Office of Inspector General

Audit Report

Diversion of Airport Revenue
Augusta-Richmond County Commission

Federal Aviation Administration
Southern Region

Report Number AV-1998-093
Date Issued: March 12, 1998

Memorandum

U.S. Department of Transportation

Office of the Secretary of Transportation

Office of Inspector General

Subject: <u>ACTION</u>: Report on Diversion of Airport Revenue, Augusta-Richmond County Commission, FAA Southern Region Report No. AV-1998-093

Date: March 12, 1998

Reply to Attn of: JA-1

From: Lawrence H. Weintrob
Assistant Inspector General for Auditing

To: Federal Aviation Administrator

I am providing this report for your information and use. Your December 12, 1997, comments to our September 17, 1997, draft report were considered in preparing this report. A synopsis of the report follows this memorandum.

The Federal Aviation Administration concurred with nine recommendations and partially concurred with three recommendations. Actions taken and planned were reasonable and all recommendations are considered resolved. However, please provide target dates for completing all of the planned actions within 14 days of the report issuance. All recommendations are subject to the followup requirements of Department of Transportation Order 8000.1C.

I appreciate the courtesies and cooperation extended to our staff during the audit. Please call me at (202) 366-1992, or Alexis M. Stefani, Deputy Assistant Inspector General for Aviation, at (202) 366-0500, if you have questions concerning this report.

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Diversion of Airport Revenue Augusta-Richmond County Commission

Federal Aviation Administration Southern Region

Report No. AV-1998-093 ***March 12, 1998***

Objectives

In June 1996, the Federal Aviation Administration (FAA) Atlanta Airports District Office requested the Office of Inspector General to conduct an audit of airport revenue at the Augusta-Richmond County Commission (sponsor). Our audit objectives were to determine whether the sponsor's: (1) airport-generated revenues were used for capital and operating costs of the airports, in compliance with 49 United States Code (U.S.C.), Section 47107 (the Airport and Airway Improvement Act of 1982, as amended) and (2) fee and rental structures ensured the airports were as self-sustaining as possible.

Background

FAA promotes developing a system of airports to meet the Nation's aviation needs by providing Federal assistance through grants-in-aid. FAA grants include funds for airport development, planning, and noise compatibility programs. As a condition precedent to approval of an FAA grant, 49 U.S.C., Section 47107 requires the sponsor to agree to comply with specific assurances. This section requires airport sponsors to set fee and rental structures to make the airport as self-sustaining as possible and requires airport-generated revenues to be used for the capital or operating costs of the airport.

Results-in-Brief

The Augusta-Richmond County Commission sponsors two airports in Augusta: Bush Field and Daniel Field. Bush Field generated $18.8 million of operating revenues and had $17.9 million of operating expenses during Fiscal Years 1994 to 1996. Daniel Field generated $252,130 of operating revenues and had $186,394 of operating expenses during this same period. We found airport revenue was used for the following prohibited purposes: (1) $2.0 million for a noninterest bearing loan to the sponsor's general fund, (2) $175,000 for acquisition of land that could not be used for airport purposes, (3) $94,281 for indirect administrative costs of the government, and (4) $4,592 for special auditing services related to airport revenue diversion. Additionally, the sponsor transferred $350,000 of airport-generated revenue from the airport bond-sinking fund to the general fund for nonairport-related purposes. We also found the sponsor should have: (1) established fair market value rent for seven leases, (2) renewed three expired leases, (3) included appropriate market adjustment requirements in seven leases, and (4) aggressively marketed its vacant real property resources.

Monetary Impact

We identified prohibited use of airport-generated revenue from the airport-revenue and bond-sinking funds totaling $2.6 million. However, the sponsor paid approximately $0.5 million on behalf of the airport without being reimbursed, for a net airport revenue diversion of $2.1 million.

Recommendations

We made recommendations to recover prohibited expenditures made from the airport-revenue and bond-sinking funds and to improve management controls over the use of airport revenue. We also made recommendations to improve property management controls to ensure the sponsor's airports are as self-sustaining as possible.

Management Position

FAA concurred with nine recommendations and partially concurred with three recommendations. FAA requested the sponsor reimburse $1,868,660 to the airport-revenue fund and $274,881 to the bond-sinking fund. FAA also requested the sponsor eliminate outstanding nonairport-related charges in the amount of $619,702, provide an invoice with supporting documentation to the airport for all remaining outstanding charges, and develop an indirect cost allocation plan. FAA also agreed to closely review Bush Field's annual financial reports. In addition, FAA agreed to require the sponsor to develop and implement property management procedures, establish fair market value of all Surplus Property Act donated land used for nonaviation purposes, and include the proper escalation clauses in all future long-term leases.

FAA partially concurred with three recommendations. FAA agreed to require the sponsor to renegotiate all expired leases and obtain fair market value rent for property used for nonaviation purposes, but stated there is no requirement by statute or regulation which mandates the establishment of fair market value for aeronautical[*] leases. FAA concurred with establishing a marketing plan for vacant airport property from a business perspective, but responded there is no Federal obligation requiring the sponsor to comply with this recommendation. Also, FAA responded that monitoring sponsor property management or leases is not routinely performed by FAA. However, FAA will request the sponsor to provide a copy of its annual single audit for review of the sponsor's property management activities.

Office of Inspector General Comments

The corrective actions taken and planned by FAA satisfy the intent of all recommendations. Although FAA responded that it partially concurred with recommendations to renegotiate all expired leases and establish fair market value, to establish a marketing plan for the airports, and to monitor the sponsor's property management system, the corrective actions taken and planned will resolve these three recommendations. Additionally, we have requested FAA provide us the target dates for completing planned corrective actions on the recommendations.

The actions planned for the three recommendations FAA partially concurred with will resolve these recommendations. FAA agreed to have the sponsor renegotiate all expired leases, but only agreed fair market value rent should be obtained on eight of the nine leases. FAA did not agree to have the sponsor renegotiate one lease at fair market value rent because the lease was for aeronautical property. FAA did agree, however, to require the sponsor to include the proper rent escalation clause in this lease. We considered the recommendation to establish a marketing plan for the airports to be resolved because FAA agreed to require the sponsor to develop and implement property management procedures. As an alternative to our recommendation for FAA to monitor the sponsor's property management, FAA replied it would accomplish this monitoring through the sponsor's annual single audit. To strengthen controls over airport revenue diversion, Congress in the FAA Reauthorization Act of 1996 required sponsors to ensure the independent auditors performing the annual single audit provide an opinion on airport revenue activities. Consequently, we considered FAA's promise to monitor the sponsor's annual single audit to meet the intent of our recommendation.

