PASSENGER FACILITY CHARGE
AUDIT GUIDE FOR PUBLIC AGENCIES

Federal Aviation Administration
Passenger Facility Charge Branch
APP-530

Revised September 2000

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APPLICABILITY AND PURPOSE

This guide has been prepared to provide auditors with a comprehensive set of procedures for auditing a public agency's schedule of Passenger Facility Charge (PFC) revenue in accordance with 14 Code of Federal Regulations (CFR) Part 158, "Passenger Facility Charges" requirements. As such, this guide serves as the recommended framework for the auditor's report on the fairness and reasonableness of the public agency's procedures for receiving, holding, and using PFC revenue, including public agency quarterly reporting requirements, as specified in section 158.67(c).

Use of the guide by auditors for public agencies provides the Federal Aviation Administration (FAA), air carriers, and the public with an acceptable level of assurance that the public agency has complied with regulatory procedures or, through the audit process, noted weaknesses in its policies and procedures, and has or will take corrective action to improve its process. The importance of this level of assurance is reflected in the FAA's approach to resolving alleged PFC holding and use discrepancies that may be identified to it.

This guide is not intended to define the sole method of complying with the audit requirements of section 158.67(c). However, the FAA has determined that the use of the procedures in this audit guide by the auditors for a public agency will provide sufficient assurance that the public agency has met the requirements of 14 CFR 158 such that the FAA would not normally require additional reports, undertake an audit of the public agency, or request Department of Transportation, Office of the Inspector General (DOT OIG), intervention on the FAA's behalf. The FAA would not normally initiate further monitoring efforts unless an air carrier or other source substantiates a subsequent alleged gross violation of the regulation.

The FAA will not have the same level of confidence with a public agency whose auditors have not used the procedures outlined in this guide. Accordingly, alleged holding and use discrepancies raised by air carriers or other parties against public agencies whose auditors have not used this guidance are more likely to trigger additional FAA monitoring activities. These activities may include additional reporting requirements, the undertaking of an audit, or a request for DOT OIG intervention. This guidance shall not, however, foreclose other FAA options for responding to and enforcing correct holding and use procedures. The FAA expects public agencies to attain a reasonable level of accuracy with regard to PFC holding and use procedures.

Because the suggested audit procedures apply to a program administered by many different entities operating under different circumstances, they are necessarily general in nature. Auditor judgment will be necessary to determine whether the suggested audit procedures are sufficient to achieve the stated audit objectives or whether additional or alternative audit procedures are needed.

I. INTRODUCTION AND REQUIREMENTS

Title 49, United States Code (U.S.C.), Section 40117, authorizes the Secretary of Transportation (further delegated to the FAA Administrator) to approve the local imposition of an airport PFC of $1, $2, $3, $4, or $4.50 per enplaned passenger for use on certain airport projects. On May 29, 1991, the FAA issued 14 CFR Part 158 outlining policies and procedures for the PFC program. On May 30, 2000, the FAA issued a revision to Part 158 that, among other things, increased the maximum PFC level to $4 or $4.50. The change also incorporated additional criteria for the approval of the higher PFC levels.

Under Part 158, public agencies (as defined in the statute and regulation) controlling commercial service airports can apply to the FAA for authority to impose a PFC for use on eligible projects. The private entity controlling an airport participating in the Pilot Program for Private Ownership of Airports (49 U.S.C. Section 47134) may also apply to impose a PFC.

The FAA must issue a final decision approving or disapproving a PFC application, in whole or in part, no later than 120 days after the application is received by the FAA from the public agency (section 158.27(c)(4)). Following the FAA's full or partial approval of an application to impose a PFC, the public agency must notify air carriers and foreign air carriers required to collect PFC's at its airport(s) of the FAA's approval. The charge effective date of the PFC collection is the first day of a month which is at least 60 days from the date the public agency notifies the carriers of approval to impose the PFC. Air carriers collecting PFC's are required by section 158.51 to remit the revenue collected to the appropriate public agency on a monthly basis. PFC revenue collected by the carrier shall be remitted to the public agency no later than the last day of the calendar month following the month in which the PFC was collected (or if that date falls on a weekend or holiday, the first business day thereafter).

Beginning in the year that PFC revenues are first collected by air carriers on behalf of a public agency, that public agency is required to provide an annual independent audit of PFC revenue. Auditors engaged to audit PFC programs are required to "express an opinion of the fairness and reasonableness of the public agency's procedures for receiving, holding, and using PFC revenue" (section 158.67(c)). In addition, auditors are required to report whether the quarterly reports that must be filed by the public agencies (required by section 158.63(a)) "fairly represent the net transactions within the PFC account." The procedures included in this Audit Guide constitute one method to satisfy the opinion requirements of section 158.67(c).

