

The Federal Aviation Administration (FAA) Airport Compliance Division, ACO-1 conducted a compliance review at the Seattle Tacoma International Airport (SEA) to evaluate compliance with Federal statutes and FAA Policies. The FAA conducted this review at the Port of Seattle Aviation Division Offices (AD) and at the Port of Seattle main offices located at Pier 69.

SEA is managed by the Port of Seattle. The Port of Seattle is responsible for ensuring SEA complies with Federal statutes, the Airport Improvement Program (AIP) grant assurances and FAA policies that pertain to the federally-obligated airports. SEA is located 15 miles south of downtown Seattle. SEA had approximately 17 and 18 million passenger enplanements (boardings) in 2013 and 2014, respectively.

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 that airports adhere to this policy. The Compliance Division conducts a financial compliance review of several airports each fiscal year. These reviews evaluate the sponsor's adherence to FAA grant assurances and the Policy Concerning the Use of Airport Revenue (Policy).

We reviewed the following areas at SEA as they relate to the use of airport revenue:

- Form 126 & 127 reporting
- Financial transactions between the Airport and other Port entities
- Port Jobs
- Noise Land
- Fleet Services
- Police
- Firefighting
- Uses of Airport Property
- Marketing/Air Carrier Incentives
- Cost Allocations
- North SeaTac Park

The following report addresses the FAA's concerns about the use of airport revenues at SEA. Accordingly, FAA requests the Port, as airport sponsor, provide additional information, or submit a corrective action plan. The federal statute of limitations is 6-years, so a corrective action plan must include the period of January 1, 2009 through December 31, 2014, plus any occurrences thereafter.

Air Carrier Incentive Program

The AD has an air carrier incentive program to bring new service to the airport. The program's structure includes reduced or waived fees and the joint marketing of new service. The FAA found the reduced or waived fees conform to FAA Policy, but that the joint marketing component does not.

The joint marketing program at SEA does not conform to FAA Policy because some of the marketing takes the form of familiarization tours (FAM tours) the primary purpose of which is to promote tourism, business and conventions. Those are not allowable uses of airport revenues because they promote general economic development that both FAA Act of 1994 at Section 112 and the FAA Policy and Procedures Concerning the Use of Airport Revenue (Policy) at Section VI prohibit. This prohibition is in the Air Carrier Incentive Program Guidebook at page 3, which states that destination marketing is not allowed because it "promotes a region, an attraction, or a business," and the sponsor may not use airport revenue to "promote any kind of general economic development." In addition, the Policy does not permit the use of airport revenue for destination marketing, even when the destination is to other cities. What the Policy and the Guidebook do permit is the joint advertising of new service. The Guidebook on page 17 states an airport "may use [its] revenues to advertise the new service provided the airport is featured prominently in the advertising." The Guidebook at page 3 also provides for the airport to pay a portion of marketing, advertising, and related activities designed to increase travel using the airport, provided the sponsor limits its use of airport revenue to promotion of competition, airport facilities, airport services, and new service to the airport. The FAM tours as currently conducted by SEA do not meet this standard.

The FAA reviewed approximately 45 FAM tours from September 19, 2009 through April 17, 2015. As part of the review, we evaluated itineraries and costs allocated to the AD to determine compliance with our Policy. Based on our review, we determined that out of \$362,769 reviewed in marketing expenses, \$354,769 is unallowable under FAA Policy.

Conclusion:

The FAA requests the AD be reimbursed for \$354,769 in unallowable FAM Tour costs. The source of the reimbursed funds is left to the discretion of the Port of Seattle so long as it is not from airport revenue.

Marketing of Existing Service

In addition to the above incentives, the AD has a program that makes available \$12,000 per year, per route, to carriers with international service. It stated that 18 routes are eligible for this incentive. It made this offer even though its purpose is to promote existing routes. The AD stated it created the program to appease the carriers which did not have new routes and to put everyone on an even playing field. The AD stated that by offering the incentive to all carriers, it did not discriminate between carriers offering new service from those that are offering existing service for overseas routes. The AD stated that air carriers that have

participated in this offer were those that offered FAM tours. There was no joint media advertising of new or existing service.

The FAA Policy does not permit the use of airport revenue to promote existing service. The only marketing the Policy allows is the use of airport revenue to promote airport facilities, services and competition at the airport. The use of airport revenue to promote FAM tours or existing service is a direct subsidy of the air carrier, and therefore the Policy prohibits the use of airport revenue for that purpose.

Conclusion:

The AD presented a schedule that showed it expended \$500,938 in direct airline payments to promote existing service from 2009 through 2015. Since the purpose of the marketing payments was to provide funding to an air carrier to showcase an *existing* route, it is clearly forbidden under our Policy.

On the other hand, cooperative airport/airlines marketing may be financed with airport revenue. In the case of cooperative marketing, the portions paid by the airport must showcase facilities and services offered and must be conducted in compliance with applicable grant assurances, prohibiting unjust discrimination. Cooperative marketing that features a particular airline is, as a practical matter, difficult to do without running afoul of discrimination. For example, if an airport engaged in joint marketing with a particular carrier for an airline service and did not offer the same deal to another carrier, this type of activity could be construed as unjust discrimination, a violation of Grant Assurance 22 Economic Non Discrimination. Not all carriers at SEA-TAC are afforded this opportunity.