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[*] Aeronautical refers to ". . .any activity that involves, makes possible, is required for the safety of, or is otherwise directly related to, the operation of aircraft. Aeronautical use includes services provided by air carriers related directly and substantially to the movement of passengers, baggage, mail and cargo on the airport." FAA's policy on aeronautical leases is to permit lower than fair market value rent to ensure airports can attract needed aviation services.

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I. INTRODUCTION

Background

The Federal Aviation Administration (FAA) promotes developing a system of airports to meet the Nation's aviation needs by providing Federal assistance through grants-in-aid. FAA grants include funds for airport development, planning, and noise compatibility programs. As a condition precedent to approval of an FAA grant, 49 United States Code (U.S.C.), Section 47107 (the Airport and Airway Improvement Act of 1982 [AAIA], as amended) requires the sponsor to agree to comply with specific assurances. Section 47107 requires that fee and rental structures make the airport as self-sustaining as possible and airport-generated revenues be used for the capital or operating costs of the airport. Failure to comply with grant provisions can result in funds being withheld.

As a condition precedent to receiving an airport development grant under the AAIA, the sponsor must provide written assurance that it will comply with provisions contained in 49 U.S.C., Section 47107. Title 49 U.S.C., Section 47107 states:

> . . . the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport--(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; . . .

> . . . revenues generated by a public airport will be expended for the capital or operating costs of (A) the airport; (B) the local airport system; or (C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

To further enforce the AAIA provisions concerning generation and use of airport revenues, Congress added a general provision to the 1994 Department of Transportation (DOT) and Related Agencies Appropriations Act (Public Law 103-122, dated October 27, 1993). Title III, General Provisions, Section 328 of the 1994 Appropriations Act states: "None of the funds provided by this Act shall be made available to any State, municipality or subdivision thereof that diverts revenue generated by a public airport in violation of the provisions of the Airport and Airway Improvement Act of

1982, as amended." The same provision was included in Section 325 of the 1995 DOT Appropriations Act.

The FAA Authorization Act of 1994 (Public Law 103-305, dated August 23, 1994) added new airport financial reporting requirements and policies for the enforcement against prohibited diversion of airport revenue. Section 111 requires the airport owner or operator to submit to FAA and make available to the public an annual report listing in detail: (1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made and (2) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property. Section 112(a)(2) prohibits the diversion of airport revenue through:

(A) direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;
(B) use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;
(C) payments in lieu of taxes or other assessments that exceed the value of services provided; or
(D) payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

To implement the provisions of the various Federal aviation laws and regulations, FAA issued orders providing written guidance, policies, and procedures for grantees to use in complying with the laws and regulations and for FAA personnel to assure that grantees comply. In FAA Order 5100.38A, “Airport Improvement Program (AIP) Handbook” and FAA Order 5190.6A, “Airport Compliance Requirements,” FAA implemented the revenue requirements of the AAIA. One of FAA's internal controls to monitor compliance is the inclusion of assurances 24 and 25 in the standard assurances that are a part of each grant. These assurances require sponsors to acknowledge each time a grant is received that it is complying with 49 U.S.C., Section 47107.

Congress added an additional disincentive to discourage sponsors from diverting airport revenue. In the Airport Revenue Protection Act of 1996, Congress passed legislation requiring FAA to impose interest on airport revenue illegally diverted by sponsors.

Effective January 1, 1996, the City of Augusta, Georgia, was consolidated with Richmond County, Georgia. The consolidated government is known as the Augusta-Richmond County Commission (sponsor). The consolidated government sponsors two airports in Augusta: Bush Field and Daniel Field. Bush Field is a commercial service airport with regularly scheduled air passenger service provided by major airlines and facilities for use by cargo and private airplanes. Daniel Field is a general aviation airport only. The sponsor was awarded $2.8 million in entitlement grants for Bush Field in Fiscal Years (FY) 1994 to 1996. No grants were awarded for Daniel Field during this time period. During FYs 1994 to 1996, Bush Field generated $18.8 million of operating revenues. Operating revenues included landing fees, rentals for use of airport property, and concessionaire lease payments, but did not include funds from either FAA or local grants. For the same period, Bush Field operating expenses totaled $17.9 million. Daniel Field reported $252,130 of operating revenues and $186,394 of operating expenses for this period.

Objectives, Scope, and Methodology

The audit objectives were to determine whether the sponsor's: (1) airport-generated revenues were used for capital and operating costs of the airports, in compliance with 49 U.S.C., Section 47107 and (2) fee and rental structures ensured the airports were as self-sustaining as possible. In June 1996, the Manager of the FAA Atlanta Airports District Office (ADO) requested the Office of Inspector General (OIG) conduct an audit of the Bush Field airport-revenue account. This request came as a result of unsupported transfers of Bush Field airport revenue to the sponsor's general fund. FAA's primary concerns were: (1) the sponsor used airport revenue to purchase land that cannot be economically developed for airport purposes and (2) other transactions could have gone to nonairport-related projects.

We conducted the audit at the FAA ADO in Atlanta, Georgia, and the airports' sponsor located in Augusta, Georgia. Additionally, we performed work at Bush Field and Daniel Field. We evaluated the sponsor's use of airport-generated revenues and establishment of fee and rental structures from January 1, 1994, to December 31, 1996. We expanded into prior years when deemed necessary.

We evaluated the sponsor's management controls for collection and disbursement of airport-generated revenues and for establishment of land and facility leases to assure compliance with airport revenue requirements in 49 U.S.C., Section 47107. To determine if the airports maintained fee and rental structures which made them as self-sustaining as possible, we: (1) identified airport tenants and reviewed leases at Bush Field and Daniel Field, (2) determined lease rates and terms, (3) determined revenue received from tenants, (4) toured airport properties, and (5) reviewed current airport layout plans and property maps. To accomplish both audit objectives, we interviewed personnel at the FAA Atlanta ADO, sponsor, both airports, and the certified public accountant who performed the annual single audit. We did not evaluate landing fees or terminal leases. We could not evaluate FAA's implementation of the Government Performance and Results Act of 1993, because FAA was drafting the airport related performance measures during our audit. We performed the audit in accordance with the Government Auditing Standards prescribed by the Comptroller General of the United States. Our audit work was performed during the period of August 1996 through April 1997.

