

WESTERN-PACIFIC REGION POLICY GUIDANCE NO. 18
AIRPORTS DIVISION INQUIRIES/INVESTIGATION AND DISPOSITION
OF AUDIT FINDINGS, FINANCIAL REPORTS, AND COMPLIANCE ISSUES

Date: April 20, 2000

1. PURPOSE: This policy provides guidance to Western-Pacific Region Airports Division staff in investigating, fact gathering, coordinating, documenting, and closing audits, financial reports, and airport-related complaints.
2. DISTRIBUTION: This policy is distributed to Airports Division compliance staff at the Regional and District Offices of the Western-Pacific Region.
3. CANCELLATION: zone
4. RESPONSIBILITY: The Airports Compliance Specialists are responsible for conducting, completing, reporting and documenting the facts and results of all inquiries and investigations at the Regional and District Offices.

Additional guidance pertaining to this subject can be found in:

FAA Order 5190.6A, Airport owner/sponsor Compliance Requirements

AAS-400 Draft Compliance Guidance Letter (CGL 99-1),
February 8, 1999

AAS-400 Draft Compliance Guidance Letter (CGL 98-1), Promoting
Timely Filing of Financial Reports and Determination of Overdue
Financial Reports, September 30, 1998

ADA-1 Memorandum: Guidance for Conducting Inquiries into
Administrators Hotline and DOT-OIG Hotline Complaints,
July 6, 1999, and

DOT Order 8000.1C, OIG Audit and Investigation Report, Findings
Recommendations, and Follow Up Action, July 20, 1989

5. BACKGROUND: Compliance issues and concerns arise from different sources. Audits and hotline complaints from the office of the Inspector General identify airport owner/sponsor practices that may not comply with regulatory requirements. Single audits report conditions that do not conform to general accounting, internal control, or regulatory standards. Airport owner/sponsor financial reports provide information that may indicate that airport revenue is being misused. The public and airport users report allegations that airports are violating grant assurance obligations. Allegations or episodes of noncompliance must be investigated to determine if a noncompliance condition exists, to take appropriate corrective action if airports are violating their federal obligations or to close the matter if no infraction is found.

contentious situations involving allegations of unusual complexity. The investigating office, following review and evaluation of the airport-specific factual situation, will contact the parties and, to the extent possible, assist them to resolve their differences while ensuring compliance with the applicable assurances. Compliance allegations may be resolved at any stage provided that the parties are in agreement with the proposed resolution.

The investigating office, upon completing its evaluation and dispute resolution efforts, will send a letter to the complainant and the airport owner/sponsor explaining Region/ADO conclusions and final determination. The investigating office, upon concluding that the airport owner/sponsor appears to be violating its federal obligations, will specify the necessary corrective action and counsel the airport owner/sponsor in order to obtain voluntary compliance.

Our first choice in addressing apparent airport *owner/sponsor* violations is always to seek voluntary compliance. The best resolution is one that can be worked out at the local level between the parties and which are consistent with the airport owner/sponsors federal obligations.

In the absence of voluntary compliance, the region/ADO will notify the airport owner/sponsor in writing of the determination of noncompliance. The region/ADO notice of *noncompliance* will identify the violation(s), specify corrective action to bring the airport owner/sponsor into compliance, and prescribe a deadline for completion of the-corrective action. If the airport owner/sponsor refuses to take the prescribed corrective action and does not propose to carry out an acceptable alternative corrective action, the region and AAS-400 will coordinate the justification for and implementation of enforcement action.

Informal resolution must allow for: (i) a timely and objective FAA evaluation of the conflict between the airport owner/sponsor and the airport user; (ii) FAA assistance to airport owner/sponsor and user to resolve their disputes in a manner consistent with the applicable federal obligation; and (iii) timely FAA identification of potential or actual violations and the opportunity to convince airport owner/sponsor to voluntarily comply with their federal obligations.

The region/ADO must make every attempt to resolve complaints, diffuse disputes, or clarify airport owner/sponsor and user obligations at the informal level. Whenever possible, dispute resolution efforts should strive to prevent informal complaints from escalating into formal complaints, especially if the regulatory requirements readily explain the mutual obligations of the parties to the dispute. Complex compliance cases may not be resolvable informally. Nevertheless, a Part 16 formal complaint consumes disproportionately more resources by both the FAA and the parties to the dispute.

B. PROCEDURES FOR MANAGEMENT OF THE AIRPORT OWNER/SPONSOR FINANCIAL REPORTING PROGRAM

Investigation of Issues of Potential Revenue Diversion

The Airports Compliance Division (AAS-400) is responsible for the implementation and management of the airport owner/sponsor financial reporting program. AAS-400 will review airport owner/sponsor financial reports and identify reports that contain potential indicators of revenue diversion. Thereafter, it will notify the regions to commence an investigation of the airport owner/sponsor financial report, as follows:

1. AAS-400 will notify the region when a review of the financial report indicates the possibility of revenue diversion, attaching a copy of the financial forms and indicating the problem area(s). The region will distribute the request for investigation to the appropriate ADO.
2. The region/ADO will send, within 10 days of notification by AAS-400, a letter to the airport owner/sponsor in question. The letter will request the airport owner/sponsor to provide, within 30 days, an explanation or further details regarding the financial data that is suspect. A copy of this letter will be sent to AAS-400.

