

**THE USE OF AIRPORT REVENUES BY
THE GREATER
ORLANDO AVIATION AUTHORITY**

Federal Aviation Administration

Report Number AV-2006-056

Date Issued: August 3, 2006



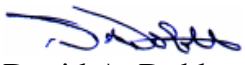
Memorandum

**U.S. Department of
Transportation**

Office of the Secretary
of Transportation
Office of Inspector General

Subject: **ACTION:** Report on the Use of Airport
Revenues by the Greater Orlando Aviation
Authority
Federal Aviation Administration
AV-2006-056

Date: August 3, 2006

From: 
David A. Dobbs
Assistant Inspector General
for Aviation and Special Program Audits

Reply to
Attn. of: JA-10

To: FAA Administrator

This report presents the results of our review of airport revenues at the Greater Orlando Aviation Authority, which operates two airports in Orlando, Florida: the Orlando International Airport (the Airport) and the Orlando Executive Airport. The objective of this review was to determine whether the City of Orlando (City), the airport sponsor,¹ was complying with revenue use requirements. Exhibit A contains details on the scope and methodology we used in conducting this audit.

In September 1976, the Aviation Authority and the City entered into an Operation and Use Agreement that gave the Aviation Authority the exclusive right to operate and control Orlando International and Orlando Executive Airports. The 50-year agreement began on October 1, 1976, and ends September 30, 2026. At the end of the 50-year period, control of the airports reverts back to the City.

The Aviation Authority is an agency of the City and is governed by a seven-member board consisting of the Mayor; the Chairman of the Board of County Commissioners, Orange County, Florida; and five other members who are appointed by the Governor of Florida, subject to confirmation by the State Senate.

The Airport and Airway Improvement Act of 1982, as amended and codified in Title 49 United States Code Section 47101(b), requires all airport owners and operators receiving Federal assistance to use revenues generated by the airport for the capital or operating costs of the airport, the local airport system, or other

¹ An airport sponsor is generally a public agency that owns the airport.

facilities owned or operated by the airport sponsor that directly relate to the air transportation of passengers or property. Any other use of airport revenue is considered a revenue diversion. However, there is a “grandfather” provision that permits use of airport revenue for non-airport purposes if assurances, agreements, or governing laws existing before September 3, 1982, allowed such use. We did not identify any grandfathered transactions at the Aviation Authority.

The Federal Aviation Administration (FAA) is responsible for monitoring airport sponsors’ compliance with airport revenue use requirements. In February 1999, FAA issued its “Policy and Procedures Concerning the Use of Airport Revenue,”² which describes the prohibited and permitted uses of airport revenue and outlines FAA’s enforcement policies and procedures. Under FAA’s Airport Revenue Policy, the use of airport revenue may include reimbursements to a state or local agency for the actual costs of services received and documented.

The law also requires airport operators to charge fees for use of the airport “...that will make the airport as self-sustaining as possible under the circumstances existing at the airport...” FAA has generally interpreted this provision of the law to require airport sponsors to charge fair market value rents for non-aeronautical uses of property. For aeronautical uses,³ FAA requires airport operators to recover the airport’s cost of providing aeronautical services and facilities to users.

RESULTS IN BRIEF

The City has diverted \$1.7 million in Airport revenues by overcharging the Aviation Authority for police pension fund contributions and a radio communications system upgrade. In addition, we determined that the Aviation Authority could be losing as much as \$144,000 per year in rental income from a lease for a plant inspection station. Also, we identified approximately \$493,000, over a 5-year period, in net parking fine proceeds that have been retained by the City instead of being used to offset the Aviation Authority’s costs of issuing the tickets.

- Police Pension Fund. From fiscal year (FY) 2000 through FY 2005, the Aviation Authority overpaid \$1.4 million into the pension fund because the City improperly calculated the Aviation Authority’s share of the pension fund costs.

Under Florida State law, contributions to the pension fund are made by the police officers, the City, and the State. The Aviation Authority also

² In this report, we will refer to this policy as FAA’s Airport Revenue Policy.

³ Aeronautical use includes any activity that involves, makes possible, is required for the safety of, or is otherwise directly related to the operation of aircraft.

contributes to the pension fund as part of its payment to the City for police services at the Airport. The State contributes over \$2.1 million annually to the City's pension fund, which allows the City to reduce its payments into the pension fund.

The City calculates the Aviation Authority's payment into the pension fund as a percentage of the amount the City owes the fund before the State's payment is subtracted. However, the Aviation Authority should only pay its share of the City's actual cost of the pension fund—the total amount required to be paid into the pension fund after the State's contribution has been subtracted. Table 1 shows the method used by the City to calculate what the Aviation Authority owed the pension fund in FY 2005 and the method the City should have used, resulting in an overcharge to the Aviation Authority of \$216,285.