Prior Audit Coverage

The OIG and the General Accounting Office have not audited the sponsor's use of airport revenues and establishment of fee and rental structures during the past 5 years. An independent firm audits the sponsor annually in accordance with Office of Management and Budget (OMB), Circular A-128 single audit requirements. The last audit report, covering the sponsor's fiscal year ended December 31, 1995, did not disclose any findings related to 49 U.S.C., Section 47107.

II. FINDINGS AND RECOMMENDATIONS

Finding A. Need to Restrict the Use of Airport-Generated Revenue to Airport-Related Purposes

The sponsor used airport-generated revenue for prohibited purposes such as interest free loans to the sponsor's general fund and to pay nonairport administrative overhead costs. Prohibited use of airport-generated revenue occurred because sponsor management disregarded assurances it provided FAA related to revenue use. We identified prohibited use of airport-generated revenue from the airport-revenue and bond-sinking funds totaling $2.6 million. However, the sponsor paid approximately $0.5 million on behalf of the airport without being reimbursed, for a net airport revenue diversion of $2.1 million.

Discussion

FAA airport sponsors must use airport-generated revenue in accordance with Federal law, FAA regulations, and grant assurances provided as consideration for receiving FAA grants. As a recipient of FAA grant funds, the sponsor must meet the revenue requirements of 49 U.S.C., Section 47107. This section requires the sponsor to restrict the use of airport-generated revenue to the capital or operating costs of the sponsor's airport or airport system. Assurance 25 of each grant agreement requires:

> . . . all revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property . . . .

Airport Revenue Was Diverted

We found the sponsor diverted $2,623,873 of airport revenue from the airport-revenue and bond-sinking funds. Of this amount, $2,273,873 was diverted from the airport-revenue fund and $350,000 was diverted from the bond-sinking fund. The diversion from the airport-revenue fund consisted of:

- a $2,000,000 noninterest bearing loan to the sponsor's general fund,

- a $175,000 reimbursement to the general fund for land that could not be used for airport purposes,

- $94,281 of reimbursements to the general fund for administrative overhead costs during FYs 1991 to 1993, and

- a $4,592 reimbursement to the general fund for special auditing services related to airport revenue diversion.

Of the $2,623,873 diverted, we recommended $2,143,541 be returned to the airport funds. We recommended a reduced transfer to the airport-revenue and bond-sinking funds because of past unreimbursed expenditures from the general fund made on behalf of the airport. To repay the diverted funds, $1,868,660 should be repaid to the airport-revenue fund and $274,881 should be reimbursed to the bond-sinking fund. (See exhibit A.)

<u>Noninterest Bearing Loan to the Sponsor's General Fund</u>

The sponsor did not repay a $2.0 million noninterest bearing loan made from the airport fund to the sponsor's general fund. On September 23, 1994, in response to direction by the Mayor of the City of Augusta, the Bush Field Airport Director transferred $2.0 million from the airport fund to the sponsor's general fund. At the time of the loan, the sponsor was experiencing cash flow problems. To describe the terms of the transaction, the airport director attached a memorandum to the transfer documentation that stated: "This check represents a 30 day interest-free loan." According to FAA's proposed diversion of airport revenue policy released for comment in February 1996, prohibited uses of airport-generated revenue include "Loans of airport funds to a state or local agency at less than the prevailing rate of interest." The policies outlined in the proposal reflect the standards the FAA has traditionally applied.

The sponsor refused to reimburse the airport-revenue fund the full $2.0 million. The sponsor claimed unreimbursed expenditures of $1.4 million had been made from the general fund to cover airport capital and operating costs. The sponsor alleged that $750,250 was due from the airport fund to offset a charge for land purchased adjacent to Daniel Field, the sponsor's general aviation airport, and $650,469 was due from the airport fund to offset prior years' unreimbursed indirect cost allocations. The sponsor has not repaid any of the revenue diverted from the airport fund because airport and sponsor officials were unable to agree on the amount that should be repaid.

We concluded only $405,213 of these past unreimbursed charges were valid airport-related charges. The past unreimbursed charges we did not agree with were: $750,250 for land purchased adjacent to Daniel Field, $58,277 of indirect administrative overhead costs for FYs 1990 and 1994, and $186,979 of overhead and insurance indirect cost allocations for 1989.

Details regarding each of these transactions are presented in the following sections.

<u>Land Purchased For Nonairport-Related Purposes</u>

The sponsor inappropriately used Bush Field airport revenue to reimburse the general fund $750,250 for land acquired adjacent to the Daniel Field general aviation airport that could not be used for airport purposes. An additional $175,000 paid for this land in 1995 from the airport-revenue fund was also an inappropriate use of airport revenue.

In April 1994, the sponsor agreed to acquire 38.65 acres of land containing the Village Square Apartments located adjacent to Daniel Field. The apartments were dilapidated and in a high crime area. After allowing time for the tenants to vacate the premises, the sponsor acquired the property in August 1994. The purchase price for the property was $1.5 million. The sponsor agreed to pay $750,000 at closing and the remaining $750,000 within 12 months from completion of escrow conditions. In May 1994, the sponsor paid $750,250 for the first payment, including a $250 miscellaneous fee. The sponsor charged the Bush Field building and improvements account for these expenditures.

The sponsor entered into a financing agreement for the remaining half of the purchase price. The sponsor made the second payment of $175,000 on September 28, 1995. Prior to making this payment, the sponsor requested Bush Field pay the sponsor for this amount. The airport director responded he would submit a $175,000 check if instructed by the mayor and city council. The mayor sent a written request for payment on September 14, 1995, and Bush Field paid the sponsor $175,000 on September 28, 1995.

The sponsor justified charging the Bush Field airport-revenue fund for these two payments of $750,250 and $175,000 by claiming the land would be used for expansion of Daniel Field. However, at the time of the sales agreement, no documentation existed from either the General Aviation Commission or the Augusta Aviation Commission recommending acquisition of this tract of land for use by Daniel Field.

Although the sponsor used airport revenue for a portion of the land acquisition price, documentation from the former mayor of Augusta revealed the land was not intended for expansion of Daniel Field. Correspondence written by the mayor of Augusta to members of the city council, dated April 21, 1994, stated: "Given the property's proximity to the airport, it could be an ideal site for an office park development. The property also will provide us the necessary land as we relocate some of the holes on the golf course in terms of the future redevelopment of that area."