The provisions of 14 CFR Part 158 state that the audit can be performed separately for the PFC program or as part of an annual audit conducted under the Single Audit Act (as amended). Although the inclusion of PFC revenue as part of the Single Audit Act audit is an allowable option, PFC revenue is not considered to be Federal financial assistance as defined by Office of Management and Budget (OMB)

Circular A-133. Therefore, auditors that choose to audit PFC revenue as part of a Single Audit Act audit should be aware that the specific provisions of OMB Circular A-133 and related documents such as the OMB Compliance Supplement and the Data Collection Form are not applicable to the PFC program. Also, regardless of which audit option is selected, PFC revenue should be reported in a separate schedule. Findings and questioned costs relating to PFC revenue should also be presented separately (that is, they should not be combined with any other findings and questioned costs noted in an OMB Circular A-133 audit).

As noted in the “Applicability and Purpose” section of this guide, the procedures contained herein for testing and reporting on PFC's received, held, and used during the year are intended to assist the auditor in meeting audit requirements. This guide is not intended to supplant the auditor's judgment of audit work required. The auditor should use professional judgment to tailor the procedures so that the audit objectives are achieved. However, the auditor must address all applicable PFC compliance requirements. If the auditor desires technical assistance pertaining to the PFC program, its regulations or operations, the auditor should contact the FAA Office of Airport Planning and Programming, Airport Financial Assistance Division, Passenger Facility Charge Branch (APP-530), 800 Independence Avenue, SW, Room 619, Washington, DC, 20591, telephone (202) 267-3845, or the appropriate local FAA airports office.

II. SCOPE OF AUDIT

A. GENERAL

The public agency shall arrange for an audit to be conducted in accordance with generally accepted auditing standards (GAAS) and generally accepted government auditing standards (GAGAS), as outlined in the U.S. General Accounting Office publication *Government Auditing Standards* (current edition), and shall cover all departments, agencies, and other organizational units which expended or otherwise administered the public agency's PFC program during such fiscal year. The financial statements and schedule of expenditures of PFC funds shall be for the same fiscal year.

B. FINANCIAL STATEMENTS

The auditor shall determine whether the financial statements of the public agency pertaining to PFC accounts are presented fairly in all material respects in conformity with GAGAS. The auditor shall also determine whether the schedule of expenditures of PFC funds (including quarterly reports under section 158.63(a)) is presented fairly in all material respects in relation to the public agency's financial statements taken as a whole.

C. INTERNAL CONTROL

The auditor shall accomplish the following:

1. In addition to the requirements of GAAS and GAGAS, perform procedures to obtain an understanding of internal control over the PFC program (including systems and processes for receiving, holding, and using PFC revenue) sufficient to plan the audit.

2. Except as provided in paragraph 3 of this section:

   (a) Plan the testing of internal control over the PFC program to support a low assessed level of control risk for the assertions relevant to the compliance requirements for the PFC program contained in this guide; and

   (b) Perform testing of internal control as planned in paragraph 2(a) of this section.

3. When internal control over some or all of the compliance requirements for the PFC program are likely to be ineffective in preventing or detecting noncompliance, the auditor shall report a reportable condition, determine whether any such condition is a material weakness, and assess the related control risk.

D. COMPLIANCE

In accordance with the procedures outlined in this guide, the auditor shall accomplish the following:

1. In addition to the requirements of GAGAS, determine if the public agency has complied with laws, regulations, and any PFC Record of Decision (ROD) issued by the FAA to that public agency that may have a direct and material effect on the PFC program.

2. Ensure that compliance testing includes tests of transactions and such other auditing procedures necessary to provide the auditor sufficient evidence to support an opinion on compliance.

E. AUDIT FOLLOW-UP

To maintain the efficacy of the audit process required by Part 158.67(c), the public agency has a responsibility to follow up on audit findings with a corrective action plan and to prepare a summary schedule of prior audit findings. The corrective action plan and summary schedule of prior audit findings should include the reference numbers the auditor assigns to audit findings. Since the summary schedule may include audit findings from multiple years, it should include the fiscal year in which the finding initially occurred.

At the completion of the audit, the public agency should prepare the corrective action plan to address each audit finding (if any) included in the current year auditor's reports. The corrective action plan should provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the public agency does not agree with the audit findings or believes corrective action is not required, then the corrective action plan should include an explanation and specific reasons for the disagreement.

The summary schedule of prior audit findings should report the status of all audit findings included in the prior audit's schedule of findings and questioned costs. If an audit finding was fully corrected, the summary schedule need only list the audit finding and state that corrective action was taken. If an audit finding was not corrected or was only partially corrected, the summary schedule should describe the planned corrective actions as well as any partial corrective actions taken. If a corrective action taken is significantly different from corrective action previously reported in a corrective action plan, the summary schedule should provide an explanation. Finally, if the public agency believes that an audit finding is no longer valid or does not warrant further action, the reasons for this position shall be described in the summary schedule.

The auditor shall accomplish the following:

1. Follow-up on prior audit findings and verify that a corrective action plan was implemented.

2. Perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the public agency.

3. Report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit findings.

The auditor shall perform audit follow-up procedures regardless of whether a prior audit finding relates to the PFC program in the current year.