Table 1. How the Aviation Authority's Contribution to the Pension Fund Was Calculated for FY 2005 and How It Should Have Been Calculated

| How City Calculated the Aviation Authority's Payment | How City Should Have Calculated the Aviation Authority's Payment |
|---|---|
| Total amount the City owes the pension fund without subtracting the State's contribution \$12,761,867 | Total amount the City owes the pension fund less the State's contribution of \$2,155,329 \$10,606,538 |
| Multiplied by the Aviation Authority's percentage of the City's police payroll 10.1% | Multiplied by the Aviation Authority's percentage of the City's police payroll 10.1% |
| Amount the City charged the Aviation Authority in pension fund costs \$1,287,916 | Amount the City should have charged the Aviation Authority in pension fund costs \$1,071,631 |

Note: Percentages and dollar figures have been rounded.

| | |
|--|--------------------|
| Amount the City charged the Aviation Authority | \$1,287,916 |
| Amount the City should have charged the Aviation Authority | <u>\$1,071,631</u> |
| Overcharge to the Aviation Authority | \$ 216,285 |

The City should calculate the Aviation Authority's payment as a percentage of the amount the City actually pays to the pension fund after the State's contribution has been subtracted. Any amount the Aviation Authority paid in excess of its share of the City's actual costs to the pension fund is a revenue diversion. From FY 2000 through FY 2005, the City diverted airport revenue by overcharging the Aviation Authority \$1.4 million for payments into the pension fund.

- Radio Communications System. For the period of June 2003 through January 2005, the Aviation Authority was overcharged \$325,822 for its share of the

upgrade costs of a radio communications system that provides for communication among emergency responders, airport operations personnel, and law enforcement personnel.

In 1993, the City and the Aviation Authority agreed to share the cost to build and install a radio system, with the Aviation Authority agreeing to pay 24 percent of the cost. Each party's share of maintenance costs is based on annual actual airtime usage. The radio system was completed in 1996.

In 2005, an upgrade to the radio system was completed, and the Aviation Authority paid 24 percent of the upgrade cost. According to the City's radio manager, the 1993 agreement was used as the basis for charging the Aviation Authority 24 percent of the costs of the upgrade, but the Aviation Authority should only pay its actual share of the radio system upgrade. That share should be based on the Aviation Authority's annual actual airtime usage of the radio system.

The Aviation Authority paid \$943,706 for the upgrade. If the annual actual airtime usage was used to calculate costs of the upgrade, the Aviation Authority's cost of the upgrade would have been \$617,884, or \$325,822 less than it actually paid.

- Nominal Lease for a Plant Inspection Station. The Aviation Authority may be losing up to \$144,000 per year in rental income and may not be as self-sustaining as possible due to a lease with the United States Department of Agriculture (USDA). The Aviation Authority has an aeronautical lease with USDA for \$1 per year for a nearly 17,000-square-foot plant inspection station located at the Airport and owned by the Aviation Authority. The USDA has occupied the building since 1992.

Under FAA's Airport Revenue Policy, airports are allowed to lease property for aeronautical uses at less than fair market value if the airport is recovering its costs for the property. The \$1 per year rent the Aviation Authority charges to USDA is far below fair market value, given that annual rental rates as high as \$8.50 per square foot are being charged to nearby tenants for aeronautical uses.

The Aviation Authority paid an estimated \$1.9 million to build the USDA facility and pays about \$36,000 each year for the maintenance of the building's exterior and grounds, the incinerator, the fumigation chamber, janitorial services, and pest control.

According to the Aviation Authority, it researched the viability and need for a USDA plant inspection station and concluded such a facility would have

economic and employment benefits for the Central Florida community and would significantly enhance the Airport's ability to attract and process international air commerce. An Aviation Authority official in the Commercial Properties office said the Authority has had very little success in bringing in additional commerce to the Airport.

The Aviation Authority could not quantify the economic benefits to the Airport of the plant inspection station, so the Aviation Authority could not determine if it was recovering its cost. The Aviation Authority is subsidizing the USDA facility by passing the cost on to the airlines through the rates and charges the airlines pay, such as landing fees.

The Aviation Authority needs to verify that the plant inspection station is generating revenues for the Airport in excess of the cost to the Airport. If not, the Aviation Authority should renegotiate the lease with USDA or find a tenant willing to pay the aeronautical-use rate, the fair market value rate, or a rate at which the Aviation Authority can recover its cost.