FAA made a determination in October 1995 that there was no demonstrated aeronautical* need for the subject property. FAA concluded the property was not shown on the Daniel Field approved airport layout plan as needed for airport development, nor was there any recommendation from either of the sponsor's two airport commissions recommending the purchase. FAA concluded that only a small portion of the land was usable for airport purposes. Most of the land was not suitable for airport development due to the excessive difference in contour of the land as compared to the airport elevation. On October 19, 1995, FAA notified the sponsor that the purchase was an improper use of airport funds and in violation of Subsection 47107(b)(1) of the FAA Authorization Act of 1994.

The sponsor also made accounting entries to the Bush Field revenue fund totaling $619,702 for the remaining payments related to the land acquisition. These charges were for two remaining principal payments of $287,500 each made in April and July 1996, financing interest charges of $42,952, and legal fees of $1,750. Airport revenue has not been used to reimburse the sponsor for these charges. However, the sponsor should eliminate these outstanding charges because FAA determined the land could not be used for airport purposes. See exhibit B for a schedule of all costs associated with the land acquisition.

Indirect Costs

The sponsor inappropriately applied $58,277 of the $2.0 million loan to past unreimbursed indirect administrative overhead costs for FYs 1990 and 1994.

* Aeronautical refers to ". . .any activity that involves, makes possible, is required for the safety of, or is otherwise directly related to, the operation of aircraft. Aeronautical use includes services provided by air carriers related directly and substantially to the movement of passengers, baggage, mail and cargo on the airport."

An additional $94,281 of airport revenue was also inappropriately used to reimburse the sponsor's general fund for ineligible, indirect administrative overhead costs for FYs 1991 to 1993. These administrative overhead costs, which were for the mayor and city council, were general costs of the government and are not allowed by FAA revenue retention requirements. Only capital and operating costs of the airport, airport system, and facilities directly and substantially related to air transportation may be allocated to the airport.

FAA clarified its indirect cost allocation policy in a supplemental notice of proposed policy issued on December 18, 1996. As a cost guideline, FAA referred to OMB Circular A-87 "Cost Principles for State, Local and Indian Tribal Governments." According to the FAA proposed indirect cost allocation policy, "The general costs of government, such as costs of the city council, may not be allocated to the airport."

The sponsor also inappropriately used $186,979 of the $2.0 million loan to reimburse the general fund for 1989 indirect overhead and insurance allocations. We concluded this use of airport-revenue funds was inappropriate because the airport had previously reimbursed the sponsor for these costs as a result of a 1991 agreement between the sponsor and Bush Field. The terms of the agreement were provided in a letter, dated February 11, 1991, from the city administrator to Bush Field. With the letter, the sponsor sent an invoice for approximately $1.2 million to the Bush Field airport director as a result of meetings conducted to reconcile the Bush Field revenue account with the sponsor's pooled cash account. The invoice represented the total amount of Bush Field revenue owed to the sponsor's pooled cash account for unreimbursed charges as of December 31, 1990. The letter stated: "With Aviation Commission approval, it is agreed by all parties that Bush Field's revenue account will have cleared all prior obligation to the pooled cash account and we will begin January 1, 1991 with a zero balance." On February 12, 1991, Bush Field paid the sponsor approximately $1.2 million to resolve all prior obligations to the pooled cash account, including the $186,979 for 1989 indirect overhead and insurance costs.

<u>Special Audit Services</u>

We found $4,592 of airport revenue was inappropriately used to reimburse the sponsor's general fund for auditing services to resolve the revenue diversion issue. FAA suggested an audit as one method for the sponsor to resolve the disputed reimbursement claims between sponsor and airport management. After completion of a special audit, the sponsor invoiced Bush

Field for this charge and was reimbursed in September 1995. We concluded this cost should not have been charged to the Bush Field revenue fund because it related to the sponsor's airport revenue diversion that occurred in September 1994 and was not an airport operating cost.

Airport Bond-Sinking Fund Transfers

Airport improvement revenue bonds were issued in 1972 in the principal amount of $1.2 million to finance the cost of acquiring, constructing, and equipping additions, extensions, and improvements at Bush Field. The sponsor established the bond-sinking fund account as ". . . a trust fund for the benefit of the holders of the bonds. . ." The airport revenue bond ordinance restricted the use of money deposited in the bond-sinking fund account to payment of the principal and interest on the bonds, agent's fees and charges, or redemption of said obligations before maturity.

The sponsor made two transfers totaling $350,000 from the airport bond-sinking fund to the general fund in violation of the airport bond ordinance and FAA revenue retention requirements. On August 12, 1994, the sponsor transferred $100,000 and on September 23, 1994 transferred $250,000 from the airport bond-sinking fund to the general fund. At the time of our audit, the sponsor had not fully repaid the airport bond-sinking fund. Because in prior years the sponsor had inadvertently paid bond payments of $75,119 from the general fund, we questioned the remaining outstanding balance of $274,881 owed to the bond-sinking fund.

Recommendations

We recommend FAA:

1. Initiate procedural steps necessary to reach a final determination regarding noncompliance with grant assurances, and withhold payments on current grants and approval of future grants, if the sponsor does not:

    a. Reimburse the Bush Field revenue fund for $1,868,660 for expenditures made from the airport-revenue fund in violation of 49 U.S.C., Section 47107 plus interest as required by the Airport Revenue Protection Act of 1996.

    b. Reimburse the Bush Field bond-sinking fund $274,881 for transfers made from the bond-sinking fund in violation of 49 U.S.C., Section 47107 and bond restrictions.

c. Remove the outstanding charges in the amount of $619,702 charged to the Bush Field revenue fund for principal, interest, and legal fee payments for the land acquired adjacent to Daniel Field for nonairport-related purposes.

2. Instruct the sponsor to provide an invoice to Bush Field for all remaining outstanding unreimbursed charges that can be supported with documentation and to schedule regular reconciliation meetings between the sponsor's and Bush Field's finance divisions to prevent future financial disputes.

3. Continue to monitor transactions between the sponsor and Bush Field by closely reviewing the airport financial reports required to be submitted annually in accordance with the FAA Authorization Act of 1994.

4. Require the sponsor to develop an indirect cost allocation plan consistent with FAA policy and assure that costs for duplicative functions are excluded.

Management Response

In a December 12, 1997, response to our September 17, 1997, draft report, FAA concurred with all recommendations. FAA requested the sponsor reimburse the airport-revenue fund $1,868,660 and the bond-sinking fund $274,881, and eliminate outstanding nonairport-related charges assessed to the airport in the amount of $619,702. Additionally, FAA requested the sponsor provide an invoice to Bush Field for all remaining outstanding unreimbursed charges and develop an indirect cost allocation plan consistent with FAA policy. FAA also agreed to monitor transactions between the sponsor and Bush Field by reviewing airport financial reports.