III. PFC PROGRAM REQUIREMENTS AND RECOMMENDED AUDIT PROCEDURES

A. PROJECT COST ALLOWABILITY

Program Requirements

Section 158.13 provides that PFC revenue, including any interest earned after such revenue is remitted to a public agency, may be used only to finance the allowable costs of approved PFC projects at any airport the public agency controls. Under section 158.29, the FAA issues a PFC ROD to public agency applicants that outlines approved and disapproved projects, the amounts of approved collections and authority to use (spend) PFC's on these projects, and other conditions of approval. These terms may be modified through one or more amendments to a ROD submitted by the public agency and approved by the FAA under section 158.37.

Allowable costs of approved projects are defined in section 158.3 as "the reasonable and necessary costs of carrying out an approved project including costs incurred prior to and subsequent to the approval to impose a PFC, and making payments for debt service on bonds and other indebtedness incurred to carry out such projects. Allowable costs include only those costs incurred on or after November 5, 1990. Costs of terminal development incurred after August 1, 1986, at an airport that did not have more than .25 percent of the total annual passenger boardings in the U.S. in the most recent calendar year for which total passenger boardings declined by at least 16 percent between calendar year 1989 and calendar year 1997 are allowable."

Section 158.13(b) allows the use of PFC revenues for bond-associated debt and financing costs of approved projects. In the event that PFC revenue is commingled in the general revenue stream of the airport and pledged generally for the holders of a debt instrument, PFC revenue may be used only to pay debt service and finance costs of that debt instrument in an amount equal to that portion of the proceeds issued to carry out allowable costs of approved PFC projects. The terms of PFC approval do not permit the use of PFC revenues to pay debt service on any new or outstanding debt instruments issued to finance other than approved PFC projects.

If the public agency uses PFC revenue to pay debt service expenses associated with an approved project, the indebtedness must be a legally enforceable debt of the lender. This means that the lender has the legal authority, as a creditor, to bring suit, in its own name, directly against the borrower to recover funds advanced by the lender to the borrower. "Loans" from a public agency's general fund to an airport capital fund may not be legally enforceable debts. Any PFC application financial plan that includes debt service expenses associated with a loan from another public fund must be accompanied by a legal opinion that such a debt is legally enforceable. In addition, the interest rate for the loan cannot exceed applicable market rates. These requirements protect against the possible diversion of PFC revenues, through higher-than-market interest rates or other charges, to the source providing the loan.

The requirement (with the one limited exception noted above) that allowable costs include only those costs incurred on or after November 5, 1990, applies chiefly to the use of PFC funds to reimburse a public agency for projects already completed which were not originally funded with PFC revenues. For project formulation costs and construction projects, the FAA states in all ROD's that the notice to proceed or commencement of work must occur on or after November 5, 1990, to be allowable for PFC purposes. For land acquisition, the contract or agreement must be signed after November 5, 1990, to be allowable for PFC purposes.

All instances of noncompliance with the requirements listed above and in the ROD, as amended, are to be disclosed in the auditor's report on compliance and/or included as questioned or unallowable costs, including any questioned or unallowable costs claimed as program expenses.

Objective

Ascertain compliance with the provisions of 14 CFR Part 158 pertaining to project cost allowability.

Recommended Procedures

Review the PFC ROD, as amended, to determine which projects the FAA has approved for the imposition of a PFC (collection authority), use of PFC revenue (spending authority), and all specific conditions of the FAA's approval of these projects.

Obtain an understanding of the public agency's procedures for providing reasonable assurance that PFC revenue, including interest earned thereon, is only expended on the allowable costs of projects approved for use of PFC revenue and that any debt and financing costs paid with PFC revenue relate specifically to projects approved for use of PFC revenue in accordance with Part 158 and the ROD, as amended.

Select a sample of approved projects to perform tests of program expenses to determine if the expenses/expenditures charged to the program (1) were authorized by the PFC approval in the ROD, as amended, (2) are supported by source documentation, and (3) were incurred on or after November 5, 1990 (or as otherwise allowed) in accordance with the definitions contained in section 158.3.

Select a sample and test for evidence that the program expenditures claimed are allowable program costs, as described above, in accordance with Part 158 and the ROD.

Select a sample and test for evidence that the debt service expenses claimed are made pursuant to legally enforceable debt instruments, as described above, at applicable market rates.

B. ELIGIBILITY LIMITATIONS

Program Requirements

Section 158.15(b) provides that PFC revenues may be used for approved Airport Improvement Program (AIP) eligible projects, including airport development projects, airport planning, terminal development, and noise compatibility planning and measures as outlined in FAA Order 5100.38, Airport Improvement Program Handbook (current edition). In addition, Part 158.15(b) provides for the eligibility of noise compatibility measures without regard to whether the measures have been approved pursuant to 14 CFR Part 150, and for the construction of gates and related areas at which passengers are enplaned or deplaned and other areas directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport. In the case of a project required to enable additional air service by an air carrier with less than 50 percent of the annual passenger boardings at an airport, a project for constructing gates and related areas may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door, and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities adjacent to the gate. These areas do not include restaurants, car rental facilities, automobile parking facilities, or other concessions.