- Traffic Enforcement Operations. From FY 2001 to FY 2005, the City retained approximately \$493,000 in net proceeds from parking tickets issued at the Airport instead of allowing the Aviation Authority to use the funds to offset its costs. Airport traffic enforcement employees at the Airport, whose salaries are paid by the Aviation Authority, issue parking fines to drivers found violating parking restrictions in and around the terminal area. In FY 2006, traffic enforcement operations at the Airport will cost the Aviation Authority an estimated \$1.6 million.

Under an agreement with the Aviation Authority, the City pays for the costs of processing the parking fines and keeps the net proceeds to help fund its parking division. Under a City ordinance, the City imposes a \$7 surcharge on all parking fines. The ordinance does not prohibit the use of net proceeds (gross parking fines less surcharge and processing costs) to offset the cost of the Aviation Authority's traffic enforcement operations. Therefore, the Aviation Authority should be able to use the net proceeds, ranging from approximately \$40,000 to \$175,000 per year, to offset its costs.

The budget constraints now facing FAA and the financial strains on the Nation's airlines and airports underscore the need for vigilant oversight of revenue use. We are recommending that FAA ensure the City reimburses the Aviation Authority for the \$1.7 million in revenue diversions identified in this report and take steps to prevent recurrences. FAA also needs to ensure the City provides the Aviation Authority with the approximately \$493,000 in past net revenue obtained from parking tickets plus future net revenue to offset the cost of traffic enforcement operations. Finally, FAA should require the Aviation Authority to at least recover

its costs of the plant inspection station. If the Aviation Authority is not recovering its costs, it should either renegotiate the lease with USDA or find another tenant willing to pay a rate at which the Aviation Authority can recover its costs.

Summary of Management Comments and Office of Inspector General Response

On June 14, 2006, we sent FAA a draft of our report. On June 28, 2006, FAA provided us with its formal response, which is contained in its entirety in the Appendix. FAA concurred with four of the five recommendations. For the fifth recommendation, FAA's comments were not fully responsive because it neither concurred nor nonconcurred with the recommendation. In addition, FAA did not include target dates for completing its planned corrective actions. On July 14, 2006, FAA Headquarters officials from the Office of the Associate Administrator for Airports stated they plan to complete all planned corrective actions by October 1, 2006. FAA officials also provided us with an alternative course of action in response to the fifth recommendation.

FAA's planned corrective actions are responsive to three of the five recommendations. However, the remaining two recommendations cannot be considered resolved at this time, pending FAA's determination on whether the City should reimburse the Aviation Authority for overpayments to the City's radio communication system and how the Aviation Authority is paying for the capital and maintenance costs of the plant inspection station.

FINDINGS AND RECOMMENDATIONS

The revenue diversions we have identified in this report are examples of the prohibited use of airport revenue under Federal law and FAA's Airport Revenue Policy and are tied directly to agreements between the Aviation Authority and the City. We have identified \$1.7 million in revenue diversions as a result of the City's overcharging the Aviation Authority for police pension fund contributions and a radio communications system. In addition, we determined that the Aviation Authority could be losing as much as \$144,000 per year in rental income from a lease with USDA. Also, we identified approximately \$493,000, over a 5-year period, in net parking fine proceeds from parking fines issued at the Airport that have been retained by the City instead of being returned to the Aviation Authority to offset the costs of issuing the tickets.

Payments to the Police Pension Fund

From FY 2000 through FY 2005, the Aviation Authority overpaid \$1.4 million into the pension fund because the City improperly calculated the Aviation Authority's share of the pension fund costs.

The City administers the pension fund and calculates each year's total obligation. Contributions to the City's pension fund are made by the police officers, the City, and the State. The State provides funding to the City, reducing the amount the City must pay into the pension fund. The State's contribution comes from taxes on casualty insurance policies written in cities that assess such a tax. Over the last 6 fiscal years, FY 2000 through FY 2005 (the most recent data available), the State has contributed over \$2.1 million to the City's police pension fund each year. The Aviation Authority also contributes to the pension fund as part of its payment to the City for the cost of police services at the Airport.

Table 2 illustrates the method used by the City to calculate what the Aviation Authority owed the pension fund in FY 2005 and the method the City *should have* used, resulting in an overpayment of \$216,285 by the Aviation Authority. The City calculates the Aviation Authority's payment in the pension fund as a percentage of the amount the City owes into the fund before the State's payment is subtracted. The City should calculate the Aviation Authority's payment as a percentage of the amount the City actually pays to the pension fund after the State's contribution has been subtracted. We found the Aviation Authority made overpayments of \$1.4 million from FY 2000 through FY 2005.

