



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

Office of Airport Compliance
and Management Analysis

800 Independence Ave., SW.
Washington, DC 20591

October 22, 2021

Mr. Kevin Dolliole
Director of Aviation
Louis Armstrong New Orleans International Airport
3rd Floor Administrative Office
900 Airline Drive
Kenner, LA 70062

Re: Transmittal of Final Financial Compliance Report

Dear Mr. Dolliole:

The Federal Aviation Administration (FAA), Office of Airport Compliance and Management Analysis (ACO) conducted a financial compliance review at the City of New Orleans Aviation Board (airport sponsor), Louis Armstrong New Orleans International Airport (MSY/airport) from March 5-16, 2018. Thank you for your response to our findings, recommendations and proposed corrective actions.

The purpose of the review was to determine if the airport sponsor is in compliance with federal statutes and the FAA's *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy), 64 Fed. Reg. 7697 (Feb 16, 1999).

We appreciate the fact that your response concurred with the identified concerns and our recommendations were accepted in good faith. Your response specifically stated the following:

Aircraft Rescue and Fire Fighting (ARFF) – The airport began discussions with the New Orleans Fire Department (NOFD) to develop new written Standard Operating Procedures (SOP) for NOFD personnel assigned to “Engine 46”, the NOFD’s designation of the personnel and equipment assigned to the airport. The new NOFD/ARFF SOP will include staffing levels, services provided, and other operational protocols that are specific to the airport’s ARFF division (examples attached).

In light of the feedback received in connection with the FAA’s financial compliance review, the airport will identify in its annual renewed purchase order agreement with NOFD that the procured “services” reference the requirements of the NOFD/MSY ARFF SOP as a measure to ensure compliance with FAA’s policies on the use of airport revenues.

Land Use Issue – The airport agrees with the compliance review that we do not see any action at this time regarding the recreational soccer field and support facility within the runway protection zone (RPZ) under a current lease with the City of Kenner. The lease expires January 4, 2025. The airport will work to mitigate any future incompatible uses of the RPZ area and will consult the Airport District Office (ADO) before any future uses for the area are considered.

Disabled Veterans Parking Program – The Disabled Veterans Parking Plan (plan) at MSY was developed in response to the State of Louisiana legislation that requires Louisiana airports to provide free parking for disabled veterans. The airport received FAA concurrence on implementation of the plan. The airport will continue to track and monitor the number of customers receiving the benefit and the value of parking validated under the plan.

Cost Allocation Plan – The FAA requested the airport sponsor provide documentation of the indirect costs reimbursed by the airport for the review period of Fiscal Years 2011 – 2016. The indirect cost allocations should be reasonable and equitable in the allocation of costs to all beneficiaries of central services. The indirect costs must be reconciled to actual amounts of expenditures in the subsequent years and include a letter of certification from the Chief Financial Officer.

In the airport's response on December 30, 2019, MSY acknowledged the FAA's concerns regarding the use of full time equivalents (FTE) as the allocation base for the central services identified. MSY accepted the need to develop alternative allocation bases that "best measure" the relative benefits provided to the airport for individual central services. The airport committed to developing a new cost allocation plan (CAP) that meets FAA standards and apply going forward.

During calendar year 2020, MSY worked with the airport sponsor to identify data available from the airport sponsor's accounting systems and other records to support allocation bases that met the standard outlined in the June 25, 2019 email, and develop a new CAP. Potential methodologies the airport will be considering are as follows:

- a. Accounting: Accounting transactions processed or accounting records maintained.
- b. Legal Services: A combination of FTEs (for personnel and employment law matters) and number of contracts, regulations, permits or other "legal documents" issued by the Airport (for contracting and other non-personnel issues).
- c. Purchasing: The number or the value of purchasing transactions processed for the Airport.
- d. MIS Services: The basis of the count of IT equipment (PCs, laptops, servers) or (in the case of software) licenses used by the Airport.

The FAA has reviewed and accepted the CAP submitted by the airport for future allocations. However, the FAA must be notified of all future changes in allocation methodology and a new full CAP must be submitted for review and approval.

We thank you and your staff for your assistance and timely responses to our questions. We would be happy to discuss future airport revenue use and compliance issues with you or your

staff. For questions regarding the technical aspects of the final report, please call Lead Financial Management Analyst, Olu Okegbenro at (202) 267-3785.