Certain otherwise eligible development expenses/expenditures may be limited to a prorated share of the project costs in accordance with AIP procedures. Eligibility limitations in these circumstances are outlined in the ROD, as amended, issued for that project.

Objective

Ascertain that the public agency has complied with limits placed on project eligibility.

Recommended Procedures

Review the ROD to identify any development that is limited in its eligibility.

Obtain an understanding of the public agency's procedures established to limit claimed costs for items limited in eligibility.

Select sample and test supporting documentation of program expenses/expenditures to determine that only eligible project costs as provided for in section 158.15(b) and noted in the ROD are included in PFC drawdowns.

C. PFC FUNDS USED AS MATCHING SHARE OR AS SUPPLEMENTAL TO AIP FUNDED PROJECTS

Program Requirements

Use of PFC funds as either the local matching share of the allowable costs for an AIP project, or as supplemental funding for an AIP project, is allowable under section 158.13(c) and (d). Such uses are outlined in the ROD for the PFC approval. PFC expenditures for these projects should be reviewed according to this guide for an audit conducted under section 158.67(c). In addition, these projects may also be subject to review under OMB Circular A-133.

Objective

Determine that PFC funds designated for AIP "local match" or as supplemental to AIP funding are reviewed under the PFC requirements.

Recommended Procedures

Review the PFC ROD to ascertain whether PFC funding for a particular project is approved as "AIP matching share" or as supplemental to AIP funding (or both).

Perform the audit procedures for PFC funding contained in this guide.

D. ADDITIONAL PROGRAM REQUIREMENTS

Program Requirement No. 1

The public agency is required by section 158.67(a) to keep any unliquidated PFC revenue remitted to it on deposit in an interest bearing account or in other interest bearing instruments used by the public agency's airport capital fund. The FAA interprets "interest bearing account" and "interest bearing instrument" to mean an account or instrument subject to legally enforceable contract terms that pays interest at no less than applicable rates for comparable investments.

PFC revenue may be commingled with other public agency airport capital funds only in such interest bearing accounts or instruments. The FAA interprets this regulatory language to permit commingling of PFC revenue with other public agency funds in addition to airport capital funds, provided that the commingling occurs in interest bearing accounts or instruments used by the public agency's airport capital fund and the interest on the PFC revenues can be identified. Interest earned on such

PFC revenue may only be used to pay allowable costs of approved PFC-funded projects.

Objective

Ascertain that PFC revenue remitted to the public agency is deposited in accordance with section 158.67(a) requirements.

Recommended Procedures

Review PFC cash balances to ensure that they are maintained in interest bearing accounts or other interest bearing instruments used by the public agency's airport capital fund.

Determine that all interest earned on unliquidated PFC revenue is recognized as PFC revenue.

Program Requirement No. 2

Section 158.67(b) requires that a separate accounting record for each PFC application for which the collection and/or use of PFC revenue is approved must be established and maintained by the public agency. The accounting record shall identify PFC revenue received from the collecting carriers, interest earned on such revenue, the amounts used on each project, and amounts reserved for approved projects. While separate accounting records are required, separate PFC accounts are not necessary, but are not prohibited.

Objective

Ascertain that PFC revenue remitted to the public agency is kept and accounted for in accordance with section 158.67(b) requirements.

Recommended Procedures

Review and test supporting documentation to determine that separate accounting records are maintained for each approved PFC application. These separate accounting records must show PFC revenues received, interest earned, amounts expended on each approved project, and amounts reserved for approved projects.

Review and test the public agency's methodology for allocating PFC revenues collected and interest earned to each application.

Program Requirement No. 3

Section 158.39 provides that if the amount of PFC revenue remitted to the public agency, plus interest, exceeds the allowable costs of a project, excess funds must be used for approved projects or retirement of outstanding PFC-financed bonds. Moreover, within 30 days after the expiration or termination of authority to impose a PFC, the public agency is required to present a plan to the FAA to begin using accumulated PFC revenue.

Objective

Ascertain compliance with the use of excess PFC revenue procedures outlined in section 158.39.

Recommended Procedures

Review documentation to determine if the public agency is holding excess PFC revenue and, if so, if it is using such revenue in accordance with section 158.39.

Determine if a plan for the use of excess PFC revenue is necessary in accordance with the criteria established in section 158.39(d). If so, determine if the public agency has presented a plan for the use of excess PFC revenue in accordance with the requirements of section 158.39(d), including that the plan was submitted to the FAA within 30 days of the expiration or termination of authority to impose a PFC.