Table 2. Improper and Proper Methods for Calculating the Aviation Authority's Payments Into the Police Pension Fund

| Method Used (FY 2005) | Proper Method (FY 2005) |
|---|---|
| Total amount owed the pension fund \$12,761,867 | Total amount owed the pension fund \$ 12,761,867 |
| | Less State's contribution <u>\$ 2,155,329</u> |
| | Total amount the City owes the pension fund \$ 10,606,538 |
| Multiplied by the Aviation Authority's percentage of the City's police payroll 10.1% | Multiplied by the Aviation Authority's percentage of the City's police payroll 10.1% |
| Amount the City charged the Aviation Authority in pension fund costs \$ 1,287,916 | Amount the City should have charged the Aviation Authority in pension fund costs \$ 1,071,631 |

Note: Percentages and dollar figures have been rounded

| | |
|--|--------------------|
| Amount the City charged the Aviation Authority | \$1,287,916 |
| Amount the City should have charged the Aviation Authority | <u>\$1,071,631</u> |
| Overcharge to the Aviation Authority | \$ 216,285 |

Federal law requires airport revenue to be used only to pay for capital and operating costs of the airport. These payments may include reimbursements to a state or local agency only for the *actual* costs of services *received and documented*. Therefore, the Aviation Authority should only pay its portion of the

City's actual cost of the pension fund—the total amount required to be paid into the pension fund after the State's contribution has been subtracted. Any amount the Aviation Authority paid in excess of its share of the City's actual costs to the pension fund is a revenue diversion.

As shown in Table 3, from FY 2000 through FY 2005, the City overcharged the Aviation Authority for its payments into the pension fund. This has resulted in revenue diversions of \$1,414,043.

**Table 3. Revenue Diversions to the Pension Fund
(FY 2000 – FY 2005)**

| Fiscal Year | Aviation Authority's Actual Payment | Amount Aviation Authority Should Have Paid | Amount of Revenue Diverted |
|-------------------------------|--|---|-----------------------------------|
| 2000 | \$ 810,179 | \$ 563,965 | \$246,214 |
| 2001 | \$ 658,766 | \$ 402,009 | \$256,757 |
| 2002 | \$ 755,056 | \$ 505,195 | \$249,861 |
| 2003 | \$ 888,845 | \$ 667,456 | \$221,389 |
| 2004 | \$1,080,700 | \$ 857,163 | \$223,537 |
| 2005 | \$1,287,916 | \$1,071,631 | \$216,285 |
| Total Revenue Diverted | | | \$1,414,043 |

Note: Dollar figures have been rounded.

The Aviation Authority identified the City's practice of improperly calculating the Aviation Authority's share of the pension fund costs years ago. In 2003, the Aviation Authority's internal auditor conducted a review of the City's charges to the Aviation Authority, including the charges for the police pension fund. The internal auditor concluded the City had not credited the Aviation Authority the amount of the State's payment for the pension fund, which resulted in lost revenues for the Aviation Authority.

We contacted Tampa International Airport to determine the manner in which the City of Tampa, Florida, calculates the airport's annual payment into the City of Tampa's firefighter pension fund. Officials at Tampa International Airport told us that its share of the firefighters' pension fund cost is calculated after the State's contribution is subtracted.

During our review, City officials told us that there is no official City position as to whether the City should reduce the Aviation Authority's share of the police pension fund cost by the State's contribution. City officials also stated that the City has an agreement with the Aviation Authority in which the City will not reduce the amount overcharged to the Aviation Authority and, in return, the City will not charge certain overhead costs to the Aviation Authority, such as officer

hiring and training costs. City officials acknowledged that this agreement is not a written agreement, and they did not provide us with any support that an agreement exists.

Aviation Authority officials we spoke with stated that the mutual agreement does not exist. Aviation Authority officials stated that if the City has additional justifiable and documented overhead costs that should be charged to the Aviation Authority, then the Aviation Authority should pay the costs. In turn, the Aviation Authority's share of the pension fund cost should be calculated after the State's contribution is subtracted.

Payment for Usage of the Radio Communications System

For the period June 2003 through January 2005, the Aviation Authority was overcharged \$325,822 for its share of the upgrade costs of the City's radio communications system. In 1993, the Aviation Authority and the City entered into an agreement to install and share a radio system to provide communications among emergency responders, airport operations personnel, and law enforcement. The agreement required the Aviation Authority to pay for 24 percent of the installation costs. Maintenance costs were to be billed based on the actual airtime usage of the radio system. The radio system was completed in 1996.

Between 2001 and 2005, the radio system was upgraded in multiple phases. The City billed the Aviation Authority \$943,700 for the upgrade, or 24 percent of the total cost. According to the City's radio manager, the original 1993 agreement was used as the basis for charging the Aviation Authority 24 percent of the system upgrade costs. Yet, under Federal law, airport revenue used for reimbursements to a state or local agency can only be used for the *actual* costs of services *received and documented*. Thus, the Aviation Authority should only pay its share of the radio system upgrade costs, which should be based on the Aviation Authority's actual airtime usage of the system. During the upgrade, the Aviation Authority's annual actual airtime usage ranged from 14.4 to 18.1 percent versus the 24 percent the City charged the Aviation Authority.