Sincerely,

**KEVIN
WILLIS**

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Date: 2021.10.06
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Kevin C. Willis
Director, Office of Airport Compliance
and Management Analysis

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

**Louis Armstrong New Orleans International Airport
March 5 - 16, 2018**



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

The FAA's Office of Airports Compliance and Management Analysis (ACO) conducted a financial compliance review at the Louis Armstrong New Orleans International Airport (MSY/Airport) to evaluate compliance with Federal statutes and FAA requirements. The FAA conducted this review at MSY offices from March 5 - 16, 2018.

The New Orleans Aviation Board (airport sponsor) manages MSY and is responsible for ensuring that it complies with federal statutes, the Airport Improvement Program (AIP), Grant Assurances, and FAA policies regarding federally obligated airports.

MSY is currently undergoing a \$1 billion capital improvement program that includes a new 35-gate terminal facility (North Terminal) which is scheduled to open by February 2019. 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 and ACO conducts a financial compliance review of selected airports each fiscal year (FY).

Unlawful revenue diversion, as defined in the *FAA Airport Compliance Manual 5190.6B* "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 ACO is responsible for ensuring that airports adhere to this policy as well as to FAA grant assurances and the *Policy and Procedures Concerning the Use of Airport Revenue* (Revenue Use Policy) 64 Fed. Reg. 7696 (February 16, 1999).

The FAA reviewed the following areas at MSY:

- Financial Data Reported to the FAA
- Uses of Airport Property
- Marketing/Air Carrier Incentives
- Airport Advertising
- Police Services/Law Enforcement
- Noise Land
- Airport Rescue and Fire Fighting (ARFF)
- Land Use Issue
- Disabled Veterans Parking Program
- City of Kenner Tax Issue

The resulting report summarizes the FAA's findings about the use of airport revenues at MSY. Accordingly, the FAA requested MSY and the New Orleans Aviation Board to provide additional information and submit a corrective action plan based on findings summarized in the conclusion statements. The federal statute of limitations is six years, so a corrective action plan

must include the period of January 31, 2011 through December 31, 2017, plus any occurrences up to the time of the compliance review.

Financial Data Reported to the FAA

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 5100-126) and the Operating and Financial Summary (Form 5100-127). Form 126 reports the financial transactions between the airport and governmental entities, in this case the City of New Orleans and Form 127 reports airport operating results. The FAA reviewed the information reported on both forms to verify this information came from its financial accounting system.

On Form 127, MSY and the airport sponsor report balance sheet, income statement, and statistical information relevant to the reporting of airport operations. The FAA asked MSY to reconcile selected amounts reported on Form 127 to those on the airport sponsor's general ledger and annual financial statements. Additionally, the FAA reconciled MSY's Form 126 to the airport sponsor's financial accounting system.

The FAA also examined the airport's capital registers and the operating check registers for FY 2016, randomly selecting transactions mostly over \$10,000. Payment vouchers and backup documentations were requested for further detailed review. The review of the supporting documents revealed that MSY has in place an excellent internal controls and invoice vetting process.

Conclusion: The FAA was able to reconcile the amounts reported on the airport's Forms 5100-126 and 127 to the airport sponsor's accounting records and financial statements. In addition, the review of the financial transactions between the airport and its vendors indicates the airport is in compliance with the revenue use policy. No follow up is needed on this item.

Uses of Airport Property

Each federally obligated airport sponsor is required by statute and grant assurances to have an airport fee and rental rate 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 assurance to require airport sponsors to charge fair market value commercial rates for non-aeronautical uses of airport property.



MSY leases space in its terminal and other airport-owned property to airlines, concessionaires, air cargo operators, and others for varying periods. Since January 1, 2009, the airline lease and use agreement has been in effect with all signatory airlines paying signatory airline rates and charges.

Rental rates at MSY are set by a fair market value appraisal process. The airport properties are reappraised at the end of the lease period, values are updated, and new rates are set with consumer price index adjustments. The FAA understands that the airport does not have *through-the-fence arrangements*, which allows aircraft owners or tenants from adjacent or nearby residential property to access the airport's airfield. Most, if not every, long-term and short-term lease at MSY has a provision to adjust rates based on changes in the consumer price index.

Short-term lease agreements include a periodic rate adjustment clause. The City of New Orleans and the State of Louisiana administer the leases and control the leasing language in the agreements. The airport does not have any tenant paying below market value rents or occupying a rent-free space, and all leases contain subordination clauses. We were informed that the leasing of an airport property is done through a competitive process in which realtors or a marketing firm advertises the properties.

Conclusion: Based on the review of randomly selected lease agreements and a tour of the airport facilities at MSY, the airport's leasing practice is consistent with FAA policies. No follow-up is needed on this item.