E. SPECIAL NOTIFICATION AND REPORTING REQUIREMENTS

Program Requirement No. 1

The public agency is required to notify the air carriers and foreign air carriers required to collect PFC revenues at its airport(s) upon approval of collection authority by the FAA, as specified in section 158.43. The notification must be in writing and contain, at a minimum, the following information: the level of PFC to be imposed; the total revenue to be collected; the charge effective date; the proposed charge expiration date; a copy of the FAA's ROD; and the addresses where the air carriers' PFC remittances and reports should be sent. Section 158.43 also requires the public agency to notify air carriers required to collect PFC revenues at its airport(s) and the FAA of changes in the charge expiration date.

A change in the charge expiration date may occur if collected revenue, plus earned interest, equals the amount approved for use on the projects either prior to or after the proposed charge expiration date. In the latter case, the public agency may collect for an additional period until the collected revenue, plus earned interest, equals the amount approved for use on the projects, provided that the public agency has notified the air carriers and the FAA of its intent to do so.

These notifications should be made to all air carriers serving the airport(s) and to the Air Transport Association of America (ATA), 1301 Pennsylvania Ave., NW, Suite 1100, Washington, DC 20004, which acts as a "clearinghouse" for public agency notifications to other air carriers collecting and remitting PFC's to the public agency. A copy of the above notices must also be provided to the appropriate FAA Airports office.

Objective

Ascertain compliance with the notification procedures outlined in sections 158.43.

Recommended Procedures

Review and test public agency notification of PFC collection to the air carriers, ATA, and the appropriate FAA Airports office to ascertain compliance with notification requirements.

Program Requirement No. 2

Section 158.63 requires that the public agency provide quarterly reports to carriers collecting PFC revenues for the public agency, with a copy to the appropriate FAA Airports office. The PFC quarterly report must include PFC revenue received from collecting carriers, interest earned, and expenditures for the quarter; cumulative PFC revenue received, interest earned, expenditures, and the amount committed for use on currently approved projects, including the quarter; the PFC level for each project (e.g., $3 or $4.50) as specified in the ROD for that project; and the current project schedule. The report must be provided on or before the last day of the calendar month following the calendar quarter or other period agreed by the public agency and collecting carrier.

Objective

Ascertain compliance with the quarterly reporting procedures outlined in section 158.63(a) and (b).

Recommended Procedures

Obtain an understanding of the public agency's procedures for preparing, reviewing, and submitting the required financial reports.

Determine whether these reports contain all required data.

On a sample basis, trace significant data to supporting documentation (i.e., worksheets, ledgers, and other such documents) to determine whether the reported data reconciles with the public agency's accounting records.

Reconcile financial information shown on the quarterly reports to the schedule of PFC revenue.

Program Requirement No. 3

Section 158.65 requires that each air carrier collecting PFC revenues for a public agency file quarterly reports to the public agency (unless another reporting period is mutually agreed to by the air carrier and public agency). These reports shall state the collecting air carrier and airport involved, the total PFC revenue collected, the total amount of PFC revenue refunded to passengers, and the amount of collection withheld by the collecting carrier for reimbursement of expenses. The report shall include dates and amounts of each remittance for the quarter. The report shall be filed on or before the last day of the calendar month following the end of the calendar quarter or other agreed period.

Objective

Determine that the public agency has in place and utilizes procedures to track air carrier remittances and reporting, and to notify carriers of their obligations when the remittances and reporting are not in accordance with section 158.65.

Recommended Procedures

On a sample basis, test air carrier reports to determine whether the public agency has in place and utilizes procedures for determining that quarterly reports were submitted by the collecting air carriers in accordance with section 158.65.

For selected quarterly reports, compare amounts actually remitted to the public agency to amounts recorded by the public agency and to amounts reported on the quarterly reports received from the air carriers to identify errors in amounts remitted or in remittances recorded by the public agency.

F. COMPLIANCE WITH PFC ASSURANCES

Program Requirements

Appendix A of Part 158 contains a list of Assurances that must be complied with in the conduct of a project funded with PFC revenue. These assurances are included as Appendix 3 of this audit guide. It is not the FAA's intention to place the full burden of monitoring public agency compliance with these assurances on the auditors. However, in the course of conducting the annual audits required under section 158.67(c), the auditor should be aware of the relevant PFC assurances and make reasonable effort to check compliance with selected assurances as noted below. In most cases, the auditor will be reviewing related documents in order to perform the procedures outlined elsewhere in this guide.

Assurances 1 through 3 pertain to the authority of the public agency to charge a PFC and its agreement to comply with the PFC regulation and state and local laws and regulations. Assurance 4 pertains to compliance with environmental, airspace, and airport layout plan requirements of the PFC regulation. Typically, these first four assurances are evaluated by the FAA during the approval process for a PFC application and are not subject to change after application approval.