Office of Inspector General Comments

We agree with the corrective actions taken and planned by FAA to implement the recommendations regarding this finding. FAA did not provide target dates for Recommendations A1a, A2, A3 and A4. Therefore, we request FAA provide target dates for completing planned corrective actions on these recommendations.

Finding B. Need to Improve Real Property Management

The sponsor should have: (1) established fair market value (FMV) rent for seven leases, (2) renewed three expired leases, (3) included appropriate market adjustment requirements in seven leases, and (4) aggressively marketed its vacant real property resources. These conditions occurred because the sponsor did not comply with FAA property management guidance and FAA did not adequately monitor the sponsor's property management. As a result, the sponsor did not have a reasonable basis to provide FAA the required grant assurance that the sponsor's fee and rental structures made its airports as self-sustaining as possible.

Discussion

As a recipient of FAA grant funds, the sponsor must meet the revenue requirements of 49 U.S.C., Section 47107. This section requires airport sponsors to establish fee and rental structures that assure the sponsor's airports are as self-sustaining as possible. Assurance 24 of each grant agreement requires the sponsor to:

> . . . maintain a fee and rental structure . . . which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport . . . .

Property Management System Weaknesses

We concluded the sponsor did not have an effective property management system. We determined the sponsor had 22 leases at its 2 airports. Of these 22 leases, we judgmentally selected the 9 property leases outside of the airport terminal for detailed review. We found the sponsor should have:

1. established FMV rent for seven leases,

2. renewed three expired leases,

3. included appropriate market adjustment requirements in seven leases, and

4. aggressively marketed vacant real property resources.

Appraisals

In addition to the grant assurance 24, FAA Order 5190.6A contains more specific criteria applicable to land used for nonaviation purposes donated under the Surplus Property Act. Paragraph 6-3(c) of FAA Order 5190.6A requires:

> FMV for any lease of nonaeronautical revenue production airport property transferred to [the airport] under the Surplus Property Act of 1944, as amended, must be established. Appraisals . . . is one acceptable method of establishing FMV. (Bracketed words were added for clarification.)

Nonaviation Leases - We found the sponsor had not obtained appraisals to establish FMV rent for three of five nonaviation leases. Two leases, located on land donated under the Surplus Property Act, were the service facility leases with Avis Rent A Car System, Inc. and National Car Rental System, Inc. In addition, the sponsor did not establish FMV rent for property leased to Republic Parking for a long-term parking facility. We could not conclusively determine whether this parking lot was located on land donated under the Surplus Property Act.

Aviation Leases - We found the sponsor had not obtained appraisals to set the FMV rent for the four aviation leases reviewed in detail at both airports. These four leases were for the Delta Air Lines, Inc. cargo facility; the Garrett Corporation; Morris Communications Corporation; and Augusta Aviation, Inc., the fixed base operator (FBO) at Daniel Field.

Without land appraisals, the sponsor lacks assurance it recovered market-based rents, and we were unable to estimate reasonably the revenue underrecovery of these parcels.

Expired Leases

We found three of the nine leases selected for review had expired. In addition, although we did not select airport terminal leases for detailed review, we determined that six nonaviation airport terminal leases were also allowed to expire. These nine leases were for property located at Bush Field. Expiration dates ranged from November 1, 1985 to May 31, 1995. These nine expired leases are shown in the following table.

Lessee	Location of Lessee	Date Lease Expired
Avis Rent A Car System, Inc.	Nonterminal	6/30/90
National Car Rental System, Inc.	Nonterminal	6/30/90
Delta Air Lines, Inc. (Cargo)	Nonterminal	7/15/92
City Cab Company	Terminal	11/01/85
Avis Rent A Car System, Inc.	Terminal	6/30/90
Budget Rent A Car	Terminal	6/30/90
Hertz Rent A Car	Terminal	6/30/90
National Car Rental System, Inc.	Terminal	6/30/90
Jerry's Caterers	Terminal	5/31/95

We concluded sponsor management had a passive view on revenue production. According to sponsor management, leases were allowed to lapse and not renegotiated because the airport had excess revenue and no recent debt service. The former airport manager stated the subject tenants had continued to pay the same rent on a month-to-month basis. Allowing leases to expire and charging outdated rent amounts violates the revenue self-sufficiency grant assurance. Adopting passive revenue production policy results in lost revenue needed to fund unforeseen future capital and operating costs. We were unable to project the amount of lost revenue because the sponsor did not have data on what market-based rates should have been.

Market-Based Rent Protections

FAA Order 5190.6A, Chapter 4, Section 4-14(d)(1)(e) requires FAA to assure at air carrier airports:

> All leases with a term of 5 years or more should contain an escalation provision for periodic adjustments based on a recognized economic index.

FAA Order 5190.6A, Chapter 4, Section 4-14(d)(2)(f) requires FAA to assure at general aviation airports:

> All leases with a term exceeding 5 years shall provide for periodic review of the rates and charges for the purpose of any adjustments to reflect the then current values, based on an acceptable index.

We found seven of the nine leases reviewed did not have rent escalation clauses. These seven leases are listed in the following table.

Lessee	Lease Type	Location
G.K.R. Properties and Michael A. Graybill (Hardee's Restaurant)	Nonaviation	Daniel Field
Continental Airport Hotels, Inc.	Nonaviation	Bush Field
National Car Rental System, Inc.	Nonaviation	Bush Field
Republic Parking Systems	Nonaviation	Bush Field
Augusta Aviation, Inc.	Aviation	Daniel Field
Delta Air Lines, Inc. (Cargo)	Aviation	Bush Field
Morris Communications Corporation	Aviation	Bush Field

We were unable to estimate the revenue underrecovery of these parcels because the sponsor did not have any relevant market data to establish whether the rent established in the leases was based on FMV. Periodic rent escalation provisions for long-term leases provide the sponsor management controls to better assure market-based rents are recovered throughout the term of a lease.

Vacant Land and Buildings

The sponsor did not aggressively market its vacant real property resources. We determined there was undeveloped land at Daniel Field and five vacant buildings at Bush Field. Four of the five buildings at Bush Field had been vacant for approximately 3 years and one building had been vacant for 3 months. Airport management had not aggressively marketed these vacant buildings because the airport was making a profit and did not need the extra revenue. We were told these vacancies would be marketed when revenue would benefit construction of planned future terminal expansion. The four buildings that have been vacant for 3 years generated approximately $81,450 of revenue for the airport annually and the one building vacated more recently generated revenue totaling $3,600 annually.