Marketing/Air Carrier Incentives

The FAA understands that the total annual budget for MSY's marketing program is \$200,000. The Airport conducts its own marketing, which includes strategic planning and analyzing routes, statistics, new market opportunities, and flight frequency.

The current marketing effort focuses on promoting the new North Terminal, enhancing concessions, and creating economic growth and opportunity at the airport. MSY has three marketing employees directly involved in the marketing program. The airport does not engage in familiarization tours, tourism marketing, joint marketing, and coop advertising.

MSY encourages air carriers to add new routes, and it provides a two-year incentive to make it viable. MSY's air carrier incentive program includes waiving terminal use fees, apron use fees, and landing fees. The airport's



new two-year incentive program began on March 27, 2017, and now includes Condor Airlines and British Airways. Condor Airlines, a premier leisure airline, began a seasonal service twice weekly between Frankfurt, Germany, and New Orleans from May 3 to September 27, 2017. This route is New Orleans' first non-stop flight to Europe since the 1980's. British Airways began year-round service between London and New Orleans beginning March 27, 2017. This new international non-stop flight departs from MSY four times per week. The marketing effort at MSY promotes the routes and not the destination.

The airport reimburses the air carrier after it submits all supporting documentation. The FAA reviewed a September 2017 invoice in the amount of \$24,997 submitted by Condor Airlines, which includes the third party invoices and proof of performance. British Airways is yet to be reimbursed because supporting documentation has not been provided.

The airport's other marketing efforts includes providing marketing support to the airlines by reviewing and approving all media plans. It also has several customer service desks that provide directions and other pertinent information on transportation. The airport has memberships with ten community organizations, including the Jefferson Chamber of Commerce and the New Orleans Tourism Marketing Corporation (which used to be French American Convention Visitors Bureau). Most of the memberships are basic and total annual subscription is approximately \$7,200.

Conclusion: The marketing and air carrier incentives at MSY are consistent with FAA policy. No follow-up is needed on this item.

Airport Advertising

Clear Channel is the advertising concessionaire at MSY. Clear Channel manages all the advertising inside MSY's terminal.

Clear Channel's advertising at MSY includes backlit dioramas, custom exhibits, and interactive displays, as it does at many airports in the U. S.

Clear Channel's agreement pays a minimum annual guarantee of \$425,000 to the airport in addition to 50 percent of gross revenue on category A advertising displays (digital displays and exhibits) and 40 percent of category B advertising displays (posters and news racks). MSY management must approve all advertising materials and manners of commercial presentation before their installation.



Conclusion: Advertising at MSY is consistent with FAA policy. No follow-up is needed on this item.

Police Services/Law Enforcement



Located in Jefferson Parish, the airport procures law enforcement services from Jefferson Parish Sheriff's office through a *cooperative endeavor agreement*. The airport does not have a precinct; there is no off-duty policing, as officers must log out when they leave airport premises. MSY pays the detail rate for only the officers on site and no payment for the Sheriff Office's vehicles since the airport is within Jefferson Parish. The rate of a regular day shift is \$30 per hour; a differential applies on nights and weekends. The airport receives a reimbursement of \$20 per hour for officers at security checkpoints.

The Airport Security Manager and Finance Manager review the monthly bills prior to payment for accuracy, and the airport reserves the right to decline payment of irregular items on the invoice. Radial-Avcomm LLC., a manufacturer and distributor of communication systems, monitors all the security cameras at the airport. Emergency operations are handled in-house by the airport.

Conclusion: The law enforcement services at MSY are consistent with FAA policy. No follow-up is needed on this item.

Noise Land

The FAA reviewed the noise and capacity restrictions at MSY to determine compliance with FAA's noise requirements and AIP grant assurances. Aircraft noise affects many communities close to airports, therefore, Title 14 Code of Federal Regulations Part 150- *Airport Noise Compatibility Planning* (Part 150) was enacted to mitigate the noise levels created by aircraft operating at airports. It is permissible to fund noise programs with AIP grants, and airport revenues may be used to mitigate aircraft noise on or off the airport.

The airport has undertaken various noise mitigation efforts in line with Part 150. Through its noise land program, the airport acquired noise-impacted property surrounding the airport for land uses compatible with the ambient noise levels. However, the airport ended this program due to a reduction in workforce after Hurricane Katrina heavily impacted the City of New Orleans. The FAA understands that there are some federal funds available for sound insulations. The airport conducted a public auction of 13 acres of noise-impacted properties in 2016 that were not needed for aviation purposes. These properties were on the south side to East Jefferson levee district.

