



OFFICE OF THE
STATE AUDITOR

October 19, 2021

Mayor Mike Caldwell and Ogden City Council
2549 Washington Blvd
Ogden, UT 84401

Dear Mayor Caldwell and City Council Members:

The Office of the State Auditor (Office) offers a hotline program through which we receive complaints with financial or compliance implications related to state or local governments. Some time ago, the Office received a complaint alleging various instances of non-compliance related to Ogden City's (City) governance and operation of the Ogden Regional Airport (Airport).

We appreciated the cooperation of City and Airport personnel during our review of the complaint. The attached letter describes the complaint, our analysis, and conclusions. Based on the information received from the City, Airport, and other sources, we have determined further review of the City's governance and operation of the Airport by our office is not warranted at this time. However, please note the State Auditor's concern regarding possible future impacts on private businesses.

We appreciate your cooperation in this matter. If you have any questions, please feel free to contact me at jwrigley@utah.gov or 801-538-1340.

Sincerely,

Julie Wrigley, CPA, CFE
Special Projects Audit Manager

cc: Mark Johnson, Chief Administrative Officer
Bryant Garrett, Airport Manager



OFFICE OF THE
STATE AUDITOR

September 13, 2021



Dear [REDACTED]:

The Office of the State Auditor (Office) received your complaint questioning the activities of Ogden City (City) and the Ogden Regional Airport (Airport). Specifically, you requested an audit of the Airport to determine whether the Airport is profitable and whether revenues and expenditures are recorded in accordance with Federal Aviation Administration (FAA) grant assurance requirements. You expressed concerns with other aspects of grant assurance compliance. Finally, you reported concerns about the Airport's reported plans (Plan) to "shut down and take over...FBO businesses on the airport"¹ as well as other privately owned property.

After a comprehensive review, we have determined that the requested audit of the Airport by the Office is not warranted at this time. Our determination was based on the following factors:

1. The Airport, as a nonmajor enterprise fund of the City, is properly included as part of the City's annual financial statement and single audits. Further, the FAA considers the single audit sufficient to satisfy compliance audit requirements with the applicable grant assurances.
2. The single audit procedures conducted in 2018 and 2019 included a review of Airport-generated revenues and expenditures for compliance with FAA guidance. The FAA program was not required to be audited in 2020.
3. The audited financial statements consistently report operating losses for the Airport. For the years 2018 through 2020, the average annual operating loss was approximately \$780,000.²
4. We examined FAA definitions of "Airport Revenue"³ to determine whether the revenue categories you mentioned should be classified as "Airport Revenue." We confirmed our understanding of the guidance with FAA personnel. We conclude that:
 - a. "Airport Revenues" include revenues generated from:
 - The rights granted by the sponsor to conduct an activity on the airport or to use or occupy Airport property (fees, charges, rents, etc.);
 - The sale, transfer, or disposition of Airport real or personal property;

¹ FBO is a fixed based operator

² Average loss was calculated exclusive of federal grant revenue and depreciation expense.

³ As found in Federal Register/Vol. 64. No. 30/Tuesday, February 16, 1999/Notices pg. 7716

- Activities conducted by the sponsor for aeronautical or nonaeronautical activities.
 - State or local taxes on aviation fuel sales.
- b. “Airport Revenues” do not include⁴:
- Sales and use taxes on the sale of goods or services (other than aviation fuel)
 - Property taxes
 - Revenue derived from the payment of utilities by Airport tenants.
5. It is our understanding that, unlike a fee, a tax is a charge designed or intended to raise revenue to fund general government, with no assumption of any direct benefit to the taxpayer.
6. Utility providers (including the City) bill each Airport tenant and FBO for utility costs based on their individual usage. The tenants and FBOs remit payments directly to the utility providers.

These factors do not support the notion that the Airport is profitable or non-compliant with applicable grant assurances over revenue and expenditures.

We note that you may submit alleged grant assurance violations to the FAA’s Airport Compliance Program, either formally or informally as outlined at faa.gov/airports/airport_compliance/complaints/.

The final matter you identified appears to be the subject of a class action complaint filed in United States District Court. The issues require interpretation of statutes governing contracts and leases, property ownership, and property rights, which at this time are best determined by the court.

Finally, the Airport indicated that Plan was never finalized nor submitted to City. The State Auditor believes it reasonable and prudent for the City to reduce or eliminate its subsidy of the Airport. However, the State Auditor would be concerned if the Airport were to drive out private FBO businesses, supplanting them with government-run FBOs.

Thank you for bringing your concerns to our attention.

Sincerely,



Julie M. Wrigley, CPA
Audit Manager

⁴ This exclusion from “Airport Revenues” is contingent upon the taxes and utilities being assessed in a uniform manner. No information was provided in the complaint that indicated unequal treatment of Airport tenants vs. other utility users in regards to the assessment of taxes and utilities fees.