Specific Examples of Sponsor's Property Management

National Car Rental System, Inc. (Service Facility Lease) - The Augusta Aviation Commission entered into a 10-year lease agreement with National

Car Rental System, Inc. commencing on January 1, 1973, and ending December 31, 1982, for 30,000 square feet of land at $.05 per square foot. We determined this land was donated under the Surplus Property Act. Because this was a nonaviation lease, FMV rent should have been determined, preferably with an appraisal. Neither an appraisal nor reliable market-based data were available to support the original lease amount or a subsequent increase. A rent escalation clause was not included. The lease rate was amended to $.07 per square foot, and the lease term was extended for an additional 7.5 years beginning on January 1, 1983, and ending on June 30, 1990. No rent escalation clause was added at that time. On June 30, 1990, the lease was allowed to expire.

National continued to occupy this facility and has paid the same rent amount established on January 1, 1983, for approximately 14 years with no increase. By comparison, the airport is receiving $.12 per square foot from Avis Rental Car System, Inc., which occupies nearby property used for similar purposes. The Avis increase occurred on July 1, 1988. Because the National Car Rental System, Inc. lease was long-term with no provisions for rent escalation and no current lease agreement exists, the airport has been unable to establish the same rent for National. Correspondence in the lease files disclosed the airport proposed a new lease agreement when the lease expired in 1990. The new proposed rental rate increased the rent per square foot from $.07 to $.35. National opposed this rate and the airport did not renegotiate a higher rate.

<u>Delta Airlines, Inc. (Cargo Facility Lease)</u> - The Augusta Aviation Commission entered into a 10-year lease agreement with Delta Airlines, Inc. commencing on July 16, 1982, and ending on July 15, 1992, for 4,046 square feet of cargo space at $6.48 per square foot. There was no appraisal to ensure that FMV rent was received. Although this lease exceeded a 5-year time period, it did not contain a rent escalation clause in accordance with FAA policy. In addition, this lease was allowed to expire on July 15, 1992. Delta continues to occupy this facility and has paid the same amount for approximately 15 years, with no increase.

Delta expressed interest in renewing the lease on the cargo building, which expired on July 15, 1992. On July 7, 1992, the airport manager proposed an increase in the rental rate from $6.48 per square foot to $11.60 per square foot based on the Consumer Price Index (CPI) because the rate had not been increased in 10 years. Delta presented a counter proposal of $9.00 per square foot. On November 17, 1992, the airport reduced its proposal to $10.56 per square foot and stated Delta could either agree to this amount and sign a

5-year lease agreement, go month-to-month at a premium rate of $13.25, or give notice within 30 days to vacate the premises. Delta did not respond to this letter and on March 22, 1993, the finance manager sent the airport manager a note alerting him that Delta had not responded to the November 17, 1992, letter. On July 21, 1993, the airport manager sent a letter to the new Delta property manager proposing a monthly rate consistent with the November 17, 1992, proposal. We did not find a response to this proposal in the lease file and at the time of our audit Delta continued to pay $6.48 per square foot.

<u>G.K.R. Properties and Michael A. Graybill (Hardee's Restaurant)</u> - On February 21, 1987, G.K.R. Properties and Michael A. Graybill entered into a lease agreement at Daniel Field for a 1.63 acre tract of land containing a Hardee's restaurant. The lessee assumed the lease terms of a prior agreement, dated December 19, 1986, with Franchise Enterprises, Inc. Although a lease agreement was entered into on December 19, 1986, it was not approved by the sponsor. According to the sponsor's attorney, because the subsequent agreement on February 21, 1987, assigning the lease to G.K.R. Properties and Michael A. Graybill was approved by the sponsor, the December 19, 1986, agreement was ratified.

The December 19, 1986, agreement initially contained the required rent escalation provisions. However, prior to assuming the lease, Franchise Enterprises, Inc. expressed concern about the CPI escalation clause in the lease. In response to the lessee's concerns, the sponsor removed the rent escalation provision from the lease agreement. The Daniel Field airport manager provided a note to the lease file, which stated that on August 25, 1986, an offer was made to Hardee's Restaurants, Inc. to delete Section 3.02 of Article III related to rental based upon CPI and proposed an alternative rental payment plan.

Current payments are being made pursuant to the provisions in the December 19, 1986, agreement. According to terms of the agreement, the airport was to receive $26,500 per year for the first 10 years of the lease. The lessee then had two renewal options at 5-year increments. At each 5-year time period, the rent was to increase by $3,000 per year. The lessee exercised its right to the first 5-year renewal extending the lease term from February 21, 1997, to February 20, 2002. Based on the terms of the lease, the first increase should have been paid in March 1997. However, an increased rental amount was not paid by the lessee until May 1997.

FBO Lease Amendment for T-Hangars - On February 6, 1995, the General Aviation Commission and Augusta Aviation, Inc., the FBO at Daniel Field, executed an amendment to the original FBO lease agreement. Based on the new terms of the agreement, the leased premises would include an additional 80,000 square feet of land. The annual rental amount was established at $1 a year for the life of the 20-year lease, which expires on December 1, 2014. There was no provision in the amendment for any adjustments to the rental rate over the 20-year term. The tenant paid the $20 in 1995 and has no further rental payments due until the lease expires on December 1, 2014. Although this is an aviation parcel that is not located on surplus property, charging only $1 a year violates FAA's revenue requirement of making airports adopt fee and rental structures to promote revenue self-sufficiency.

Inadequate FAA Monitoring

FAA did not perform direct monitoring of the sponsor's property management system. Rather, FAA relied on the annual audit performed according to the Single Audit Act of 1984, as amended, and sponsor grant assurances. The last single audit report covering the sponsor's fiscal year ended December 31, 1995, did not disclose any findings related to 49 U.S.C., Section 47107.

Recommendations

We recommend FAA:

1. Require the sponsor to:

    a. Develop and implement property management procedures consistent with FAA revenue retention requirements and the Surplus Property Act.

    b. Establish by appraisal the FMV of all Surplus Property Act donated land used for nonaviation purposes and adjust lease rental amounts accordingly at the earliest practicable time.

    c. Renegotiate all expired leases and establish FMV rent in accordance with FAA requirements.

    d. Include in all future long-term leases the proper escalation clauses or periodic renegotiation provisions in accordance with FAA Order 5190.6A, Section 4-14.

e. Establish a marketing plan for all vacant property and ensure that vacant real property resources are aggressively marketed.