The airport has conducted a land use analysis for a proposed south side development so all noise land disposal is currently on hold. Regarding other noise-related activities, the airport is not involved in any lawsuits regarding the noise land properties, no parks or recreational facilities exist on the airport's land, and it is not involved in any environmental issues.

Conclusion: Our review of the noise land program at MSY did not reveal any discrepancies with FAA's policy during the program and after its termination. The airport is in compliance with FAA Policy concerning the use and disposal of noise land. No follow-up is needed on this item.

Aircraft Rescue and Fire Fighting (ARFF)



ARFF is a special category of firefighting that involves the response, hazard mitigation, evacuation, and possible rescue of passengers and crew of an aircraft involved in (typically) an airport ground emergency. The ARFF at MSY operates out of a new, \$14 million station that opened in June 2013, in a location west of the facility it replaced.

The ARFF Chief and the Technical/Administrative support staff are New Orleans Aviation Board employees. There is a one-way, mutual aid agreement between the airport and three surrounding cities, and the Aviation Board provides ARFF training for all fire fighters. The three cities provide firefighting support to the airport. Of these three cities, The NOFD provides three platoons consisting of a minimum of eight officers per shift. NOFD has the capacity to increase each platoon to 12 officers if necessary. The ARFF facility at MSY is dedicated to the airport and does not provide any off-airport services or assistance.

The FAA identified a spike in firefighting costs and overtime hours, which was a result of a terminal wide fire watch implemented in 2017, due to a fire suppression issue. The FAA understands that the fire suppression issue has since been resolved and the ARFF facility at MSY complies with Part 139 ARFF response and training requirements, as well as other applicable federal rules, guidelines, and policies.

Conclusion: Given that MSY and the airport sponsor do not have a formal agreement in regards to the fire service, we recommend creating a MOU.

March 30, 2021 update: The FAA strongly recommends that you provide a copy of the SOP and MOU when completed as stated in paragraph 3 of your response. The MOU should be in place to reflect the ARFF Chief and Airport Manager's role in establishing the Part 139 is in place and being fulfilled.

Land Use Issue



The review included a site visit to a large parcel of land that is home to a local soccer team, the Kenner Lions. This parcel is in the airport's runway protection zone (RPZ). The RPZ's function is to enhance the protection of people and property on the ground. This is achieved through airport owners exercising control over RPZs. Such control includes clearing RPZ areas and maintaining them clear of incompatible objects and activities.

Advisory Circular 150/5300-Change 17(Airport Design) notes that “it is desirable to clear all objects from the RPZ.” It also acknowledges that “some uses are permitted” with conditions and that other “land uses are prohibited.” Although the FAA recognizes that in certain situations the airport sponsor may not fully control land within the RPZ, the FAA expects airport sponsors to take all possible measures to protect against, remove, or mitigate incompatible land uses. There is a long-term lease (originally executed in 1996) between the airport sponsor and the City of Kenner for several parcels of land in the northeast corner near the existing runway. It appears that these facilities are outside of the extended object free area.

RPZ standards normally prohibit structures or development that “would create a place of public assembly.” The FAA continues to work with airports to remove or mitigate the risk of incompatible land uses in the RPZs, but recognizes that there are airports that have “controlled activity” with existing incompatible uses within the RPZ. The FAA’s interim RPZ policy addresses the introduction of new or modified land uses to an RPZ but not mandates for mitigating existing incompatible land uses within RPZs.

Conclusion: We do not see any action at this time regarding the recreational soccer field and support facilities within the airport’s RPZ. However, we recommend that the airport should find the opportunity to mitigate this incompatible land use within this RPZ in the future as well as prevent the introduction of new or modified land uses to other RPZs and proposed changes to the RPZ size or location.

March 30, 2021 update: The FAA is satisfied with the airport’s willingness to mitigate future incompatible uses of this parcel as well as consultation with the ADO regarding future uses.

Disabled Veterans Parking Program

Louisiana State Law R.S. 29:27.1 (enacted in 2017) requires that the air carrier airports provide disabled veterans with ten days of free parking. The plan for veteran parking at MSY requires that a disabled veteran shows proof of a service-connected disability which can be provided through two means: (1) license plate (R.S. 47:490.4 and 490.31) or (2) disabled veteran identification card issued by the U.S. Department of Veteran Affairs. The disabled veterans parking program participant must be a resident of the State of Louisiana.