Going forward the AD cannot use airport revenues to market existing routes, unless the airport is the focal point of the advertising.

At this point, we request the AD stop this type of marketing at once. We acknowledge there was some confusion with regard to this matter, so at this time, as a matter of our discretion and in return for your immediate compliance, we will not seek reimbursement of the past payments in question. Going forward, we request that AD change their marketing plan to comply with this Policy going forward. The FAA is available to assist and provide comments on the revised program. We are attaching the types of marketing we consider permissible to assist you in future marketing endeavors. See exhibits A & B.

Office of Social Responsibility

The mission of the Port's Office of Social Responsibility is to serve the local community through job creation and economic development and to ensure that it conducts these activities within the framework of equity, inclusion and equal access to economic opportunity. The Office's 2013 annual report stated it works with Port departments, contractors, business partners and community organizations to implement socially responsible programs. During 2013, it served 7,100 community members and 900 small businesses that generated more than \$67 million in revenue for the community.

The FAA found the use of airport revenue to support this program violates the Act of 1994's prohibition against the use of airport revenue for general economic development. Based on the information the Port presented to support this program, FAA concluded that its focus is general economic development, which the Act prohibits. For 2009-2015, the AD contributed \$5.6 million to the program.

The AD provided information during our review on the Office of Social Responsibility's support of airport business development programs. The AD indicated that

[t]he Office of Social Responsibility (OSR) provides direct support services to Port divisions for the Small Business Program. OSR offers assistance to small businesses with navigating Port rules, regulations, and systems with the goal of increasing the number of small business firms applying, competing, and successfully attaining Port procurement opportunities.

These programs include the Disadvantaged Business Enterprise Program, Local Small Business Program, Minority Business Enterprise programs, and Women Business Enterprise Programs.

Conclusion:

We request the AD provide more information on how the work of the Office of Social Responsibility justifies the use of airport revenue. For example, the response did not distinguish between amounts spent on Port versus Airport activities such as the Minority Business Enterprise Program for the Marine Division and the Disadvantaged Business Enterprise Program for the AD. Amounts spent in areas that do not pertain to the airport are unallowable and will need to be reimbursed to AD.

Aviation Employment Center

In addition to the above, the AD also operates the Aviation Employment Center, which provides job search and training for employees of airport tenants. Since 2009, the AD has contributed \$2,056,334 to support operations of the center.

The FAA determined the use of airport revenue to support this program violates the Act of 1994, which prohibits the use of airport revenue for general economic development. Based on the information the Port presented to support this program, FAA concluded that recruiting employees for airport tenants and training those employees is the responsibility of the employer, not the AD. Since the use of airport revenue to support the program is not an airport operating cost it is a prohibited use of airport revenue. During our discussions with AD staff we learned that a significant amount of the users of the center are from the community and not airport tenant employees. We also learned that not all of the tenants were using this program and not all of the placements were with airport tenants.

The AD argues the type of training provided to tenant employees contributes to the efficient operation of businesses on the airport. In addition, the AD stated that the “services provided at the airport employment center include job training and job search assistance to connect SEA tenants (airlines, concessionaires, etc.) in need of employees with local job seekers.” The center has helped 1,143 individuals obtain jobs in 2014 bringing \$18 million in new wages to the community. Also, the center provided college level courses to 109 students through Highline Community College and provided non-credit workshops to 222 students.

The FAA has considered the points raised by the AD. The worthiness of the program notwithstanding, under our statute and policies, the hiring and training of tenant employees does not constitute an airport operating cost. Nor could FAA ignore the general economic development nature of the program. The purpose of the program is to improve the economic viability of the local area, and the AD’s reaching out to the local area to hire and train workers for airport tenants, constitutes the use of airport revenue for economic development, which the Act of 1994 prohibits. The fact that the airport tenants are beneficiaries of the program does not change its nature or justify the use of AD revenue.

Conclusion:

The FAA has found that airport revenue cannot be used to support the Aviation Employment Center because the center recruits employees for airport vendors rather than airport employees. The program’s primary purpose is to support general economic development of the regional area. The AD in essence is providing Human Resource services to the tenants and residents of the surrounding community which is a cost that should be paid by the users of the program or other governmental funds that do not constitute airport revenue.

Based on our findings, the Port should reimburse the Airport \$2,056,334 for the prior six year period. Despite this preliminary finding, we are open to considering additional information. If you have other information that could somehow justify the center as an appropriate use of airport revenue, we are willing to review it. Such information would, at a minimum, need to quantify the benefit the Airport is receiving by providing the service to airport job seekers.

Airport Revenue Dedicated to the Aviation Employment Center

Year	Amount
2009	\$171,667
2010	89,505
2011	214,764
2012	175,147
2013	189,776
2014	488,624
2015	726,851
	\$2,056,334

Relocation of the Aviation Employment Center

In 2014, the AD relocated the Aviation Employment Center to accommodate an air carrier who needed that space to expand its administrative offices. The resulting move cost about \$800,000, paid for with AD revenue. The AD stated the cost of the move was an allowable use of airport revenue due to the fact that another carrier needed the space and beginning in 2015, the Aviation Employment Center would pay fair market rent for the use of airport space. Therefore, the AD reasoned that it had spent the revenue for the purpose of developing usable space within the terminal for a tenant who would pay fair market rent.

