



# Airport Beacon Report

March 2008

## REVENUE DIVERSION

By Mark R. Davidson, A.A.E., Vice President

As many of our readers know, revenues generated by a federally obligated airport must be expended for the capital improvements or operating costs of the airport. Simply put, once an airport takes a grant from the FAA, money generated at the airport can not be used by the municipality to fund projects such as city parks or county landfills. These restrictions on revenue were enacted for a number of reasons. First of all, the Federal government wants to protect its investment at the airport. Secondly, it is in the general public's interest, as well as the tenants, to see an economically healthy airport that is able to operate efficiently. In other words, revenue that is not being utilized properly impacts aviation in many ways. For instance, airline tenants may be asked to pay higher rates and charges as a result of diverted revenue. The lack of funds could also impact much needed safety enhancements and capital improvement projects at the airport.

In the 1990s, airport revenue diversion was a hot topic. The Department of Transportation (DOT) Inspector General issued reports on the subject and a Congressional hearing was chaired by Senator John McCain to investigate the allegations of widespread abuse. Since the hearing and reports, Congress enacted stricter provisions governing airport revenue diversion which can be found in the FAA Authorization Act of 1994 and the Airport Revenue Protection Act of 1996. In addition, the FAA issued a policy statement on the issue, which went into effect February 16, 1999.

The 1999 FAA Policy on Revenue Diversion specifically states that airport revenue shall only be used for the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator, and directly and substantially related to the air transportation of passengers or property. According to this policy, any airport that receives Federal assistance must sign assurances, as part of the grant agreement, that the revenue generated by the operator will be used only for purposes related to the airport.

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The assurance also prohibits the diversion of the airport revenue to non-airport uses. Many provisions in the policy state practices already in existence at the FAA; however, the policy statement tends to offer general guidance and not specifics. For instance, within the policy, the allowable use of revenue to develop airport property is clear for land that serves a direct aviation purpose, but restrictions on the use of revenue for the development of land that is not used for direct aviation purposes are less clear. An example would be the general (not specific) guidelines and restrictions for developing land set aside for noise abatement. To ensure compliance with the statement, assurances, and other policies regarding revenue diversion, the FAA relies upon several measures, to include the following:

- The sponsor's annual auditing report on revenue use required by statute
- Guidance letters issued by Airport Division Staff based on specific fact situations presented by airport operators
- Single FAA audit reports
- Investigations prompted by third-party complaints
- Department of Transportation, Office of Inspector General Audits
- FAA Chief Council and DOT General Counsel Opinions.

Years ago, the problem of airport revenue diversion focused on airports in large cities that were financially successful, but the city itself was experiencing financial problems. In these situations, the political leaders viewed their successful airport as a revenue source, since they were the owners and operators of the airport. At large and medium hub airports, situations of airport revenue diversion included:

- ◆ Transferring aviation capital funds directly to the city general fund
- ◆ Charging the airport fund excessive fees for city services such as police, fire and utilities
- ◆ Allocating the payroll of non-airport employees to the airport

- ◆ Using airport funds to pay for general promotion and advertising for the city or county
- ◆ Loans from the airport fund to the general fund at less than market rates or on preferential terms

Today, it seems that the reported revenue diversion cases are not as obvious as they used to be. In recent years, the focus has not just been on diversion of operating revenues, but on making sure that rents are at justified market levels. While "sweetheart" leases are less common than in the past, they still exist, and are a main cause of many of the revenue diversion (and Part 16 discrimination) claims out there. In closing, if you own and operate a public use airport, we encourage you to become familiar with FAA's policy regarding revenue diversion and make sure your City/County leaders are informed, so they realize that they can't live off the cash cow.

#### ***Jokes of the Month:***

A student became lost during a solo cross-country flight. While attempting to locate the aircraft on radar, ATC asked, "What was your last known position?" The student replied: "When I was number one for takeoff."

Taxiing down the tarmac, the 757 abruptly stopped, turned around and returned to the gate. After an hour-long wait, it finally took off. A concerned passenger asked the flight attendant, "What was the problem?" "The pilot was bothered by a noise he heard in the engine," explained the flight attendant, "and it took us a while to find a new pilot."

"Flight 2341, for noise abatement turn right 45 degrees." "But Center, we are at 35,000 feet. How much noise can we make up here?" "Sir, have you ever heard the noise a 747 makes when it hits a 727?"

## ASK ABS

Once again, a valued part of our monthly newsletter is a section called "Ask ABS". Within this section, we answer aviation-related questions from our readership. (If we do not receive a question, we usually make one up.) Each month we will publish one question that we receive with a joint reply from our professional consulting team. Please submit any questions via e-mail to Mark Davidson at [mdavidson@airportbusiness.net](mailto:mdavidson@airportbusiness.net)

This month's question comes from a reader that wants to know: *What is a "CFC" in regards to rental car fees?*

**Answer:** At a number of airports across the country, rental car companies collect a CFC (Customer Facility Charge) or transportation fee from its customers. Sometimes the fees are charged on a per-transaction basis or on a per-transaction-day basis. These fees are used typically to pay all or a portion of the operating and capital costs of a consolidated rental car area or structured facility. In some cases, the fee is also used to recover the cost of transportation to and from the airport terminal. CFCs are very different from PFCs since there is no requirement for any Federal oversight or approval of the CFC or transportation fees. CFC revenue is often used on a stand-alone basis to back bonds. It should also be noted that CFCs are usually in addition to percentage fees, which are sometimes known as privilege fees. These fees are normally assessed up to 10% of gross revenue from airport-related car rentals, or a minimum annual guarantee.

## NEW HIRES

***Airport Business Solutions is pleased to announce the addition of two new associates to our team. Don Beckman is a long-time industry veteran with a wealth of experience in dealing with many FBO and airport issues, and most recently was with Atlantic Aviation. Leo Grullon is not only new to ABS, but also to the aviation industry. Leo recently retired from professional baseball, and is eager to learn everything he can about aviation as quickly as possible. Welcome aboard guys!***



***Redneck Mansion***

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***Airport Business Solutions is recognized as the leader in valuation, analysis, and consulting services to airports and aviation businesses, and offers a diversity of backgrounds and experience which provides a new, creative, and "outside the box" perspective on a myriad of aviation issues and problems.***

***Our international affiliate, Airport Business Solutions International, has helped numerous airports worldwide with a variety of airport management and operational issues and problems, including business planning and privatization assessments.***

***ABS Aviation Management Services offers contract airport and FBO management to airports looking to maintain the revenues generated by ownership, while avoiding day-to-day management and operational issues.***

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