As shown in Table 4, if the annual actual airtime usage was used to calculate costs of the upgrade, the Aviation Authority's cost of the upgrade would have been \$617,884, instead of the \$943,706 the City charged the Aviation Authority. Therefore, the City overcharged the Aviation Authority \$325,822.

Table 4. Revenue Diversion To Upgrade the City's Radio Communication System

| Fiscal Year | Total Cost | Amount Paid by Authority | Authority's Usage | Authority's Share Based on Usage (2 x 4) | Amount City Overcharged Aviation Authority (3 - 5) |
|--------------------|--------------------|---------------------------------|--------------------------|---|---|
| (1) | (2) | (3) | (4) | (5) | (3 - 5) |
| 2003 | \$1,172,200 | \$ 281,333 | 18.10% | \$ 212,168 | \$ 69,165 |
| 2004 | \$2,494,650 | \$ 598,716 | 14.44% | \$ 360,227 | \$ 238,489 |
| 2005 | \$ 265,240 | \$ 63,658 | 17.15% | \$ 45,489 | \$ 18,169 |
| Totals | \$3,932,090 | \$ 943,706 | | \$ 617,884 | \$ 325,822 |

Note: Dollar figures have been rounded.

Authority May Not Be Recovering Costs on Lease of Airport Property

Out of the 17 Aviation Authority property leases we reviewed, one was below fair market value. The Aviation Authority has a \$1 per year aeronautical lease with USDA for a nearly 17,000-square-foot building located at the Airport and owned by the Aviation Authority. The USDA has occupied the building since 1992. The \$1 per year rent the Aviation Authority charges to USDA is far below fair market value, given that rental rates of up to \$8.50 per square foot per year are being charged to nearby tenants for aeronautical uses. Thus, the Aviation Authority could be obtaining rent of up to \$144,000 per year for the USDA facility.

Under FAA's Airport Revenue Policy, airports are allowed to lease property for aeronautical uses at less than fair market value if the airport is recovering its costs for the property. The Aviation Authority paid an estimated \$1.9 million to build the USDA facility and pays \$36,000 annually for the maintenance of the building's exterior and grounds, the incinerator, the fumigation chamber, janitorial services, and pest control.

According to the Aviation Authority, it researched the viability and need for a USDA plant inspection station and concluded such a facility would have economic and employment benefits for the Central Florida community and would significantly enhance the Airport's ability to attract and process international air commerce. An Aviation Authority official in the Commercial Properties office said the Authority has had very little success in bringing in additional commerce to the Airport.

The Aviation Authority could not quantify the economic benefits of the plant inspection station, so the Aviation Authority could not determine if it was recovering its cost. Any costs not recovered by the Aviation Authority are paid by the airlines. Therefore, the Aviation Authority is subsidizing the USDA facility

and passing the cost on to the airlines through the rates and charges they pay, such as landing fees.

Under its lease agreement with USDA, either party may cancel the lease by giving a 180-day written notice. The Aviation Authority needs to verify that the plant inspection station is generating revenues for the Airport in excess of the cost to the Airport. The plant inspection station should be generating enough additional international commerce to justify the cost of the facility. If the Aviation Authority is not recovering its cost, it should renegotiate the lease with USDA or find a tenant willing to pay the aeronautical-use rate, the fair market value rate, or a rate at which the Aviation Authority can recover its cost.

Cost Recovery From Airport Traffic Enforcement Operations

From FY 2001 to FY 2005, the City retained approximately \$493,000 in net proceeds from parking tickets issued at the Airport instead of allowing the Aviation Authority to use the funds to offset its costs. Airport traffic enforcement employees at the Airport, whose salaries are paid by the Aviation Authority, issue fines to drivers violating terminal area parking restrictions. Traffic enforcement operations at the Airport will cost an estimated \$1.6 million in FY 2006.

Under an agreement with the Aviation Authority, the costs of processing the parking fines are incurred by the City, and the net proceeds (fines less processing costs and surcharges) are retained by the City instead of being returned to the Aviation Authority to offset the costs of issuing the tickets. During FY 2001 through FY 2005, approximately \$493,000 in net parking fine proceeds were collected and retained by the City from parking fines issued at the Airport.

