalents and use actual staffing levels instead for the preceding 6 fiscal years- fiscal years ending September 30, 2007 through September 30, 2012 and succeeding years. The City needs to provide justification for the indirect cost allocations from the Revenue Recovery Office to the Airport. After the adjustments are made, any amounts that exceeded the original billing should be refunded to the Airport.

Recommendations: The FAA recommends the City—

1. Reporting. Submit the statistical section to Form 127 for 2010, 2011, 2012 and 2013. This section should be completed going forward also.

2. Self-Sustaining. The Policy at Section VII requires airport sponsors to ensure their airports are as self-sustaining as possible under the circumstances at their airports. Accordingly, when a sponsor enters into a new or revised agreement, it should ensure the new rates are compatible with the self-sustainability requirement. In addition, going forward the airport should refrain from entering into leases where the airport receives little or no compensation.

a. State of Texas Aeronautical Lease. The Policy requires the City to ensure it increases the State of Texas rental rates to levels that are compatible with other aeronautical users, at the soonest legal opportunity.

b. Austin Energy Solar Farm. The Policy requires the City to re-evaluate the terms of the lease and the operational capacity of the solar farm to ensure the optimal advantage to the Airport.

c. State of Texas National Guard. The Airport needs to increase the State of Texas National Guard rates to levels that are compatible with other commercial use users for their non-aeronautical operations, at the soonest legal opportunity.

4. Cost Allocations.

a. Debt Service. The City should adjust its allocations based on debt service and instead use depreciation for the preceding 6 fiscal years—fiscal years ending September 30, 2007 through September 30, 2012 and succeeding years.

b. Full-time Equivalents. The City should adjust its allocations that used authorized full-time equivalents and use actual staffing levels instead for the preceding 6 fiscal years—fiscal years ending September 30, 2007 through September 30, 2012 and succeeding years.

b. Revenue Recovery Office. The City is allocating the costs of the Revenue Recovery Office to the Airport which is not providing services to the Airport. The City needs to provide justification for the indirect cost allocations from the Revenue Recovery Office to the Airport.

After the adjustments are made, any amounts that exceeded the original billing should be refunded to the Airport.

City of Austin Department of Aviation Corrective Action Plan

Please prepare a corrective action plan that resolves the findings and recommendations presented in this letter. The plan may include rebuttals to the findings and recommendation, and may include additional information the FAA may not have considered in its findings. Please respond to the FAA within 60 days.