2. Monitor the sponsor's property management system.

Management Response

In a December 12, 1997, response to our September 17, 1997, draft report, FAA concurred with Recommendations B1a, B1b, and B1d and partially concurred with Recommendations B1c, B1e, and B2. FAA agreed to require the sponsor to develop and implement property management procedures consistent with FAA revenue retention requirements and the Surplus Property Act, establish by appraisal the FMV of all Surplus Property Act donated land used for nonaviation purposes, and include in all future long-term leases the proper escalation clauses or periodic renegotiation provisions. FAA partially concurred with the recommendations to renegotiate all expired leases and establish FMV, to establish a marketing plan for the airports, and to monitor the sponsor's property management system.

Regarding Recommendation B1c, FAA agreed to require the sponsor to renegotiate all expired leases, but stated there is no requirement by statute or regulation which mandates the establishment of FMV for aeronautical leases. FAA's policy is to require sponsors to charge fair, reasonable, and not unjustly discriminatory rates and charges for aeronautical use. Additionally, FAA responded that what is fair and reasonable must be judged on the basis of the unique economic circumstances that exist at each specific airport.

Regarding Recommendation B1e, FAA agreed with recommending the sponsor establish a marketing plan for the airports from a business perspective. However, FAA stated there is no Federal obligation requiring the airport sponsor to comply with this recommendation.

Regarding Recommendation B2, FAA responded that monitoring sponsor property management or leases is not routinely performed by FAA. However, as an alternative action FAA will request the sponsor provide a copy of its annual audit to the Atlanta Airports District Office for review.

Office of Inspector General Comments

The corrective actions taken and planned by FAA satisfy the intent of all recommendations. Although FAA responded that it partially concurred with

Recommendations B1c, B1e, and B2, the corrective actions taken and planned will resolve these three recommendations.

For Recommendation B1c, although FAA indicated partial concurrence, the planned corrective action resolved the intent of the recommendation. FAA agreed to have the sponsor renegotiate all expired leases, but only agreed FMV rent should be obtained on eight of the nine expired leases. FAA did not agree to have the sponsor renegotiate one lease at FMV rent because the lease was for aeronautical property. FAA's policy on aeronautical leases is to permit lower than FMV rent to ensure airports can attract needed aviation services. FAA did agree, however, to require the sponsor to include the proper rent escalation clause in this lease.

The planned corrective action for Recommendation B1a satisfies the intent of Recommendation B1e. We considered Recommendation B1e to be resolved based on FAA's agreement to require the sponsor develop and implement property management procedures. We considered Recommendation B2 to be resolved based on FAA's planned action to monitor the sponsor's property management system through the sponsor's annual single audit. Congress in the Reauthorization Act of 1996 required sponsors to ensure the independent auditors performing the annual single audit provide an opinion on airport revenue activities. Consequently, we considered FAA's promise to monitor the sponsor's annual single audit to meet the intent of our recommendation.

We requested FAA provide us the target dates for completing planned corrective actions on the recommendations.

III. OTHER MATTERS

Revenue and related expenses for Bush Field are recorded in an enterprise fund, but the revenue and related expenses for Daniel Field are recorded in the sponsor's general fund. According to governmental generally accepted accounting principles, enterprise funds are used to account for operations: (1) that are financed and operated in a manner similar to private business enterprises where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or (2) where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes. To provide accountability for Daniel Field transactions and consistency between the sponsor's two airports, we suggest FAA encourage the sponsor to establish an enterprise fund for Daniel Field.

FAA was drafting its airport-related performance measures during our audit. As a result, we could not evaluate FAA's implementation of the Government Performance and Results Act of 1993. FAA had not established a target date for completion.

Exhibit A

SCHEDULE OF AIRPORT-REVENUE DIVERSION AMOUNT

Nonairport-Related Expenditures (Airport-Revenue Fund)			
1994 Loan to the General Fund	$2,000,000		
1995 Reimbursement for Land Adjacent to Daniel Field	175,000		
1991 to 1993 Indirect Administrative Overhead Charges	94,281		
1995 Reimbursement for Special Audit Services	4,592		
Total Amount Diverted (Airport-Revenue Fund)		$2,273,873	
Less: Outstanding Unreimbursed Charges		(405,213)	
Amount to Be Returned to the Airport-Revenue Fund			$1,868,660
Nonairport-Related Expenditures (Bond-Sinking Fund)			
August 1994 Transfer to the General Fund	$100,000		
September 1994 Transfer to the General Fund	250,000		
Total Amount Diverted (Bond-Sinking Fund)		$350,000	
Less: Sinking Fund Adjustment		(75,119)	
Amount to Be Returned to the Bond-Sinking Fund			274,881
Total Amount to Be Returned to Airport			$2,143,541

Exhibit B

SCHEDULE OF SPONSOR EXPENDITURES FOR LAND ACQUIRED FOR NONAIRPORT-RELATED PURPOSES

Date	Description	Amount	Totals
	Land Purchase		
9/23/94	First payment for land	* $750,000	
9/28/95	Second payment for land	* 175,000	
4/03/96	Third payment for land	287,500	
7/30/96	Fourth payment for land	287,500	
	Principal Cost of Land		$1,500,000
	Interest		
9/28/95	Interest on 9/28/95 payment	$ 2,201	
4/03/96	Interest on 4/03/96 payment	32,583	
7/30/96	Interest on 7/30/96 payment	8,168	
	Interest		42,952
	Legal Fees		
9/23/94	Recording Fee	* $ 250	
9/28/95	Origination Fee	1,750	
	Legal Fees		2,000
	Total Land Cost		$1,544,952

* Bush Field reimbursed the sponsor for these amounts totaling $925,250. A portion of the $2.0 million transfer of funds that occurred in September 1994 was used to offset sponsor charges for the first payment of $750,000 for land and $250 for a recording fee. The sponsor has charged Bush Field for the remaining amounts totaling $619,702, but Bush Field has not reimbursed the sponsor for those charges.

Exhibit C

MAJOR CONTRIBUTORS TO THIS REPORT

These individuals participated in the Audit of Diversion of Airport Revenue, Augusta-Richmond County Commission, Augusta, Georgia.