The FAA agrees the use of airport revenue to develop space for a tenant who pays fair market rent is allowable. However, it is our understanding that:

- The purpose of the Aviation Employment Center is to hire and train employees of airport tenants, which is a prohibited use of airport revenue, because it violates the Act of 1994 prohibition against the use of airport revenue for economic development.
- From 2011 through 2014, the tenant occupied the space rent – free, which the Act of 1994 would not allow, because the purpose of the Center is to promote general economic development. The Port has corrected this by charging the Center fair market value rent going forward.
- The agreement with the Workforce Development Services expired at the end of 2015. Therefore the use of aviation funds for the relocation is in question owing to the coming expiration of the lease.

The AD's justification for using airport revenue to pay for the relocation of the Aviation Employment Center was the Center would pay fair market value rent for the use of its space and that an air carrier needed the space. The AD stated this was a business decision it would make for any airport tenant being relocated for an aviation use.

Conclusion:

Since the relocation was an AD management decision, and the space was needed to accommodate a paying aeronautical tenant, FAA plans

to take no further action on this observation. In addition, the AD is charging FMV rent to the tenant going-forward.

Aviation Employment Center Rent-Free Use of Space

The Port's contract with the Aviation Employment Center provides for the AD to provide office space at no cost to the center. The AD asserted the Policy allows the rent-free arrangement because it meets the standards for community use. For the following reasons, FAA does not agree.

The Policy for community use of airport property is as follows:

1. Community Use is Allowed for General Public Use. "The contribution of the airport property enhances public acceptance of the airport in a community in the immediate area of the airport; the property is put to a general public use desired by the local community; and the public use does not adversely affect the capacity, security, safety or operations of the airport. Examples of acceptable uses include public parks, recreation facilities, and bike or jogging paths. Examples of uses that would not be eligible are road maintenance equipment storage; and police, fire department, and other government facilities if they do not directly support the operation of the airport."

The FAA agrees the Aviation Employment Center enhance public acceptance of the airport and the use does not adversely affect the capacity, security, safety or operations of the airport. However, FAA is unable to determine that the Center meets the standard of acceptable use because the information provided by the AD regarding the Employment Center does not appear to directly support the operations of the airport.

2. Community Use is Allowed Where the Potential for Revenue is De Minimis. "The property involved would not reasonably be expected to produce more than de minimis revenue at the time the community use is contemplated, and the property is not reasonably expected to be used by an aeronautical tenant or otherwise be needed for airport operations in the foreseeable future. When airport property reasonably may be expected to earn more than minimal revenue, it still may be used for community purposes at less than FMV if the revenue earned from the community use approximates the revenue that could otherwise be generated, provided that the other provisions of VII. D. is met."

The FAA does not consider space occupied by the Aviation Employment Center to qualify as having *de minimis* value. In addition, the space in question has been transformed for use by an aeronautical tenant.

3. Community Use is Allowed Where the Airport Can Easily Reclaim the Property. “The community use does not preclude reuse of the property for airport purposes if, in the opinion of the airport sponsor, such reuse will provide greater benefits to the airport than continuation of the community use.”

The FAA agrees the Aviation Employment Center’s use of the space did not preclude the AD from leasing the space to another tenant. However, the property was not easily returnable. The move cost the AD over \$800,000.

4. Community Use is Allowed When the Airport Does Not Contribute its Own Revenues. “Airport revenue is not to be used to support the capital or operating costs associated with the community use.” In fact, The contract with the Aviation Employment Center for 2014 states the value of the office space, furniture, computers, copier, telephones, internet service, employee parking, and printing services to be \$147,350 for 2014 and to total \$740,953 for the 2011-15 life of the contract.

The FAA notes the AD did incur capital and operating costs that directly pertained to the use of the space. In addition to rent-free use of office space, the AD provided furniture, computers, copier, telephones, internet service, employee parking, and printing services. In addition, the AD provided cleaning, maintenance and utilities.

Conclusion:

For the above reasons, FAA finds the Aviation Employment Center does not qualify for the community-use provision. The FAA Policy does provide for reduced rents (as opposed to the above no-rents) to aeronautical post-secondary programs but the Port’s jobs program does not meet this requirement. The program does not distinguish between education that is aeronautical or nonaeronautical. Classes such as accounting and customer care would not qualify as aeronautical-education because those classes are common to nonaeronautical education. In addition, the space provided would not otherwise provide a *de minimis* amount of rent. Based on the above, the Port should reimburse the AD in the amount of \$1,409,057, for the rent-free

use of space and for the other costs associated with the use of the space for the prior six year period.

**Airport Contribution of
Rent-free Use of Space**

Year	In-Kind
2009	\$201,008
2010	209,021
2011	216,015
2012	227,757
2013	272,585
2014	282,671
2015	0
	\$1,409,057

North SeaTac Park

The Port owns approximately 245 acres north of the airport. The Port acquired the land to reduce noise impacts on residents living within the airport's noise contours. The FAA assisted with the acquisition by awarding AIP grants under the Noise program for acquisition of portions of the property and ADAP acquisitions. When the Port accepted the grants it agreed to the AIP grant assurances for noise land.