Assurances 5 through 7 place restrictions on the leasing of airport terminal facilities constructed or rehabilitated with PFC revenues. Under Assurance 5, a public agency may not enter into an exclusive lease or use agreement of 5 years or longer with an air carrier for projects funded with PFC revenue, nor may such leases or use agreements preclude the public agency from funding, developing, or assigning new capacity at the airport with PFC revenue. An exclusive lease typically assigns to one airline the sole right to use and occupy gates and facilities for a specified duration, such that the airport manager could not reassign underutilized space at the leased facility to another carrier (except in emergency or other limited and unusual conditions). Preferential or shared use leases, which are permitted under the PFC regulation, generally give the tenant the primary right to terminal space, but afford the airport manager explicit contractual authority to use the tenant's gates to accommodate other carriers, subject to specified conditions. Assurance 6 prevents the use of a "carryover provision" in a lease for a PFC-financed facility which would cause the automatic renewal of the lease for one air carrier in preference to potentially competing air carriers. Assurance 7 requires the inclusion of provisions in a lease for a PFC-financed facility that will terminate that lease if an air carrier under-utilizes other non-PFC-financed facilities for which it has exclusive use leases.

Determination of what constitutes an exclusive long-term lease and whether non-PFC facilities are fully utilized is often difficult and subject to different interpretations. Accordingly, the FAA does not request that the auditor provide an opinion on the public agency's conformance with Assurances 5 through 7. However, the auditor should identify and report if PFC-funded facilities are being leased to air carriers.

Assurance 8 pertains directly to the treatment of PFC revenue in the accounts of the airport and should normally be reviewed during the course of the audit. Under Assurance 8, the public agency may not: (a) treat PFC revenue as airport revenue for the purpose of establishing a rate, fee, or charge pursuant to a contract with an air carrier; (b) include in its rate base by means of depreciation, amortization, or other means, that portion of the capital costs of a project paid for by PFC revenue; or (c) charge a lesser fee to an air carrier with a preferential lease on PFC-financed terminal facilities than other air carriers pay for similar facilities not financed by PFC revenue.

One area of concern regarding compliance with Assurance 8(b) pertains to PFC reimbursements of project expenses originally paid for, in whole or in part, with airport revenues (local funds). Due to Assurance 8(b), the public agency may only retain the PFC reimbursement for local funds if such local funds were not received from air carriers in the form of rates and charges. Should PFC reimbursement of local funds derived from air carrier rates and charges occur, the public agency would need to refund these rates and charges (with interest) to its air carriers. This may be done either directly or indirectly through reductions in current charges to the air carriers. However, the public agency must be able to demonstrate that such reimbursement has taken place or is provided for with a specific plan.

Another area of concern in monitoring compliance with Assurance 8(b) is Assurance 8(c), which substantially modifies Assurance 8(b) in terms of appropriate rates and charges for terminal facilities. Assurance 8(c) was intended to prevent the use of PFC funds to construct a terminal facility that would be leased exclusively or preferentially to an air carrier at a greatly reduced rate (due to Assurance 8(b)) from that paid for comparable facilities used by other carriers. The carrier using the PFC-built facility would be required by Assurance 8(c) to pay a rent equivalent to the one paid for a comparable non-PFC facility, even if this rent leads to a higher payment than would otherwise be permitted by Assurance 8(b). Compliance can be achieved by increasing the rent of the PFC financed facilities to the rate for equivalent non-PFC financed facilities (rate equalization), reducing the rent of the non-PFC financed facilities (rent reduction), or a combination of both. With regard to Assurance 8(c), any rate differential between two terminal facilities at an airport should not be the result of the use of PFC funds at one terminal and not the other. Thus, in the case of a rent higher than permitted by Assurance 8(b), the public agency must demonstrate that the higher rent is needed to establish comparable rental rates for facilities in accordance with Assurance 8(c).

Assurance 9 requires the public agency to carry out the PFC project in accordance with FAA airport design, construction, and equipment standards and specifications contained in advisory circulars current on the date of project approval. Typically, this assurance requires specialized technical skills to verify and is beyond the scope of the annual audit. However, the public agency should have in its records the list of advisory circulars current as of the date of each PFC application approval.

Assurance 10 requires the public agency to maintain an accounting record for audit purposes for a period of 3 years after completion of the PFC project. "Completion of the PFC project" is construed to mean the physical and financial completion of the project. All records should satisfy the requirements of 14 CFR Part 158 and contain documentary evidence for all items of project costs.

Assurance 11 requires that a public agency submit reports in accordance with the requirements of 14 CFR Part 158, Subpart D, and as the Administrator may reasonably request. Compliance with reporting requirements is a fundamental determination of Section E of this audit guide.

Assurance 12 pertains to the public agency's compliance with 49 U.S.C. 47524 and 47526 (formerly sections 9304 and 9307 of the Airport Noise and Capacity Act of 1990) and is beyond the scope of the annual audit.

Objective

Ascertain applicability of and/or compliance with the Assurances 5, 6, 7, 8, and 10 contained in Appendix A of Part 158 in accordance with the recommended procedures.