In the past, FAA has taken the position that parking fines *are not* airport revenues. FAA defers to state or local law on the use of proceeds from parking fines. The City has an ordinance governing the use of proceeds from parking fines (to include parking fines issued at the Airport) in which the City imposes a \$7 surcharge on all parking fines, with the proceeds from the surcharge going toward a school crossing guard program. According to the City parking manager, the remaining proceeds are retained by the City to help fund its parking division. The City ordinance does not require the net proceeds to be kept by the City, nor does it prohibit the use of such proceeds to offset the cost of the Aviation Authority's traffic enforcement operations. FAA should require the City return net parking ticket revenue from parking fines issued at the Airport to the Aviation Authority to offset its costs.

RECOMMENDATIONS

We recommend that the Federal Aviation Administrator require the City of Orlando to:

1. Revise its method for calculating the Aviation Authority's police pension fund contribution to be a percentage of the City's actual contribution to the pension fund—the total amount required to be paid into the pension fund after the State's contribution has been subtracted.
2. Reimburse the Aviation Authority \$1.4 million for overcharges to the City's police pension fund and \$325,822 for overpayments to the City's radio communication system operations, plus interest as required by the Airport Revenue Protection Act of 1996.
3. Provide the Aviation Authority with approximately \$493,000 in past net revenue from parking tickets at Orlando International Airport to offset the Aviation Authority's costs of traffic enforcement operations.
4. Revise its agreement with the Aviation Authority to make sure that future net revenue obtained from parking tickets at Orlando International Airport is returned to the Aviation Authority to offset the costs of traffic enforcement operations.

Furthermore, we recommend the Federal Aviation Administrator require the Aviation Authority to:

5. Verify it is recovering its cost of the plant inspection station operated by USDA at Orlando International Airport. If the Aviation Authority is not recovering its cost, then it should renegotiate the lease with USDA or find a tenant willing to pay the aeronautical-use rate, the fair market value rate, or a rate at which it can recover its cost.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

On June 14, 2006, we sent FAA a draft of our report. On June 28, 2006, FAA formally responded, and its response is contained in its entirety in the Appendix. FAA agreed with Recommendations 1 through 4, and the actions planned are responsive to Recommendations 1, 3, and 4. However, Recommendation 2 cannot be considered resolved at this time, pending FAA's determination on whether the City should reimburse the Aviation Authority for overpayments to the City's radio communication system.

For Recommendation 5, FAA's comments were not fully responsive because it neither agreed nor disagreed with the recommendation. Instead, FAA stated it reserves its judgment on this recommendation pending a determination of how the costs for the USDA facility are being recovered.

Also, FAA did not include target dates for completing its planned corrective actions for all the recommendations. On July 14, 2006, FAA Headquarter officials from the Office of the Associate Administrator for Airports stated they plan to complete all planned corrective actions by October 1, 2006. FAA officials also provided us with an alternative course of action in response to Recommendation 5.

A summary of FAA's comments and our response follows.

Recommendation 1. FAA will ask the City for a corrective action plan that will ensure the City will correctly charge the Aviation Authority's police pension costs in the future (including 2006).

Recommendation 2. FAA will ask the City for a corrective action plan that will repay the Aviation Authority \$1.4 million in overcharges to the police pension fund plus interest and \$325,822 in overpayments for upgrading the City's radio communications system, "...provided the OIG's [Office of Inspector General] premise is supported that the upgrade of the radio system is a maintenance cost and not a capital cost."

We disagree with FAA's response regarding overpayments for upgrading the City's radio communications system. The type of cost—maintenance or capital—has no bearing on whether the City should reimburse the Aviation Authority for overpayments. The City's charges to the Aviation Authority for upgrading the radio communication system should be based on *actual* costs of services *received and documented*, which are best reflected in the Aviation Authority's actual airtime usage of the system.

Recommendations 3 and 4. FAA will ask the City to comment on its reason for not returning a residual share of the parking fines to the Aviation Authority. If FAA determines the City diverted airport revenue, FAA will require it to submit a corrective action plan that will repay the Aviation Authority the \$493,000 plus interest and ensure the City will return that share of the Aviation Authority parking fines not claimed by the ordinance to the Aviation Authority for all future years, including 2006.

Recommendation 5. FAA stated it reserves judgment on this recommendation pending a determination of how the costs for the USDA facility are being recovered and stated it will ask the Aviation Authority to submit documentation on its cost recovery methodology.

On July 14th, FAA Headquarters officials from the Office of the Associate Administrator for Airports agreed to require the Aviation Authority to verify it is recovering its cost of the plant inspection station operated by USDA at the Airport. FAA will take action against the Aviation Authority if it finds that the airlines were unknowingly paying for the capital and maintenance costs of the plant inspection station through their airport rates and charges.

However, if FAA finds that the airlines are willingly paying for the capital and maintenance costs of the plant inspection station or that the Aviation Authority is using Airport concession revenues to cover those costs, then FAA will not require the Aviation Authority to renegotiate the lease with USDA or find a tenant willing to pay the aeronautical-use or the fair market value rate.