The Port, King County, the City of SeaTac spent years discussing potential uses of the land and their roles and responsibilities for developing, managing and maintaining the site. All parties agreed the site should provide a noise buffer to the community. The decision to lease the land to the City of SeaTac as a park came at a time when friction between the neighboring cities was high, due to plans to construct a third runway. At the inception of the lease, the land was severely impacted by aircraft noise. Most of the land was within the 75dnl noise contour. Land use and noise studies over the years had recommended the area remain open space and used as a community amenity. In 1991 and in 1994, the Port of Seattle (Port) leased 205 acres to the city. That land is now called the North SeaTac Park (Park). The lease expires January 2045, but the city has an option for another 25 years. The rent is \$10.00 per year.

The Port still retains significant control over the property. For example, the city must use the property only as a park and community center; the city must obtain written permission before building facilities on the property. At termination of the lease (or upon default), the Port can require the city to remove its improvements. In addition, FAA and the Port have told the city that if it wishes to develop a money-making venture on the property or use the property for anything other than the Park; it would need to renegotiate the lease.

The Port consulted with FAA throughout the years of interim steps that finally led to the lease. It states the Park is the culmination of a long term and very open planning process to compensate the area's residents for cumulative airport impacts. According to the AD, the Park is the best compatible use of a severely airport-impacted area.

Grant Assurances: Two grant assurances constrain the Port's use of the land. The first is Grant Assurance 24, *Fee and Rental Structure*. This grant assurance requires the Port to obtain fair market value rent for the land. The second is Grant Assurance 31, *Disposal of Land*. It states, "If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue."

The Port presented the following position:

- In the past, FAA has expressed its concerns about the lease but has not reached an agreement with the Port that would bring the lease into compliance with the above grant assurances.
- Grant Assurances. The Port does not see a conflict between the current use of the land and the grant assurances. The Port believes the use of the property as a park is consistent with the grant assurances, which requires airports to be as self-sustaining as possible. It states, that the Park keeps the property compatible with airport operations, and keeps the site maintained and managed without cost to the Port. The Port has stated that it does not need the land for airport use right now and has no plans to develop the property in the foreseeable future. The lease provides long-term flexibility for development, and the land remains adequately zoned. The lease allows the Port to maintain a buffer zone between the airport and its residential communities, and it provides the community with a recreational asset that would not otherwise be available.
- Diminished Fair Market Value. The Port argues the \$10 per year rent is fair because the restrictions on the land diminish its value. In particular, the land is in a noise impacted area, and the Port requires it to be used as a Park and after that only for airport purposes.
- Avoidance of Other Costs. The Port argues the lease thereafter spared the airport from incurring costs, which include:
 - Maintenance and security costs of \$500,000 per year.
 - Security fencing and maintenance of fire hydrants, emergency roads and drainage systems \$1.1 million.
 - The city pays all utilities, taxes, insurance and fire protection.

- King County agreed, as a result of this lease, to be responsible for the demolition costs of the Sunset Activity Center. The County's preliminary estimate is the demolition would cost \$200,000.
- If the airport did not allow the park to exist, then the land would have remained vacant, as the city would not permit it to be rezoned for another purpose. The best use is a function of zoning.
- The land is too noise-impacted for it to be used for other purposes.

The FAA Position. The Port is in noncompliance with the grant assurances because it neither obtained fair market rent nor disposed of the land. Grant Assurance 31 requires the Port to either lease the land at fair market value or dispose of the land, at the earliest practicable time and reinvest the funds in an approved project. Grant Assurance 24 requires the fee and rental structure of the airport as self-sustaining as possible. With regard to the diminished value from the use of the land as a park, there is no provision within FAA statute or policy that would permit the Port to use the land for that purpose. Commercial use would have a higher value than park use, while still buffering residences from airport noise. Restricting the use of the land to a park diminishes the requirements of both assurances

With regard to cost avoidance, those costs would have been avoided with any rental agreement, including an agreement for fair market rent. Similarly, the costs would have been avoided if the land were sold, which is the intention of the noise land grant assurance. The FAA does not consider similar offsets, the costs the Port is avoiding by not renting the property, for other airport leases, and it would be a bad precedent to consider such offsets for the North SeaTac Park.

If the land were fenced it is unlikely the airport would incur substantial incremental security and maintenance costs. Insurance, taxes, utilities, and fire protection would be minimal for vacant land. Since the airport paid \$2.9 million for a new community center, it was reasonable for the County to pay the demolition of the old activity center.