Recommended Procedures

Review the PFC ROD(s) to determine projects that are subject to the specified assurances.

Determine whether PFC-funded facilities are being leased to air carriers or foreign air carriers.

On a sample basis, test capital costs included in rates and charges calculations to determine whether those capital projects were funded with PFC revenue (Assurance 8(a and b)).

For project costs originally funded through rates and charges charged to air carriers and subsequently reimbursed through PFC revenue, determine whether the public agency properly credited air carrier rates and charges (Assurance 8(b)).

Determine, through a review of a sample of leases, whether the public agency used a rate equalization, rate reduction, or combination of those methods to comply with Assurance 8 (c).

Examine the public agency's records to determine whether it has a list of FAA advisory circulars current as of the date of each PFC application approval.

Review a sample of project records for evidence that the public agency is in compliance with the accounting record requirements of Assurance 10.

IV. REPORTING CRITERIA AND FORMAT

Audit reports issued on the PFC program should be prepared in accordance with generally accepted auditing standards (GAAS), generally accepted government auditing standards (GAGAS), and the provisions of this guide.

The example audit reports included in Appendices A and B of this guide illustrate two of the reports that would be issued when the PFC program is audited and reported on separately. A third report would also be required to meet the requirements of *Government Auditing Standards*. Auditors should refer to example 2 and 2a of AICPA Statement of Position (SOP) 98-3, *Audits of States, Local Governments, and Not-for-Profit Organizations Receiving Federal Awards,* for illustrations that can be used to assist in the preparation of this third report.

For situations where auditors choose to audit and report on the PFC program as part of a Single Audit Act audit, the illustrative reports included in SOP 98-3 should be used as a model. However, those reports should be modified to add the additional reporting on the PFC program. Auditors are reminded that PFC revenues are not considered to be Federal financial assistance as defined by OMB Circular A-133 and, therefore, the specific provisions of OMB Circular A-133 and related documents such as the OMB Compliance Supplement and the Data Collection Form are not applicable to the audit of the PFC program. Also, regardless of which audit option is selected, PFC funds should be reported by the public agency in a separate schedule. Findings and questioned costs relating to PFC's should also be presented separately (that is, they should not be combined with any other findings and questioned costs noted in a Circular A-133 audit).

Appendix A

Unqualified Opinion on General-Purpose Financial Statements and Supplementary Schedule of Expenditures of Passenger Facility Charges[1]

<u>Independent Auditor's Report</u>

[*Addressee*]

We have audited the accompanying general-purpose financial statements, including PFC quarterly reports, of Example Entity as of and for the year ended June 30, XXXX, as listed in the table of contents. These general-purpose financial statements are the responsibility of the Example Entity's management. Our responsibility is to express an opinion on these general-purpose financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in *Government Auditing Standards*,[2] issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the general-purpose financial statements referred to above present fairly, in all material respects, the financial position of Example Entity as of June 30, XXXX, and the results of its operations and the cash flows of its proprietary fund types and nonexpendable trust funds for the year then ended in conformity with generally accepted accounting principles.

In accordance with *Government Auditing Standards*, we have also issued our report dated [*date of report*] on our consideration of Example Entity's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grants. [3, 4] That report is an integral part of an audit

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[1]Auditors may also refer to the AICPA Audit and Accounting Guide *Audits of State and Local Governmental Units* for additional guidance on reporting on the general-purpose financial statements of a government.

[2]The standards applicable to financial audits include the general, fieldwork, and reporting standards described in chapters 3, 4, and 5 of *Government Auditing Standards*.

[3] The report that is referred to in this paragraph is not illustrated in this guide but is required. See example 2 and 2a of AICPA Statement of Position (SOP) 98-3, *Audits of States, Local Governments, and Not-for-Profit Organizations Receiving Federal Awards,* for illustrations that can be used to assist in the preparation of this report.

performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

The accompanying schedule of expenditures of passenger facility charges[5] is presented for purposes of additional analysis as specified in the *Passenger Facility Charge Audit Guide for Public Agencies*, issued by the Federal Aviation Administration, and is not a required part of the general-purpose financial statements. Such information has been subjected to the auditing procedures applied in the audit of the general-purpose financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the general-purpose financial statements taken as a whole.[6]

[*Signature*]
[*Date*]

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[4]The following paragraph should be deleted if the schedule of expenditures of passenger facility charges is not presented with the general-purpose financial statements. In such a circumstance, the required reporting on the schedule may be incorporated in the report illustrated in Appendix B. See note 10 for further information.

[5]If the auditor is reporting on additional supplementary information (for example, combining and individual fund and account group financial statements and schedules), this paragraph should be modified to describe the additional supplementary information. The example reports in appendix A of the AICPA Audit and Accounting Guide *Audits of State and Local Governmental Units* and SAS No. 29, *Reporting on Information Accompanying the Basic Financial Statements in Auditor-Submitted Documents* (AICPA, *Professional Standards*, vol. 1, AU sec. 551) provide useful guidance.

