



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Airport Compliance and Management Analysis

800 Independence Ave., SW.  
Washington, DC 20591

April 4, 2022

Mr. Balram Bheodari  
General Manager  
Hartsfield-Jackson Atlanta International Airport  
6000 North Terminal Parkway  
Atrium Suite 4000  
Atlanta, GA 30320-2509

Dear Mr. Bheodari:

Thank for your November 29, 2021 response to the Federal Aviation Administration's (FAA) draft compliance review report of the Hartsfield-Jackson Atlanta International Airport (ATL). We appreciate your letter recognizing ATL's full commitment to address recommendations proposed by the FAA's Office of Airport Compliance and Management Analysis (ACO) during the February 24 – March 13, 2020 financial compliance review.

The draft report recommendation, ATL's response and the FAA's final response are as follows:

#### **Atlanta Convention and Visitors Bureau (ACVB)**

**FAA Recommendation:** The FAA recommends ATL modify the Memorandum of Understanding (MOU) to include a market rent payment to cover leased space costs. Congress expressly prohibits the diversion of airport revenues through general economic development and activities unrelated to airports or airport systems. ACVB should pay a market rent for use of the space and retroactively pay since the inception of the MOU.

Section 49 U.S.C. §47107(m)(7) includes a statute of limitations that prevents the recovery of funds illegally diverted more than six years after the illegal diversion occurs. Since the MOU was entered into in 2016, ATL can assess rent and interest for the entire period. Interest is due from the date of the diversion. In addition, ATL should verify no airport funds are being used to pay for utility costs consumed by ACVB.

**ATL Response:** The City acknowledges the FAA's finding that the MOU between the Department of Aviation (DOA) and ACVB leasing airport commercial property at no cost is potentially problematic.

The City has taken the following steps to resolve this issue:

- On October 26, 2021, DOA issued a notice of termination to ACVB to terminate the MOU, effective December 1, 2021. ACVB will be required to vacate the space no later than that date. (a copy of the letter attached)
- DOA calculated the amount of the rent that could have been charged to ACVB since the inception of the MOU at \$530,476.87. In addition, using a simple interest calculation, the DOA has calculated accrued interest on this amount at \$40,586.93. By separate letter dated November 20, 2021, DOA has requested payment from ACVB for the total amount of \$571,063.80. (a copy of the letter is attached)
- The City has determined that utility costs for the space were paid from DOA funds. DOA is in the process of calculating the total amount paid during the effective period of the MOU. DOA has reserved the right to pursue this amount from ACVB.

**FAA Response:** After reviewing ATL's Corrective Action Plan (CAP) for the recommendation, to include letters sent by DOA to ACVB, the FAA considers this matter closed. Should any of the outlined corrective actions be modified, ATL should notify ACO immediately. If ATL submits any modifications to the CAP, ACO reserves the right to re-open this recommendation until it is closed.

We thank you, your staff, and other city officials for providing the FAA with timely responses to the recommendation. We consider all matters closed and will issue the financial compliance review final audit report.

Should you have any further questions, please contact Olu Okegbenro, Lead Financial Manager at (202) 267-9605.

Sincerely,

**KEVIN  
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Kevin C. Willis

Director, Office of Airport Compliance  
and Management Analysis

Enclosure

CC: Steven E. Hicks

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**Federal Aviation Administration  
Office of Airports Compliance and Management Analysis  
Financial Compliance Review**

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**HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT  
February 24, 2020 – March 13, 2020**



**Federal Aviation Administration  
Office of Airports Compliance and Management  
Analysis Financial Compliance Review**

The Federal Aviation Administration (FAA) Office of Compliance and Management Analysis (ACO), conducted a financial compliance review at the Hartsfield-Jackson Atlanta International Airport (ATL or Airport) to evaluate compliance with Federal statutes and FAA requirements. The FAA conducted this review at ATL and the City of Atlanta offices from February 24, 2020 through March 13, 2020.

As the airport sponsor, the City of Atlanta manages ATL and is responsible for ensuring compliance with Federal statutes, the Airport Improvement Program (AIP) Grant Assurances, and FAA policies for federally obligated airports. 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. The ACO conducts a financial compliance review of selected airports each fiscal year.