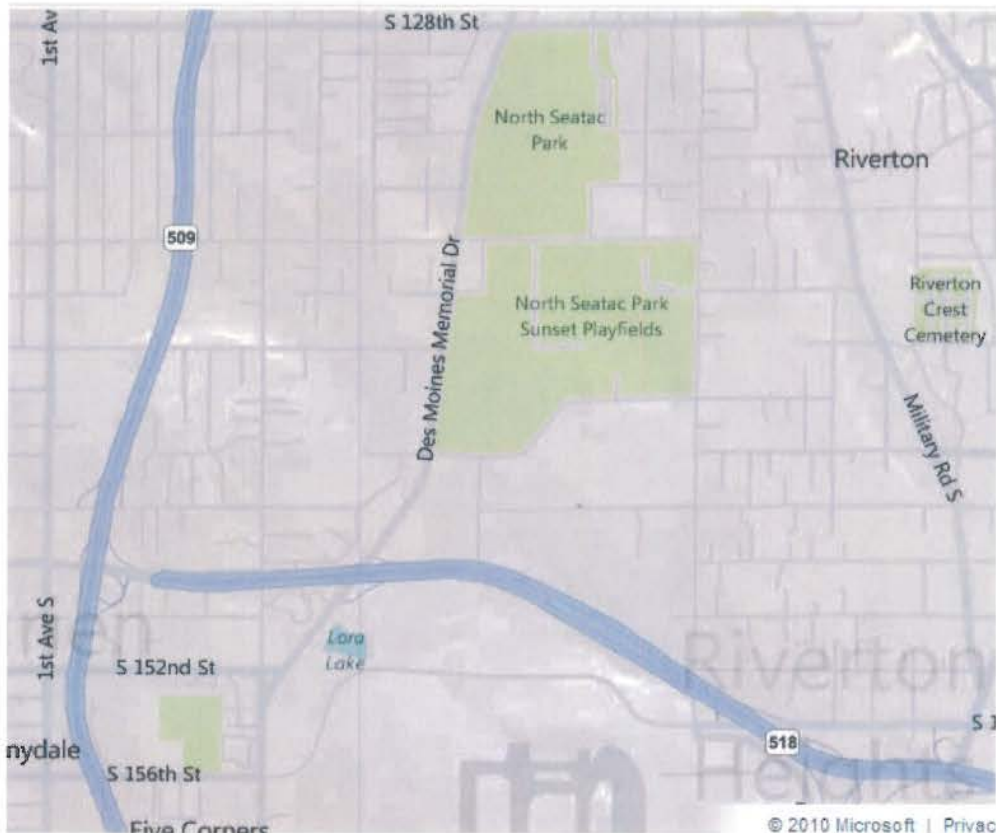
The land is in a prime location and the city would financially benefit from its development. Consequently, it is appropriate for FAA to disregard the proposed offsets as a means for justifying the \$10 per year rent. Nor is it credible for the Port to argue the lease protects the land for future airport use. The lease term is 50 years with an option to renew for 25 additional years. This duration is too long for the Port to claim the lease is an interim use pending the airport's need for development.

Conclusion:

It is our understanding that the majority of the land is serving as a noise buffer and is not developed for commercial or business use. With the change in to Grant Assurance 31 the AD is not required to dispose of the property until after the land is no longer needed for a noise compatibility purpose. As long as this area is retained as a noise buffer, and consistent with noise buffering purposes, the lease is acceptable under the AIP noise program. The

lease for a community center does not appear to be consistent with noise buffering purposes. Therefore, we recommend the AD reconsider the lease and present its findings to FAA.

North SeaTac Park Map



The distance from the end of the runway to South 128th street is approximately 2 miles. The Port's lease of noise land to the City extends to the roads bordering the North SeaTac Park and Sunset Play fields.

Noise Land

The FAA discussed the disposition of several noise land parcels belonging to the SeaTac airport.

1. **Des Moines Creek Business Park, 86 acres.** This is the development of vacant parcels of airport noise land and other parcels into an industrial park. The land is located within the City of Des Moines. The city required a master plan and required the Port to improve roads adjoining the property. As part of the Development Agreement between the city and the Port, the Port agreed to pay \$6 million for the road improvements. The city applied the \$6 million to a State of Washington match that provided an additional \$18 million. The AD's ground lease agreement with the developer, Des Moines Creek Business Park, LLC, requires the developer repay the \$6 million to the AD, plus 8% interest, exhibit C, paragraph 6.7 of the ground lease agreement. Therefore, the developer

will repay the AD the \$6 million for road improvements. In addition, the AD will receive rent payments for the entire 86 acres for both developable and undevelopable portions.

Conclusion: The FAA has no findings with this financing arrangement.

2. Highline School District. In 2002, the Port, the Highline School District, and FAA entered into a Memorandum of Agreement (MOA) where each party would contribute funding to mitigate noise impacts associated with jet aircraft operations for schools within the Highline School District. This agreement was based on the location of the School District within the noise contours of the airport. The agreement describes that the Port is to contribute \$50 million in funding from airport revenue and funds received through the Port's taxing authority. The FAA is to provide \$50 million in funding through AIP noise mitigation grants provided to the Port, with the School District contributing an additional \$50 million in funding received through bond levies. Additionally, the agreement describes a \$50 million funding goal from the State of Washington if legislation authorizing this expenditure were adopted. The agreement requires separate FAA grants for each school detailed in the MOA which will be provided to the Port with the understanding that all AIP requirements and grant obligations will be met and that no federal law shall be preempted. The MOA sites AIP eligible costs identified within the agreement such as direct acoustical, construction impact, and responsible construction costs. The Port's non-AIP funding could also cover these costs as well as portable classrooms and similar construction. In situations where the effort and cost to bring existing schools into compliance with current codes and standards is not economically feasible, replacement facilities would be eligible for FAA and Port funding.

