



**U.S. Department of
Transportation**

Office of Inspector General
Washington, D.C. 20590

Office of the Secretary
of Transportation

December 21, 2021

Mr. Frank Vala
1200 Capital Airport Drive
Springfield, Illinois 62707

Dear Mr. Vala:

This letter is in response to your recent correspondences to the U.S. Department of Transportation (DOT), Office of Inspector General (OIG). You reported regarding possible violations of FAA's Policy and Procedures Concerning the Use of Airport Revenue.

An investigator is analyzing your concern, will determine the necessary course of action and you will be notified if the OIG initiates an inquiry based on your concern, or forwards your concern to the appropriate regulatory agency for action deemed appropriate. If you have any additional information that will be of assistance in evaluating your concerns, please forward it via email to hotline@oig.dot.gov or via mail to:

US DOT/OIG
1200 New Jersey Ave., S.E.
Washington, DC, 20590
Attn: Scott Harding, W73-313

Otherwise, no further action is required and thank you for your patience.

Sincerely,

A blue ink signature of Scott Harding, featuring a stylized 'S' and 'H' with a large loop.

Scott Harding
Chief, Complaint Center Operations



ABRAHAM LINCOLN
CAPITAL AIRPORT
AT SPRINGFIELD

Frank J. Vata, Chair
Springfield Airport Authority

November 30, 2021

Office of the Inspector General
U.S. Department of Transportation
1200 New Jersey Avenue SE
West Building 7th Floor
Washington, DC 20590

Re: Complaint- Tim Franke, Springfield Airport Authority (SPI)
2705 Killarney Drive
Springfield, IL 62711
(217) 652-8627

Dear Inspector General:

I am writing to formally file a complaint with the Office of the Inspector General for the abuse and mismanagement affecting Department of Transportation programs and operations against Mr. Tim Franke, a former employee and current Commissioner of the Springfield Airport Authority. Specifically, Mr. Franke has repeatedly violated the FAA's Policy and Procedures Concerning the Use of Airport Revenue. Airport sponsors must be as "self-sustaining" as possible, which has been interpreted by the FAA to preclude leasing property and facilities at less than fair market value and prohibit making airport facilities available at no charge to other units of local government. The FAA has determined through its Policy and Procedures Concerning the Use of Airport Revenue that a common revenue diversion problem exists when a sponsor makes airport owned property available for community, other units of local government, or other non-sponsors use at less than fair market value.

Tim Franke retired after 30 plus years from the Springfield Airport Authority (SPI) in June 2018 as the Director of Public Safety. He was later appointed by the Mayor of the City of Springfield, Illinois (non-sponsor) to the Springfield Airport Authority Board of Commissioners in August 2019. While in his capacity as the Director of Public Safety, Mr. Franke was in charge of airport operations including law enforcement and aircraft rescue and firefighting functions. He had direct access to the airport's public safety facility as well as numerous aircraft hangars at Abraham Lincoln Capital Airport. During his tenure as Director of Public Safety, Mr. Franke, at no charge, made the airport's public safety building and airport owned aircraft hangars available throughout the year to the City of Springfield Police Department (non-sponsor) for storage of their mobile command center, lake patrol boat and other City of Springfield Police Department equipment resulting in revenue diversion from the airport. This occurred for numerous years up until his retirement in June 2018, and was witnessed by numerous staff members at the Springfield Airport Authority. As a result of Mr.

Office of the Inspector General

November 30, 2021


Page Two

Franke's abuse and mismanagement of airport facilities, the Airport Authority lost revenue as the City of Springfield was not paying fair market value rent for property they were utilizing and occupying for non-aeronautical purposes during his tenure while employed by the Authority. This lost revenue is estimated to be in the tens of thousands of dollars.

I was recently notified of this situation by airport authority staff, who were reluctant to come forward to me out of fear of retaliation from Mr. Franke due to his personal and professional relationship with the Mayor of Springfield, who appointed him to the Springfield Airport Authority Board of Commissioners and also benefited from the free rent of airport facilities for his police department's equipment. Mr. Franke's appointment to the Board of Commissioners by the mayor appears to be a "quid pro quo" relationship or payback for him allowing the City Police Department to benefit from free use/storage of airport facilities. Mr. Franke, as a Commissioner of the airport, continues to have oversight over professional staff and could retaliate against them. Staff members that have knowledge or witnessed this wrongdoing by Mr. Franke include: Mark Hanna, Executive Director, Michael Buchele, Chief of Public Safety, Josh Teimeyer, Lieutenant Public Safety, Neal Stoller, Lieutenant Public Safety, and Tom Chi, Springfield Police Department. These witnesses may be contacted and are currently employed at the Springfield Airport Authority or City of Springfield Police Department. Supporting evidence and documentation would be witness statements and any records that the Springfield Airport Authority or Springfield Police Department have regarding the use of the airport facilities at no charge.