Unlawful revenue diversion, as defined in section II, C of the Policy Concerning the Use of Airport Revenue (Revenue Use Policy) 64 Fed. Reg. 7697 (Feb 16, 1999), as “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 ACO is responsible for ensuring that airports adhere to AIP Grant Assurances and the FAA’s Revenue Use Policy.

ACO reviewed the following financial topics at ATL:

- Form 126 & 127 Reporting
- Leases and Agreements
- Fire Fighting (ARFF)
- Legal Invoices
- Advertising and Incentives
- Financial Transactions and Payments
- Art in Public Places
- Police and Security Services
- Noise Land Program
- Cost Allocations
- Fleet Services
- Utilities

### **Financial Data Reported to FAA**

#### **FAA Form 126 and 127 Operating and Financial Summary**

Section 111 of the FAA Authorization Act of 1994 established the requirement for commercial service airports to file financial reports with the FAA: Financial Government Payment Report

(Form 5100-126) and the Operating and Financial Summary (Form 5100-127). Federal law requires all commercial service airports to file; commercial service airports are defined as airports with 2,500 or more enplanements in the preceding calendar year.

In the case of ATL's financial reporting, the FAA reconciled discrepancies between ATL's Form 5100-126 to ATL's financial accounting system. ATL reports balance sheet, income statement, and airport operations statistical information on Form 5100-127. As part of this financial review, the FAA asked ATL to reconcile selected amounts reported on Form 5100-127 to ATL's general ledger and annual financial statements.

**Conclusion:** The FAA was able to reconcile the amounts reported on ATL's Forms 5100-126 and 5100-127 to ATL's accounting records and financial statements. No follow up is required.

## **Uses of Airport**

### **Property Background**

Each federally assisted airport owner/operator is required by statute and Grant Assurances 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*, to have an airport fee and rental structure that will make the airport as self-sustaining as possible and minimize the airport's reliance on Federal funds and local tax revenues. The FAA has generally interpreted the self-sustaining assurances to require airport sponsors to charge fair market value commercial rates for nonaeronautical uses of airport property.

### **Leases and Agreements**

The FAA received and reviewed 48 commercial leases and agreements pertaining to the property and concessions at ATL to determine if the airport sponsor followed acceptable practices for the leasing of airport property.

The FAA determined that properties are appraised at either fair rental value or a fair market value depending on the lease. All properties are appraised before executing a new lease or when a tenant wants to expand their leasehold. Upon an expansion request, a new appraisal is required.

All leases reviewed contained provisions for annual increases with an escalation of 3%, and the Airport or Real Estate Division approves all subleases, depending on the duration. The FAA found ATL's lease program to be administered in accordance with FAA policies. There is no indication of outside influences or political favoritism for the soliciting and awarding of leased property.

### **Atlanta Convention and Visitors Bureau (ACVB)**

On January 22, 2016, the City entered into a Memorandum of Understanding (MOU) to provide ATL commercial office space to the ACVB at no cost. The office space, located in the Central

Passenger Terminal Complex – West Crossover, is home to a passenger welcome center that provides visitor information on behalf of the City. The overall focus of the facility is to support the general economic development of the City of Atlanta and surrounding communities. As stated in the MOU, “ACVB aggressively markets the City of Atlanta as the leading destination for conventions, and tourism activities and supports a \$12 billion hospitality industry, sustaining 230,000 jobs for metro Atlanta....” In addition, the facility provides tourism information, information materials, and digital promotional programming all unrelated to the airport.

**Conclusion:** ATL is not charging the ACVB rent. ` Leases (in this case MOU) to private, nonprofit organizations generally will be: required to be at market rates, or must demonstrate a benefit to aviation and the airport. In our opinion, this facility does not provide any benefit to aviation or the airport. In addition, the facility is capable of producing substantial rental income. The large office space is located across from a TGI Fridays in a heavy foot traffic area. We asked the ACVB staff working at the facility about its function and relationship to the airport, and they stated they had no information on ATL facilities/services and directed us to nearby informational booth.