The AD agreed to provide the matching share for the AIP grants. Since FAA committed \$50 million, the AD matching share was \$12.5 million. The AD also committed an additional \$1.6 million that it did not tie to the match. Consequently, with the possible exception of the \$1.6 million, the AD share must follow the FAA's eligibility rules. The intended completion date of the project was the end of 2011. The Highline School District was unable to pass its school bonds, so the project stalled prior to completion. The agreement stipulated that only the following schools were eligible for Port, FAA, and State of Washington Funding: Beverly Park Elementary at Glendale, Cedarhurst Elementary, Des Moines Elementary, Highline High School, Hilltop Elementary, Madrona Elementary, Midway Elementary, Mt. Rainier High School, North Hill Elementary, Olympic Elementary, Pacific Middle School, Parkside Elementary, SeaTac Occupational Skills Center, Southern Heights Elementary, and Sunnydale Elementary.

The FAA noted the original commitment was for schools located within the 65dnl noise contours that were in effect when the parties signed the agreement in 2002, but the contours have changed. The AD updated the original contours in 2009, and it created new noise maps in 2014. Since the AD share is tied to the FAA's approval of AIP grants for each school, future funding is in doubt because AIP provides for the mitigation of structures within the 65dnl contour.

The Port did not contest this observation but stated it would review the 2002 agreement to make its own judgment about allowability. The Regional Office will continue to monitor the use of airport revenue for noise mitigation.

Conclusion: We request the AD review the 2002 agreement and provide an update to FAA. The Regional Office will continue to monitor the use of airport revenue for noise mitigation.

3. Highline Community College

In a separate agreement, FAA approved an AIP grant to mitigate noise at Highline Community College.

Conclusion: The mitigation was in accordance with the AIP grant. No further mitigation will be taken owing to the new noise contours. No further action is required by the AD.

4. Aviation High School

In a separate agreement, the Port used its taxing authority to build Aviation High School.

Conclusion: No airport revenue was used for this project. The Port paid for its construction with tax levy funding. No further action is required by the AD.

5. Pac West Little League Baseball and Rugby Field

Pac West Little League Baseball and a nearby Rugby Field are noise parcels for which the Port has yet to find suitable commercial tenants. The lease rate for the two sites is at a de minimis rate, but the agreement is month-to-month, which allows the AD to convert the land for commercial use when it finds suitable tenants.

Conclusion: These are month to month leases. The FAA has no findings on the current agreement.

7. Tyee Valley Golf Course

The Tyee Valley Golf Course is located on AD noise land. The course is now closed and the AD is developing the course into commercial noise compatible use and converting the remaining acreage to environmental mitigation.

Conclusion: It is our understanding that the course is closed and the land is being converted to other uses. Please provide an update to FAA with the status of the future uses of the property.

Port Police

The Port has its own police force, which operates independently from the City of Seattle and King County. The Port police provide services to the Port's three operating divisions—airport, seaport, and real estate. For 2013 the airport share was \$16.7 million, seaport \$4.2 million and real estate \$1.4 million. The Port uses TeleStaff software to schedule and track its patrol units. It then uses those hours to allocate between the Port's three divisions. Consequently, the airport's share is the number of patrol hours worked at the airport. The allocation percentage is also applied to equipment, fuel and patrol cars.

The Port police are headquartered at the airport. Therefore, all administrative functions and 911 dispatching come from staff assigned to the airport. The Port allocates the administrative and 911 services by the same formula it uses for the patrol units. Consequently, the airport share for administrative and 911 services is the same as it is for the patrols. The Port does not use contracted security guards, so no guard services are charged to the airport or included in the allocation.

The AD receives reimbursements from the TSA for Port police assigned to TSA posts and for K-9 services. The combined reimbursements are about \$800,000 per year. It does not cover the cost of providing the services. The AD makes up the difference, which covers about 25% of the annual costs. The cause of the deficit is due to TSA funding presuming an average hourly wage of about \$22 per hour, while the average wage of the Port police is much higher. The Port police wages are set by agreements with the union, making it difficult on the "TSA presumption" to adjust officer pay to TSA rates, so it is necessary for the AD to cover the difference.

The Port uses the King County Jail to hold prisoners awaiting court dates. The County in turn charges the Port a daily fee for incarcerating the prisoners. The airport is treated no differently than other King County municipalities. The King County Jail bills all municipalities at the same rate and in the same manner. For warrant arrests, the jail does not charge the arresting entity. Also, King County Court retains all revenue from parking tickets. The FAA does not consider revenues belonging to courts to be airport revenue, even when the ticket is written on airport property.

All police departments in the State of Washington have mutual aid agreements with the police departments of the surrounding community. Accordingly, on occasion a Port unit may be dispatched to an off-airport incident. According to the Deputy Chief, such incidents are rare and would not constitute a measurable amount of time.

Conclusion:

Based on its review of Port police operations, FAA found the allocation methodology is consistently applied to the three divisions, so the airport's share is proportionate to its use. The FAA found other police costs and activities to fall within allowable uses of airport revenues.