We agree with FAA's proposed course of action regarding taking action against the Aviation Authority if it finds that the airlines were unknowingly paying for the capital and maintenance costs of the plant inspection station through their airport rates and charges. However, we disagree with FAA's position that it will not require the Aviation Authority to renegotiate the lease with USDA or find a tenant willing to pay the aeronautical-use or fair market value rate if the airlines are willingly paying for the plant inspection station costs or that the Aviation Authority is using Airport concession revenues to cover those costs.

The Aviation Authority should not be subsidizing the USDA facility by passing the capital and maintenance costs of the plant inspection station on to the airlines through the rates and charges. Nor should the Aviation Authority be using Airport concession revenues to cover the capital and maintenance costs of the facility. The plant inspection station should be generating enough additional commerce to justify the capital and maintenance costs of the facility. Otherwise, the Aviation Authority should find a tenant willing to pay the aeronautical-use rate, the fair market value rate, or a rate at which it can recover its cost, especially since there are other aeronautical users whose Airport leases are at or near fair market value.

ACTIONS REQUIRED

FAA's planned corrective actions are responsive to Recommendations 1, 3, 4, and the part of Recommendation 2 regarding FAA asking the City for a corrective action plan that will repay the Aviation Authority \$1.4 million in overcharges to the police pension fund plus interest.

However, Recommendations 2 and 5 cannot be considered resolved at this time, pending FAA's determination on whether the City should reimburse the Aviation Authority for overpayments to the City's radio communication system and how the Aviation Authority is paying for the capital and maintenance costs of the plant inspection station. We request that FAA provide the results of its determination to

our office by October 1, 2006. These recommendations will remain unresolved pending our review of FAA's final determination of the issues raised.

We appreciate the courtesies and cooperation of FAA representatives during this audit. If you have any questions concerning this report, please call me at (202) 366-0500 or Robin Hunt, Deputy Assistant Inspector General for Aviation and Special Program Audits, at (415) 744-3090.

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cc: FAA Deputy Administrator
FAA Chief of Staff
Acting Associate Administrator for Airports
Anthony Williams, ABU-100
Martin Gertel, M-1

EXHIBIT A. SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards prescribed by the Comptroller General of the United States. We designed the review steps to provide reasonable assurance of detecting abuse or illegal acts and included such tests as were considered necessary under the circumstances.

We conducted our review during the period September 2005 through March 2006. The review was performed at the Greater Orlando Aviation Authority, the FAA Orlando Airports District Office, and the offices of the City of Orlando and KPMG Certified Public Accountants. Our review primarily covered FY 2004 and FY 2005 but was expanded to earlier periods as necessary.

Our objective was to determine whether the City of Orlando was complying with airport revenue use requirements. To make this determination, we (1) identified FAA's regulations regarding proper use of airport revenue, (2) reviewed Aviation Authority financial reports, (3) reviewed independent auditors' working papers, (4) met with senior Aviation Authority and FAA Airports District Office staff, (5) reviewed Aviation Authority payments to the City and other government entities, (6) reviewed leases at Orlando International and Orlando Executive airports, and (7) held discussions with City officials.

We obtained a list of Aviation Authority payments for FY 2004 and FY 2005 and a list of leases and the rental revenue received. For services provided to the Authority, we primarily selected and reviewed payments to the City of Orlando; the State of Florida; and Orange County, Florida.

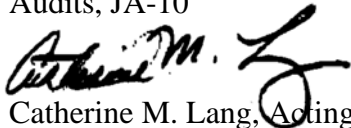
Our review of FY 2004 and FY 2005 led us to expand to prior fiscal years, where we also found revenue diversions. Title 49 United States Code Section 47107(n) imposes a statute of limitations of 6 years for recovering illegal revenue diversions. Thus, to the extent possible, we determined dollar amounts for revenue diversions back to FY 2000.

APPENDIX. MANAGEMENT COMMENTS**Federal Aviation
Administration**

Memorandum

Date: **JUN 28 2006**

To: David Dobbs, Assistant Inspector General for Aviation and Special Program Audits, JA-10

From:  Catherine M. Lang, Acting Associate Administrator for Airports, ARP-1

Prepared by: Lyle Fjermedal, Compliance Specialist, Airport Compliance Division, AAS-400, x75879

Subject: Report on the Use of Airport Revenues by the Greater Orlando Aviation Authority, Project Number 05A3015A000

We appreciate the opportunity to respond to the Report on the Use of Airport Revenues by the Greater Orlando Aviation Authority (Authority). Your report stated the city of Orlando (city) diverted \$1.7 million of airport revenue in violation of 49 U.S.C. 47107(b), the city overcharged the Authority \$325,822 for the Authority's share of an upgrade of a radio communications system, the Authority maybe losing \$144,000 per year in rent for a plant inspection station, and the Authority did not receive \$493,000 in parking fines that were instead retained by the city. Your report contained five recommendations that we discuss in the following paragraphs.