**Recommendation:** We recommend ATL modify the MOU to include a market rent payment to cover leased space costs. Congress expressly prohibited the diversion of airport revenues through general economic development and activities unrelated to airports or airport systems. The ACVB should pay a market rent for use of the space and retroactively since the inception of the MOU.

Section 49 U.S.C. §47107(m)(7) includes a statute of limitations that prevents the recovery of funds illegally diverted more than six years after the illegal diversion occurs. Since the MOU was entered into in 2016, ATL can assess rent and interest for the entire period. Interest is due from the date of the diversion. In addition, ATL should verify no airport funds are being used to pay for utility costs consumed by the ACVB.

**Follow-up:** ATL submitted a correction action plan to ACO acknowledging the FAA’s recommendation. The plan outlines the termination of the MOU with ACVB, and a plan to recoup past rents, plus interest and utility costs associated with the MOU. After reviewing ATL’s corrective action, to include supporting documentation, ACO considers this matter closed.

### **Aircraft Rescue and Fire Fighting (ARFF)/ Atlanta Fire & Rescue**

ARFF on the Airport is a division of the Atlanta Fire and Rescue Department, which primarily serves the airport. The division consists of administrative staff, ARFF personnel, emergency medical service (EMS) personnel, special operations, airport training, and airport fire inspections. Five airport fire stations provide support to the airport and respond to all hazard responses, hazmat releases on airport, EMS, and structural fire requests. Also, the airport has a mutual aid agreement with Clayton County, City of Forest Park, City of Hapeville and City of College Park Fire Departments.

Additional support is also available to the airport from the main City of Atlanta Fire Department if needed. The ARFF on the Airport have ten ARFF Trucks that were made to specification and two on reserves. All maintenance on the trucks are done by the City of Atlanta Fleet Services department. There are 213 sworn firefighting officers across three shifts that rotate every 3 days and 61 firefighters on duty daily. In addition, ATL airport has four frontline ambulances staffed with two paramedics at all times.

The FAA understands that the Airport does not respond to off-airport property fire emergencies. In the event that there is a need for such assistance, a request would be made and must be approved by the deputy chief and executive team.

**Conclusion:** No follow up is required because the FAA found no irregularities with ARFF on the Airport Legal Invoices

As part of the review, the FAA requested the opportunity to review numerous unredacted legal invoices paid by the airport. The FAA asked a number of questions about these invoices regarding legal payments made from the airport revenue fund. The city acknowledged that the amount of \$115,554.23 was erroneously charged to the airport revenue fund and has been corrected as of September 27, 2018. The issues were resolved via several rounds of questions and submissions of pertinent documentation by the Airport to substantiate the transactions in question.

**Conclusion:** No follow up needed as all outstanding/pending issues have been resolved post site work.

### **Airport Advertising and Air Carrier Incentives**

Clear Channel is the advertising company contracted to perform both internal and external advertisement at ATL. There are over 200 digital advertisements around the airport. The Airport receives approximately \$12.6M or 65% of revenue generated from wall displays, vinyl wraps, billboards, exhibit cases, and banners displayed inside the terminal. All advertising content are reviewed and approved by the airport.

The air carrier incentive program at ATL started in 2015 and includes three major components: international, domestic and passenger. The incentive program guide was approved by the City Council and ended in June 2019. However, existing incentives that were previously approved remain in effect until the end of the existing contract.

Marketing at ATL is comprised of four different functions: administrative, digital social, strategy/graphics and brand insight. Marketing at ATL focuses mainly on revenue generating projects, such as ATL Sky point, Park ATL and mobile apps. ATL conducts cooperative advertising with the ACVB. In addition, ATL has an operating MOU with the ACVB and they share assets, videos, photos, and assist with familiarization tours (FAM).

Marketing research at the airport is passenger oriented. The Airport does not fund or engage in FAM tours but provides access when needed. ATL uses joint venture (JV) partnership for

concessions marketing, surveys, profiling, and behavioral analysis. ATL also has several unmanned kiosks throughout the airport and a visitor's booth to welcome visitors to the city of Atlanta. The booth is staffed with volunteers and at no cost to the airport.

**Conclusion:** No follow up is required because the FAA found no irregularities with the Airport Advertising and Air Carrier Incentives at ATL.