Art at the Airport

The AD funds its art program through the Port's requirement that 0.5 percent of construction cost is dedicated to art. The art displayed at the airport is a combination of built-in pieces such as floor treatments and mosaic covered pillars, sculpture pieces that are fixed but movable, and movable hanging art like paintings. Some of the art value has risen to over 20 times its purchase price to current valuations of over \$1 million per piece. The AD also has a program of rotating art, where local artists can display their work along airport concourses. The artists donate their rotating art for the time it is displayed, so the AD incurs no costs for this part of their program. Due to remodeling and the changing need for space, the AD will sometimes locate a piece to another location. The AD has only one piece that is not currently on display. The AD also displays two rare aircraft from the Boeing aviation museum. The airport's only cost is general cleaning and ensuring the continuing security of the hanging art work.

The AD has policies and procedures for the acquisition of art. The Port commission awards the funds. The AD then forms a committee to select an artist. Once the committee approves an artist, the Port commission approves the project. The selection committee includes five persons composed of representative from the Port, local artists, and airport tenants. The AD may solicit from qualified artists or solicit through an open announcement. It limits its solicitation to qualified artists when the work requires a particular skill like lighting, painting or sculpting. The committee also ensures the artist is familiar with working with committees and can deliver a piece on time in a condition that is suitable for display.

Conclusion:

The FAA noted no issues with the art program at the airport.

Taxation of the Airport

The airport is predominately within the bounds of the City of SeaTac. The tax that SeaTac assesses on the airport is a parking tax. The rate is \$0.90 for the first two hours and \$3.00 thereafter. The rate is applied to parking at the airport and to all other parking facilities within the City. The City does not charge rental car taxes nor an aviation fuel tax. The FAA concluded the City of SeaTac charges the airport no differently than other entities within the City. With the exception of storm water and sewers, other cities with boundaries on the airport do not assess taxes or fees on the airport.

Conclusion:

No problems were noted. The Airport is treated no differently than other similarly situated entities.

Sound Transit Light Rail

Sound Transit provides light rail service to King and Pierce Counties. It currently links downtown Seattle to the airport. Although, the airport is the current terminus, Sound Transit is extending the service through the airport—first to 200th street and eventually to the Federal Way Transit Center located south of the airport. Bringing the route to and through the airport entailed the realignment of airport roads and the obtaining of a right of way easement through airport property. To accommodate light rail, the Port built several on-airport projects that entitled the Port to reimbursement from Sound Transit.

The FAA sampled a number of reimbursement vouchers to ensure the AD received full reimbursement for amounts it expended on the project. We found the Port credited the reimbursements to the projects thereby ensuring the AD was reimbursed for the amounts it contributed to the projects. We also reviewed the right-of-way agreement and found that it reimbursed the AD for 50-percent of the fair market value of the right of way. The FAA did not approve Passenger Facility Charges (PFC's) or AIP funding to the project, so there was no need for the FAA to approve the project. An AD official stated that 50-percent was normal for such projects, so it felt it was well within expectations when it agreed to the 50-percent.

The official's position is supported by the Policy at section VII. It permits the making of airport property available at less than fair market rental for public transit terminals, right-of-way, and related facilities when the system is publically owned, and the facilities are directly and substantially related to the air transportation of passengers or property, including use by airport visitors and employees. The route currently meets this standard, but when the route eventually passes through the airport and links with the Federal Way Transit Center, it may no longer meet the standard of being substantially related to air transportation, depending on the number of passengers using the airport station. Therefore, the AD should discuss the future reimbursements with FAA to ensure compliance with the Policy, when the light rail links to the Federal Way Transit Center.

Conclusion:

Easements are land releases that require FAA approval. The Regional Office is currently reviewing the requested easement for extending the light rail through the airport to the Federal Way Transit Center. The current easement provides for bringing the rail to the airport station. We will provide the AD with an update when we have finished our review.

Highway 518 Airport Ramps

The AD improved on-airport roads that bring traffic onto and off the airport from Interstate 5 via State Route 518. The construction of new gates and the increased number of enplanements made these improvements necessary. The enplanements for 2013 exceeded 17 million, and the existing roads were built in the 1970s for a much smaller airport. In order to link the off-airport roads to the new airport roads, the AD rebuilt the ramps that link Route 518 to the airport. The improved ramps reduce congestion and make it easier to transition on

and off the airport. The AD worked with FAA regional office to secure approval for the use of airport revenue for these off-airport improvements.

Conclusion:

The FAA had no issues with the use of airport revenue for the exit ramp that connects the airport to Route 518.

Property and Concession Leases

The FAA selected four leases—two from the terminal and two airport properties to determine if the AD followed acceptable practices for the leasing of airport property. The AD is authorized by the Port to enter into leases for up to 5 years. Port's Real Estate Division handles leases of longer durations. Properties are appraised at either fair rental value or fair market value depending on the lease. All leases contain provisions for annual increases and are re-appraised every 5 years. The AD or the Real Estate Division must approve sub-leases, depending on the duration. The Port commission approves leases extending more than five years. The FAA found the lease program to be fairly administered. There was no indication of outside influences or political favoritism for the soliciting and awarding of leased property.

Conclusion:

The FAA noted no problems with the property and concession leases.

FAA Form 127 Operating and Financial Summary

The Port Aviation Finance and Budget Office prepare FAA Form 127, Operating and Financial Summary. On the Form 127, the sponsor reports selected balance sheet, income statement and statistical information relevant to the reporting of airport operations. The FAA asked the office to trace selected amounts reported on the Form 127 to the Port's general ledger and comprehensive annual financial report.