Dale R. Mills	Regional Manager
Alan D. Robson	Project Manager
Robin P. Koch	Auditor-in-Charge
Tom A. Pope	Auditor
Tina B. Nysted	Auditor
Joyce E. Anderson	Administrative Support

U.S. Department of Transportation
Federal Aviation Administration

Memorandum

Subject: **INFORMATION**: Draft Report on Diversion of Airport Revenue, Augusta-Richmond County Commission

Date: DEC 1 2 1997

From: Associate Administrator for Administration

Reply to Attn. of: AWilliams: 267-9000

To: Assistant Inspector General for Auditing

As requested in your September 17 memorandum, we have reviewed the subject Office of Inspector General (OIG) report. The Atlanta Airports District Office has discussed these issues with the Mayor of Augusta-Richmond County Commission. The results of these discussion are summarized on the attachment. With the exception of requiring the County Commission to establish a marketing plan for all vacant property and the recognized difference between the Federal Aviation Administration and OIG regarding charging fair market value for aeronautical leases, we concur with the audit findings and recommendations. We will continue working with the sponsor to resolve outstanding issues.

We appreciate the opportunity to comment on your draft report and request that you incorporate our comments in any final report on that you may issue.

Edwin A. Verburg

Attachment

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DRAFT REPORT ON
DIVERSION OF AIRPORT REVENUE
AUGUSTA-RICHMOND COUNTY COMMISSION
PROJECT NO. 6440054000
December 11, 1997

OIG recommendations:

I. Findings A:

1. Initiate procedural steps necessary to reach a final determination regarding the noncompliance with grant assurances, and withhold current grants payments and approval of future grants, if the sponsor does not:

   a. Reimburse Bush Field revenue funds for $1,868,660 for expenditures made from the airport-revenue fund. The FAA concurs.

      The sponsor has agreed to repay the sum of $1, 868,660 over a five-year period. The interest rate has not been resolved at this point.

   b. Reimburse the Bush Field bond-sinking funds $274,881 for transfers made from the bond-sinking funds. The FAA concurs.

      The sponsor reimbursed the Bush Field bond-sinking fund the amount of $274,881. The amount was confirmed by letter dated November 21, 1997.

   c. Remove outstanding charges in the amount of $619,702 charged to the Bush Field revenue fund for principal, interest, and legal fee payments for the land acquired adjacent to Daniel Field. The FAA concurs.

      The sponsor agreed to remove outstanding charges in the amount of $619,702. Amount was confirmed by letter dated November 13, 1997.

2. Instruct the sponsor to provide an invoice to Bush Field for all remaining outstanding unreimbursed charges that can be supported with documentation and to schedule regular reconciliation meetings between the sponsor's and Bush Field's finance divisions to prevent future financial disputes. The FAA concurs.

   The FAA is working with the sponsor to resolve this issue. The sponsor prepared an invoice for all remaining outstanding charges for 1995 and 1996 in the amount of $416,553.25. The recommended regular meetings to prevent future disputes have not been scheduled.

3. Continue to monitor transactions between the sponsor and Bush Field by closely reviewing the airport financial reports required to be submitted annually. The FAA concurs.

4. Require the sponsor to develop an indirect cost allocation plan consistent with FAA policy and assure that costs for duplicative functions are excluded. The FAA concurs.

   The sponsor hired a consultant to prepare the cost allocation plan and indicated the plan will be completed by December 15, 1997.

II. Findings B:

1. Require the sponsor to:

   a. Develop and implement property management procedures consistent with FAA revenue retention requirements and the Surplus Property Act. The FAA concurs.

      The FAA is working with the sponsor to resolve this issue. The Augusta-Richmond County Commission claims it has taken the following steps to improve its management of airport property. The County Commission is requiring that all leases exceeding one year in duration be approved by the County Commission. They also claim new financial software has been approved and is scheduled for implementation in the second quarter of 1998. Lastly, the Commission claims it is taking a greater oversight responsibility for leases as compared to the previous City Council of Augusta.

   b. Establish by appraisal the FMV of all Surplus Property Act donated land used for non-aviation purposes and adjust lease rental amounts accordingly at the earliest practicable time. The FAA concurs.

      This issue has not been resolved.

   c. Re-negotiation of expired leases and establish FMV rent in accordance with FAA requirements. FAA concurs with re-negotiating all expired leases but non-concurs with establishing FMV rent for aeronautical properties.

      We agree that all expired leases should be re-negotiated with the objective of making the airport as self-sustaining as possible. However, there is no requirement by statute or regulation which mandates that aeronautical leases be at fair-market value. The FAA's policy is to require sponsors to charge fair, reasonable, and not unjustly discriminatory rates and charges for aeronautical use. Such leases are usually the result of negotiation between the appropriate parties and are based on a multitude of business decisions, such as location, demand, maintenance, etc. A fair and reasonable charge would not in many cases equate with fair-market value since the concept of reasonableness includes some consideration of the sponsor's costs as well as other factors. Further, what is fair and reasonable must be judged on the basis of the unique economic circumstances that exist at each specific airport. The airport is, however, required to maintain and operate the airport in such a manner as to ensure that services required by airport users are available. And, in many instances, in order to ensure that commercial operators are willing to conduct such operations on the airport, facilities must be leased based on negotiated agreements, which often represent an amount that may not be considered FMV.

The recent policy on airport rates and charges issued jointly by the Department and FAA sets forth criteria to be used in negotiating fees between airports and aeronautical users that are fair and reasonable. A major guiding principle is that historic value of property is widely used and accepted as a pricing methodology and must be used for airfield facilities and land. If some other valuation method is used for other facilities, in both instances, the total aeronautical revenue cannot exceed the total aeronautical cost to the airport. This principle may prevent the application of FMV. Additionally, it has been concluded that the self-sustaining assurance must be read together with the requirement to charge aeronautical user only reasonable fees. Hence the self-sustaining assurance does not compel charges to aeronautical users based on FMV. In addition, charging commercially feasible rates below what might be required to break even does not in itself violate this provision. The accumulation of surpluses has specific limitations and could well be in conflict with the concept of maximizing revenues.

This issue has not been resolved

d. Include in all future long-term leases the proper escalation clauses or periodic re-negotiation provisions in accordance with FAA Order 5190.6A, Section 4-14. The FAA concurs.

   This issue has not been resolved.

e. Establish a marketing plan for all property and ensure that vacant real property resources are aggressively marketed.

   From a business perspective, the FAA concurs with recommending the sponsor establish a marketing plan. However, there is no federal obligation requiring the airport sponsor to comply with this recommendation.

2. Monitor the sponsor's property management system. The FAA partially concurs.

The FAA does not routinely monitor sponsor property management or leases. The ATL-ADO will request the sponsor provide a copy of its annual audit to the ADO. The FAA also notes the previous mentioned taken by the County Commission to improve its property management system.