### **Airport Financial Transactions and Payments**

As part of our financial review process, we randomly selected roughly 25 transactions from the Airport's payment log for in-depth review. Approval and supporting documents were received and verified. Also, we followed up on a news report by the Atlanta Journal Constitution regarding the use of airport revenue to pay Mayor Keisha Lance Bottom's campaign staff salaries. The airport informed the FAA that the sum of \$22,500 was refunded to the airport by the City of Atlanta and substantive documents were provided. The airport is not aware of any more of campaign staff salaries being paid with the airport funds.

**Conclusion:** No follow up is required because the FAA found no irregularities with the Airport's financial and payment transactions.

### **Art in Public Places**

ATL's art program consists of two components, namely commission art program and rotating exhibition program which is a partnership with museums and galleries. ATL has an insurance policy in place to cover liability for damages or theft of displayed art. There is a multi-tiered process to select artists from various databases through a panel as well as a legislative review. The exhibition period is usually one year, the artworks are de-installed and not disposed.

**Conclusion:** No follow up is required because the FAA found no irregularities with the Airport's art in public places at ATL.

### **Police and Security Services**

City of Atlanta Police Department provides overall airport security and law enforcement services. The officers assigned to the airport are funded by the airport. There are three shifts of officers, with approximately 35 officers per shift at all times. The police officers are responsible for maintaining law and order at both terminals, as well as curbside traffic control. A private company, HSS Security Services, provides additional security services for the airport, including perimeter monitoring/security, employee screenings, badge checks and concessionaire staff validation at the airport.

**Conclusion:** No follow up is required because the FAA found no irregularities with the Airport's Police and Security services at ATL.



## **Noise Land Program**

ATL's Noise Land program started in the late 1970's on the east side of the airport, and later expanded to the west side (East Point/College Park). The program focuses on noise insulation for properties within 65-69 DNL contour. The program is funded by FAA noise discretionary grants and Passenger Facility Charges, with no direct cost to the airport. The disposal of noise land properties is done through the Clayton County Development Authority. ATL has not acquired noise land recently; the program focuses on noise insulation. Noise compatibility measures have been updated annually.

**Conclusion:** No follow up is required; the FAA found no irregularities with the Noise Land Program at ATL.

## **Cost Allocation Plan**

### **Review of the Full Cost Allocation Plan for FY 2018**

Under Office of Management and Budget (OMB) Circular A-87, no particular method of cost allocation is required. However, the FAA Revenue Use Policy requires that costs allocated must be eligible for expenditure of airport revenue under section Title 49 U.S.C. §47107(b). Additionally, cost allocation plans (CAP) must be consistent with Attachment A of the OMB Circular A-87, which sets forth the general principles for developing CAP.

Our review centered on City of Atlanta's full CAP based on actual expenditures for FY 2018. These full indirect cost allocations are used for budgetary purposes to determine indirect costs to be charged in FY 2018. The allocated costs must be reconciled in FY 2019 to actual expenditures provided by the FY 2018 comprehensive annual financial report.

The scope of the review was to determine that indirect costs allocated to the Aviation Fund are equitable to all departments of the City of Atlanta, and the airport is not receiving a disproportionate share of the administrative central service costs.

**Conclusion:** Our review found no issues and findings with the full CAP at ATL.

## **Fleet Services**

The City of Atlanta maintains the vehicles in the airport fleet. Vehicles are budgeted annually to meet the airport's needs. Fleet Services receives specifications and solicits for quotes from established vendors. Disposal of vehicles occurs through a city auction and are based on mileage, condition, sunk maintenance costs and life cycle. The auction disposal proceeds are paid to the airport as revenue. The maintenance costs of airport fleet services are charged indirectly to the airport.

**Conclusion:** No follow up needed as our review found no issues with the fleet services at ATL.

**Utilities**

City of College Park and Georgia Power provide electricity at the airport and water is provided by Hapeville, Clayton, and the City of Atlanta. Tank farm utilities costs are paid for by the City. There is a major green initiative going on at the airport to reduce energy consumption by 20% by the end of 2020. Concessionaires receive separate utility bills and are managed by a private company. ATL reviews monthly bills for accuracy and identifies any inaccurate meter reading.

**Conclusion:** No follow up is required