If the airport owner/sponsor requests additional time to provide the information, the region/ADO may grant the airport owner/sponsor an extension. Extensions of more than 30 days will not be granted without written concurrence by AAS-400.

If the airport owner/sponsor fails to respond to the region/ADO's inquiry, the region/ADO will notify the airport owner/sponsor within 10 days of the response due date, through a follow-up letter, that the FAA will initiate an investigation in accordance with the procedures set forth in Title 14 CFR Part 16 if the sponsor does not respond within 20 days. If the airport owner/sponsor still chooses not to respond within 20 days from the date of the follow-up letter the region, or ADO through the region, will immediately notify AAS-400 to discuss and determine what follow up action will be taken.

3. When the requested information is received from the airport, the region/ADO will analyze the data and determine, within 60 days of the receipt of the information, whether the questioned amount represents proper or improper airport revenue use. For complex issues AAS-400 will be available to help with the analysis.
4. If the airport owner/sponsor cannot justify the questioned use of airport revenue, the region/ADO will notify the airport owner/sponsor that it must return the diverted amount plus interest to the airport account. The payback period can be negotiated between the region/ADO and the airport. A tracking system will be established by the region/ADO to monitor the actual payback of the funds. The region, or the ADO through the region, will notify AAS-400 of all findings of noncompliance and the corrective action plan.

400 has reports that the region has not yet received, AAS-400 will provide those reports to the region/ADO upon request.

5. The region/ADO personnel, in particular Airport Planners and Project Engineers, will notify the airport owners/sponsors of their financial reporting obligation during the grant administration process.

6. The regions/ADO will send a written notification to all airport owners/sponsors required to submit financial reports at least 30 days prior to the report due date. The notice will advise the airport owner/sponsor to submit the report by the report due date to avoid loss of discretionary grants (if applicable) and a Notice of Investigation under 14 CFR Part 16 for not filing a report. Refer airport owner/sponsor requests for filing extensions to AAS-400.

7. If the airport owner/sponsor fails to submit its financial reports, the region/ADO will send a notice of delinquency and notification of non-compliance within 10 days of the overdue report. This letter will provide the airport owner/sponsor with an additional 30 days to submit the reports. The letter will also inform the airport owner/sponsor that it is no longer being considered for any pending discretionary grant funds. Furthermore, failure to file a report within the specified 30-day time frame may result in enforcement action to terminate AIP eligibility.

8. The region/ADO will send a copy of all delinquency notifications to AAS-400 and copies of the overdue financial reports when they are finally received from the airport owner/sponsors.

9. The region/ADO will suspend action on any application for discretionary grant funds on the first day after the report's due date. The region/ADO may resume processing grant applications only after overdue reports are received.

It is important to bring all airport owners/sponsors into compliance with the financial reporting requirements because a status report goes to the U.S. Congress that reflects positively or negatively on the agency's ability to do its job. This goal, however, can only be achieved through the collaborative efforts of AAS-400, the region, and the ADO.

10. Information regarding the complaint should be provided only to those with a need to know.

Close Out

Once the investigation is complete, a written report of the region/ADO findings will be submitted to the office that referred the hotline to the Region/ADO. The airport owner/sponsor should be provided with a copy of the region/ADO report.

If no violation is found, the hotline can be closed. If the investigation establishes that the airport owner/sponsor violated federal obligations, the region/ADO will commence appropriate steps to bring the airport owner/sponsor into compliance, or failing that, to take enforcement action in coordination with and guidance from AAS-400.

The region/ADO will monitor and track the hotline case until it is resolved and closed by the referral agency.

For investigations that exceed 60 days, progress reports are to be prepared, at least monthly, and submitted to the referring agency to provide assurance that the investigation is still underway.

The regional office is routinely asked by the referring agency to provide a status report of open cases. Therefore, the ADO will submit copies of its progress reports to the regional office Compliance Specialist.

Maintain a complete record of hotline complaints and investigations to make progress reports to the referring agency and other FAA lines of business with a need to know. This record will be important if inquiries arise long after the hotline investigation was closed at the region/ADO.

circumstances. The audit agency representative will be notified of the region's determination and plan of action.

If an investigation exceeds 60 days, progress reports are to be prepared, at least monthly, and submitted to the audit agency to provide assurance that the investigation is still underway.

The regional office is routinely asked by the audit agency to provide status reports of open cases. Therefore, the ADO will submit a copy of its progress reports to the regional office Compliance Specialist.