I respectfully ask that you investigate this complaint fully to protect the Springfield Airport Authority and its staff from further abuse or mismanagement by Mr. Franke. I can be available to speak with your office at your convenience. I can be reached at (217) 698-0200.

Sincerely,



Frank J. Vala
Chair, Board of Commissioners
Springfield Airport Authority

CHAPTER 26

Revenue Use and Diversion

Eric T. Smith
esmith@kaplankirsch.com



Sarah E. Wilbanks
swilbanks@kaplankirsch.com



KEY CONCEPTS AND PRACTICE POINTERS

- A. Airport revenue consists of virtually all funds generated by an airport sponsor for use of the airport from any source, including airport rates and charges, use of airport property for non-aeronautical purposes, and proceeds from the sale of certain airport property. FAA also considers any proceeds from state and local taxes on aviation fuels to be airport revenue.
- B. Revenue diversion is the expenditure of airport revenue for purposes other than the operating and capital costs of the airport, the local airport system, and other local facilities owned or operated by the airport sponsor directly and substantially related to the air transportation of persons or property.
- C. The legislative history of applicable statutes reveals that Congress intended to preclude airport sponsors from using airport revenue to pay for non-airport governmental functions. More precisely, Congress sought to stop local governments from transferring money from the airport fund to the general fund or the account of another department.
- D. The prohibition on revenue diversion is contained in AIP grant assurances but also is an independent statutory obligation. Airports that were already subject to the revenue use requirement when the statute was enacted in 1996 are subject to the revenue use rules indefinitely – even if grant assurances subsequently expire.
- E. FAA interprets the prohibition on revenue diversion to bar airport sponsors from subsidizing air carriers; however, airport sponsors are authorized to provide fee discounts and waivers to air carriers to incentivize new service for promotional periods.
- F. The diversion of airport revenue can be revealed through financial audits required to be submitted annually to FAA, through independent investigation of the DOT Office of Inspector General, or through an administrative complaint filed by a third party, often an airport tenant.
- G. **The penalties for diverting airport revenue are severe, including civil penalties in the amount of three times the diverted revenue.**
- H. Key guidance is contained in FAA's *Policy and Procedures Concerning the Use of Airport Revenue*.

- I. The use of aviation fuel tax revenue for non-aviation purposes has been a widespread violation of the statutory prohibitions on revenue diversion. In 2014, FAA embarked upon an aggressive effort to secure compliance by all 50 states and hundreds of localities that impose taxes on aviation fuel. The deadline for such compliance was December 8, 2017.
- J. Airport sponsors must comply with a separate but related obligation to be as “self-sustaining” as possible, which, for example, has been interpreted by FAA to preclude leasing non-aeronautical property at less than fair market value and prohibit making airport facilities available at no charge to other units of local government.
- K. While every airport sponsor’s situation is unique, the most common revenue use and revenue diversion problems arise when a sponsor –
 - 1. Pays revenue to a local government in lieu of taxes or for services rendered and does not have adequate documentation to support the payment;
 - 2. Makes property available for community, local government, or other non-airport use at less than fair market value;
 - 3. Participates in an incentive program to encourage air service, even when using non-airport funds;
 - 4. Cannot document the airport benefit for expenditures (or fails to collect revenue) for community benefit programs;
 - 5. Applies airport funds for off-airport development projects; or
 - 6. Does not carefully document sources and uses of funds.
- L. **Note:** As sponsors are well aware, the COVID-19 pandemic has presented numerous challenges related to the generation and use of airport revenue. Additionally, the federal government has established several new grant programs that, among other things, provide relief to states, local governments, and airports, which create obligations for sponsors that do not necessarily align completely with their usual grant assurances. FAA has, in response, released a series of guidance in the form of memoranda, FAQs, and other informal documents to attempt to provide guidance to airports on how the agency will interpret and apply various requirements to the unprecedented situations posed by the pandemic, and how it will implement the congressional directive to provide the aid established through the new grant programs. For ease of reference, we have consolidated discussion of these issues and references to related source material, see Desk Reference chapter “*Business Interruptions and Crisis Response*.”

I. RELEVANT MATERIALS

- A. Statutes
 - 1. 49 U.S.C. §§ 40116(d)(2), 46301, 47107(a), (b), (k)–(p), 47111(e), and 47133.
 - 2. FAA Reauthorization Act of 2018, Pub. L. No. 115-254 (Oct. 5, 2018).
- B. Regulations – No significant regulations