- 1. We recommend that the FAA Administrator require the city to revise its method for calculating the Authority's police pension fund contribution to be a percentage of the city's actual contribution to the pension fund—the total amount required to be paid into the pension fund after the State's contribution has been subtracted.**

The FAA concurs with Recommendation 1. The OIG found from fiscal year 2000 through 2005, the Authority overpaid \$1.4 million into the police pension fund because the city

improperly calculated the Authority's share of the cost. The city calculated the Authority's payment as a percentage of the amount the city owed before subtracting the State's contribution. The city should have calculated the Authority's payment as a percentage of the amount the city owed after subtracting the State's contribution. The FAA will ask the Authority for a corrective action plan that will repay the Authority for the \$1.4 million overcharge, plus interest, and ensure the city will correctly charge the Authority's police pension costs for the future (including 2006).

2. We recommend that the FAA Administrator require the city to Reimburse the Authority \$1.4 million for overcharges to the city's police pension fund and \$325,822 for overpayments to the city's radio communication system operations, plus interest.

The FAA concurs with the portion of Recommendation 2 that pertains to the police pension plan, and the FAA concurs with the portion of the recommendation that pertains to the radio communications system, provided the OIG's premise is supported that the upgrade of the radio system is a maintenance cost and not a capital cost. Between 2001 and 2005, the city billed the Authority \$943,700 or 24 percent of the cost to upgrade the radio communications system based on the 1993 agreement to build and install the radio system. Maintenance costs of the radio system are shared based on the actual airtime use of the system. The Authority's actual airtime usage varied from 14.4 to 18.1 percent. The difference resulted in the OIG finding the city overcharged \$325,822. The FAA will ask the Authority for a corrective action plan that will repay the Authority the \$1.4 million from the police pension plan and, if supported, the \$325,822 cost of upgrading the radio communications system.

3. We recommend that the FAA Administrator require the city to provide the Authority with \$493,000 in past net revenue from parking tickets at Orlando International Airport to offset the Authority's costs of traffic enforcement operations.

The FAA concurs with Recommendation 3 to the extent the city diverted airport revenue. During fiscal years 2001 through 2005, the city retained \$493,000 in net parking fines at Orlando International Airport. A city ordinance enables the city to impose a \$7 surcharge on all parking fines, with the proceeds going to its school-crossing program. The city retains the remainder to fund the city's parking division. The Authority pays the entire cost of its on-airport parking program, but the city does not return a portion of the fines to the Authority to offset any of the Authority's parking enforcement costs. The city ordinance does not require the net proceeds to be kept by the city, nor does it prohibit the use of the proceeds to offset the Authority's parking enforcement costs. The FAA will ask the city to comment on its reason for not returning a residual share of the parking fines to the Authority. If the FAA determines the city diverted airport revenue, the FAA will require it to submit a corrective action plan that will repay the Authority the \$493,000 plus interest and ensure the city will return that share of the Authority parking fines not claimed by the ordinance to the Authority for all future years, including 2006.

4. We recommend that the FAA Administrator require the city to revise its agreement with the Authority to make sure that future net revenue obtained from parking tickets at the airport is provided to the Authority to offset the costs of traffic enforcement operations.

The FAA concurs with Recommendation 4 to the extent the city diverted airport revenue. If the FAA determines the city diverted airport revenue, the FAA will require it to submit a corrective action plan that will repay the Authority the \$493,000 plus interest and ensure the city will return that share of the Authority's parking fines not claimed by the city ordinance to the Authority for all future years, including 2006.

5. We recommend the FAA Administrator require the Authority to verify it is recovering its cost of the airport plant inspection station operated by the United States Department of Agriculture (USDA). If the Authority is not recovering its cost, then it should renegotiate the lease with USDA or find a tenant willing to pay the aeronautical-use rate, the fair market value rate, or a rate at which it can recover its cost.

The FAA reserves its judgment on Recommendation 5 pending a determination of how the costs for the facility are being recovered. The Authority paid an estimated \$1.9 million to build the plant inspection facility and pays \$36,000 annually for maintenance but charges the USDA only \$1 per year for rent. Either party may cancel the lease with 180 days notice. The Authority argues the inspection station generates revenue for the Authority, but the OIG points out the lease is well below rates charged to other aeronautical users, and the OIG states the air carriers may ultimately pay the cost through higher rates and charges. The FAA will ask the city to submit documentation on its cost recovery methodology.

If you have any further questions or comments, please contact Charles C. Erhard of my staff at (202) 267-3187.