



U.S. Department
of Transportation

Office of the Chief Counsel

**Federal Aviation
Administration**

December 29, 2020

EMAIL

Padraic Fennelly
Vice President and Assistant General Counsel
Boeing Commercial Airplanes
Padraic.B.Fennelly@boeing.com

RE: 2015 Settlement Agreement – Deferred Penalties

Dear Mr. Fennelly:

This letter constitutes written notice, pursuant to paragraph II.C.1 of the December 2015 Settlement Agreement (the Agreement), of the Federal Aviation Administration's (FAA) assessment of financial penalties for deficiencies in the performance of certain obligations of Boeing Commercial Airplanes (Boeing) under the Agreement.

Upon consideration of the totality of Boeing's performance under the Agreement, the FAA determines to assess a deferred civil penalty in the amount of \$5.4 M. The FAA's determination of this amount is explained below. Boeing's payment of this deferred civil penalty will resolve Boeing's obligations under Section II of the Agreement.

The Agreement contains a total of 12 sections of Boeing obligations. However, in two of those sections, *First Article Verification* and *Audits of BCA Suppliers for Acceptance of Work Performed*, Boeing's obligations largely ended in 2017. Therefore, there were only ten sections of Boeing obligations to occur, and to be assessed, during the pending second half of the Agreement. For these ten sections, the Agreement provides for the FAA to assess a maximum of \$12 M in deferred penalties, which if spread proportionally amounts to \$1.2 M per section.

The FAA's assessment is that Boeing did not meet its obligations in five of those ten sections. The FAA finds that Boeing's ongoing and planned corrective actions and cure plans have not been effective in remedying these performance deficiencies.

The FAA is only assessing penalties for deficiencies in four sections, rather than five, however. Although Boeing performed deficiently in meeting section I.C, *Organization Designation Authorization (ODA)* and *Internal Auditing System for Regulatory Compliance*, specifically regarding certain instances of undue pressure on ODA Unit Members, the FAA has been

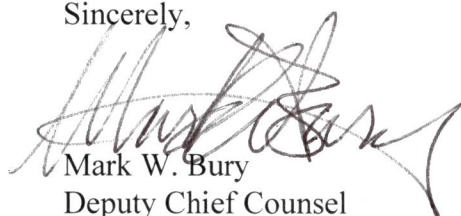
addressing this deficiency via pending enforcement actions outside of the deferred penalty process of this Agreement. In light of paragraph IV.D of the Agreement (*Avoidance of Duplicative Penalties*) and in the exercise of good faith in averting unnecessary controversy regarding that provision's application here, the FAA is not seeking a deferred penalty under the Agreement for this deficiency.

The FAA's thus calculation focuses on a total of four sections of the Agreement for which Boeing's performance deficiencies merit assessing deferred penalties. These sections are I.B, *Regulatory Compliance Plan*; I.G, *Accuracy of Stamping and Other Verifications*; I.H, *Quality of Submissions*; and I.I, *Timeliness of Submissions*. In some of these areas, Boeing's performance regressed, despite planned and implemented corrective actions and cure plans. Multiplying these four sections by \$1.2 M per section would result in a financial penalty of \$4.8 M.

However, the FAA finds that Boeing's shortfalls in one of these sections, *Regulatory Compliance Plan*, were numerous, varied, and called into question Boeing's performance under several other sections of the Agreement. The FAA therefore determines that a penalty greater than \$1.2 M, specifically a 50% increase to \$1.8 M, is warranted for that section. The FAA assesses a \$1.2 M penalty for each of the other three sections.

Accordingly, the FAA finds that a total deferred penalty of \$5.4 M is appropriate. Wire transfer instructions will be conveyed separately. We look forward to Boeing's timely action in accordance with the Agreement.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark W. Bury", is written over a printed name and title. The signature is stylized with a large, sweeping initial "M".

Mark W. Bury
Deputy Chief Counsel