Parking will not be validated without this proof of travel and completion of a Veterans Parking Benefit Certification form LDVA F33. Also, proof of travel is required, which may be an airline ticket or flight itinerary showing travel dates that coincide with the parking dates.

Conclusion: The FAA reviewed the Disabled Veterans Parking Program and its impact on airport revenue. There were concerns about how much the program costs the airport; however, the cost is minimal at this time. The FAA recommends that the airport regularly monitor the cost of the Disabled Veterans Parking Program.

March 30, 2021 update: The FAA is satisfied with the airport's ongoing monitoring of the program. Going forward the FAA is requesting an annual report as well as an opinion on the materiality of the program cost.

City of Kenner Tax Assessment

The two percent tax on the gross sales of personal property, leases, and rentals within the Airport Sales Tax District was also reviewed. The airport sales tax district was enacted (La. R.S. 33:2740.17) on December 15, 1988. The FAA wanted to make sure that this tax does not violate the anti-head tax law (49 USC 40116) which prohibits airport exclusive taxes that went into effect August 23, 1994.

Conclusion: The tax assessment is permissible by law and grandfathered. There were no discrepancies with federal laws and FAA's policy. No-follow up is needed on this item.

Indirect Cost Allocations

The airport sponsor charges the New Orleans Aviation Board for indirect administrative costs that provide a common administrative service to the airport. The Revenue Use Policy requires that reimbursements for capital and operating costs of the airport made by a government entity, both direct and indirect, be supported by adequate documentary evidence¹. The airport sponsor documents these indirect charges with the preparation of an annual indirect cost allocation plan (CAP). The airport sponsor provided a CAP based on FY 2013 actual expenditures for FAA review. The CAP disclosed total allocations to the New Orleans Aviation Board totaling \$1,677,250 and an indirect cost rate of 4.01 percent².

FAA Form 5100-126 of the Certification Activity Tracking System (CATS) discloses a charge of \$1,753,518 from the airport sponsor to New Orleans Aviation Board each year for the six year period of FY 2011 – FY 2016. The CAP under review reflects an indirect cost allocation of \$1,677,250 resulting in a difference of \$76,268 between the CAP and actual airport charges reported. The FAA requires a reconciliation between the CAP and the amounts reflected in FAA Form 5100-126. 2 CFR Chapter I, Chapter II, Part 200, et al. allows for a one-time extension of a current negotiated indirect cost rate for a period of up to four years subject to the approval of the negotiating federal agency³. The airport sponsor must substantiate the use of the same amount charged for government services for each year of the six years under FAA compliance review. The FAA requests a copy of the federally approved negotiation agreement and/or approval for the extension from the negotiating federal agency.

Conclusion: During the FAA review of the CAP, the following issues are summarized below and will require clarification or substantiation by the New Orleans Aviation Board:

1. FAA requires a reconciliation from the CAP to the amounts reflected in FAA Form 5100-126 for the six year period of FY 2011 – FY 2016.

¹ Policy and Procedures Concerning the Use of Airport Revenues, 7696, February 16, 1999

² Based upon allocated indirect costs divided by the modified total direct costs of the department.

³ 2 CFR Chapter I, Chapter II, Part 200.414, et al., 78590, December 26, 2013

2. The FAA requests a copy of the federally approved negotiation agreement and/or approval for the extension from the negotiating federal agency.
3. Central Service - 220 Chief Administrative Officer
 - a. Management Information Service (MIS) – functional costs are being allocated based on the number of full time equivalent (FTE) positions. Not all employees may be utilizing the MIS. Justify the use of this allocation base (A/B) to the service provided to the airport.
 - b. Utilities – functional costs are being allocated based on FTEs. MSY should be metered for utility costs by the City of Kenner. Actual utility charges are a preferred A/B.
 - c. Tech Programs – functional costs are being allocated based on FTEs. Justify the use of this A/B to the service provided to the airport.
 - d. Training - functional costs are being allocated based on FTEs. Are all employees receiving the same training?
 - e. 311 Call Center - functional costs are being allocated based on FTEs. Justify the use of this A/B to the service provided to the airport.
4. Central Service - 230 Department of Law
 - a. Legal Support – functional costs are allocated based on departmental expenditures. The airport sponsor will provide justification of the use of this A/B to the level of service provided to MSY.
 - b. Risk Management – The A/B is the number of departmental FTEs. Please correlate the type of service with the use of FTEs as an A/B.

March 30, 2021 update: The FAA has reviewed and accepted the new CAP submitted by the airport for future allocations. The FAA must be notified of all future changes in allocation methodology and a new full CAP must be submitted for review and approval.