Conclusion:

The FAA found no problems with the reported amounts.

The FAA Form 126 Financial Government Payment Report

The Port Accounting and Financial Reporting Office prepare FAA Form 126, Financial Government Payment Report. On Form 126, the airport sponsor reports (i) the payments it makes to governmental entities, (ii) the revenues it receives from governmental entities, and (iii) the uses of airport property by governmental entities. The FAA identified several vouchers that reported the expenditure of Port revenue rather than airport revenue. This appears to have occurred due to confusion over how to report the tax levy funds it used for airport purposes. The Port agreed to the changes and will submit corrected Form 126s.

Conclusion:

The FAA was advised on April 14 that SEA has submitted corrected Form 126s. The FAA has verified the reports have been certified and accurately filed. We consider this matter closed.

Cost Allocations

The Port's cost allocation plan distributes costs from its corporate and capital development organizations to its three operating divisions—aviation, seaport, and real estate. The Port has three methods to allocate costs to these operating divisions. It uses direct billing, special allocations, and the default allocation. The direct billings are costs that are billed directly to the operating divisions. Direct charges accounted for \$6.8 million of the \$62.7 million allocated to aviation. The Port's accounting system "People Soft" has a built-in mechanism that deducts the direct billings from the allocation pool, which ensures there are no double billings of the allocated amounts.

The special allocations uses distribution methods like full-time equivalent employees, hours worked and number of desktop computers to allocate costs. For 2013, these special allocations accounted for \$35 million of the \$62.7 million allocated to aviation. The People Soft system deducts these special allocations from the pool to ensure the special allocations are not also included in the default allocation.

The default allocation is a combination of full-time equivalent employees and operating and maintenance costs. The default allocation accounts for \$20.7 million of the \$62.7 million allocated to aviation. The default allocation is a combination of full time equivalent (FTE) employees and operating costs. For example the aviation division has 79.2% of the FTE and 74% of operation and maintenance costs, so its default percentage is 76.6% ($.792 + .74 = 1.532 / 2 = 76.6\%$). The elements in this computation are budget amounts. The Port however applies the percentage to actual current year costs. Since it computes this percentage each year there is no need for an end of year true-up. The difference between budget and actual is very small from year to year thereby causing no distortion in distributed costs.

As mentioned above the FAA questioned two allocated amounts, the Office of Social Responsibility and the Aviation Employment Center. The Port eliminated the tourism marketing from the allocation, so they were not allocated or direct charged to the airport. The FAA found no other problems with the cost allocation. The plan met FAA requirements for transparency, distribution methods, use of actual costs, and elimination of prohibited and unallowable costs.

Conclusion:

The FAA noted no issues with the Cost Allocation Plan. We found that the allocation methodology eliminated costs that were unallowable.

Conclusions and Follow-ups.

Air Carrier Incentive Program. The FAA concludes the Policy does not permit the use of airport revenue for unallowable segments of FAM tours, therefore we are requesting the Port reimburse the AD \$354,769.

Marketing of Existing Service. The FAA concludes the Policy does not permit the use of airport revenue for the marketing of existing service. Going forward the AD cannot use airport revenues to market existing services, unless the AD is the focal point of the advertising. At this point, we request the AD disengage from this type of marketing. The FAA is not requesting reimbursement from the Port to the AD for prior payments to air carriers; however we request the AD provide a plan to ensure this type of marketing does not occur in the future.

Office of Social Responsibility. The FAA concludes the Policy does not permit the use of airport revenue to support many functions of Office of Social Responsibility but agreed to consider any additional information the Port wishes to provide about the program including the extent of this Office's involvement in the AD's Disadvantaged Business Enterprise program. To date, the Port has not provided enough information.

Aviation Employment Center. The FAA concludes the Policy does not permit the use of airport revenue to support the Aviation Employment Center. The FAA has found that the AD may not use its revenue to support the Aviation Employment Center because the center recruits employees for airport vendors rather than airport employees. The AD in essence is providing Human Resource services to the tenants, when that cost should be paid by the tenants.

We believe the Port needs to reimburse the Airport \$2,056,334 for the prior six year period however, if the Port has any additional information to justify the center as an appropriate use of airport revenue we will reconsider our response.

Relocation of the Aviation Employment Center. The FAA concludes the cost of moving the Aviation Employment Center may have been ineligible for the use of airport revenue depending on the circumstances of the move. Based on the information the AD provided, we accept the AD's response. Since the transaction was an airport management decision, and the space was needed to accommodate a paying aeronautical tenant, FAA plans to take no further action on this observation and is not requesting reimbursement to the AD.

Aviation Employment Center Rent-Free Use of Space. The FAA concluded the rent-free use of space for the Aviation Employment Center did not qualify for the community-use provision. The FAA requests the Port reimburse the AD \$1,409,057 for the prior year periods.

North SeaTac Park. We recommend the AD reconsider the lease and present its findings to the FAA.

Noise Land. Please provide FAA an update on the future uses of the Tyee Valley Golf parcel with your response to this report.

In 2002, the Port, Highline School District, and the FAA entered into an agreement where each would contribute \$50 million for noise mitigation. The Port agreed to review the agreement to make its own judgment about allowability. When the Port finishes reviewing the agreement, please provide an update to FAA in the next 60 days.