[6]When reporting on the supplementary information, the auditor should consider the effect of any modifications to the report on the general-purpose financial statements. Furthermore, if the report on supplementary information is other than unqualified, this paragraph should be modified. Guidance for reporting in these circumstances is described in paragraphs 9 through 11 and 13 through 14 of SAS No. 29 (AICPA, *Professional Standards*, vol. 1, AU secs. 551.09–.11 and 551.13–.14).

Appendix B

Report on Compliance With Requirements Applicable to the Passenger Facility Charge Program and on Internal Control Over Compliance (*Unqualified Opinion on Compliance and No Material Weaknesses* [*No Reportable Conditions Identified*])[7]

[*Addressee*]

<u>Compliance</u>
We have audited the compliance of Example Entity with the compliance requirements described in the *Passenger Facility Charge Audit Guide for Public Agencies*, issued by the Federal Aviation Administration (Guide), for its passenger facility charge program for the year ended June 30, XXXX. Compliance with the requirements of laws and regulations applicable to its passenger facility charge program is the responsibility of Example Entity's management. Our responsibility is to express an opinion on Example Entity's compliance based on our audit.

We conducted our audit of compliance in accordance with generally accepted auditing standards; the standards applicable to financial audits contained in *Government Auditing Standards,*[8] issued by the Comptroller General of the United States; and the Guide. Those standards and the Guide require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above that could have a direct and material effect on the passenger facility charge program occurred. An audit includes examining, on a test basis, evidence about Example Entity's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of Example Entity's compliance with those requirements.

In our opinion, Example Entity complied, in all material respects, with the requirements referred to above that are applicable to its passenger facility charge program for the year ended June 30, XXXX. However, the results of our auditing procedures disclosed instances of noncompliance with those requirements, which are described in the accompanying schedule of passenger facility charge program findings and questioned costs as items [*list the reference numbers of the related findings, for example, 99-3 and 99-6*].[9]

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[7]Auditors should refer to examples 3a, 4, and 5 of SOP 98-3 for an illustration of reporting language that could be used in the event that the instances of noncompliance are such that a qualified or adverse opinion on compliance is necessary or if reportable conditions or material weaknesses in internal control are noted. The illustrative language in those reports would have to be modified for reporting on the passenger facility program similar to this report example.

[8]See note 2.

[9]When there are no such instances of noncompliance identified in the schedule of passenger facility charge program findings and questioned costs, the last sentence should be omitted.

Internal Control Over Compliance
The management of Example Entity is responsible for establishing and maintaining effective internal control over compliance with the requirements of laws and regulations applicable to the passenger facility charge program. In planning and performing our audit, we considered Example Entity's internal control over compliance with requirements that could have a direct and material effect on the passenger facility charge program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on the internal control over compliance in accordance with the Guide.

Our consideration of the internal control over compliance would not necessarily disclose all matters in the internal control that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that noncompliance with applicable requirements of laws and regulations that would be material in relation to the passenger facility charge program being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over compliance and its operation that we consider to be material weaknesses.[10]

This report is intended solely for the information and use of the audit committee, management, and the Federal Aviation Administration and is not intended to be and should not be used by anyone other than these specified parties.

[*Signature*]
[*Date*]

[10] As noted in note 4, there may be instances in which it would be appropriate to report on the schedule of expenditures of passenger facility charges in this report. In such a circumstance, a new section should be added immediately following this paragraph as follows:

> Schedule of Expenditures of Passenger Facility Charges
> We have audited the general-purpose financial statements of Example Entity as of and for the year ended June 30, XXXX, and have issued our report thereon dated August 15, XXXX. Our audit was performed for the purpose of forming an opinion on the general-purpose financial statements taken as a whole. The accompanying schedule of expenditures of passenger facility charges is presented for purposes of additional analysis as specified in the Guide and is not a required part of the general-purpose financial statements. Such information has been subjected to the auditing procedures applied in the audit of the general-purpose financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the general-purpose financial statements taken as a whole.

Describe any departure from the standard report (for example, a qualified opinion, a modification as to consistency because of a change in accounting principle, or a reference to the report of other auditors). Auditors should also refer to note 6 for additional guidance

Appendix C

PFC Assurances Under Part 158

A. General.

1. These assurances shall be complied with in the conduct of a project funded with passenger facility charge (PFC) revenue.

2. These assurances are required to be submitted as part of the application for approval of authority to impose a PFC under the provisions of 49 U.S.C. 40117.

3. Upon approval by the Administrator of an application, the public agency is responsible for compliance with these assurances.

B. Public agency certification. The public agency hereby assures and certifies, with respect to this project that:

1. *Responsibility and authority of the public agency*. It has legal authority to impose a PFC and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the public agency's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the public agency to act in connection with the application.

2. Compliance with regulation. It will comply with all provisions of 14 CFR Part 158.

3. Compliance with state and local laws and regulations. It has complied, or will comply, with all applicable State and local laws and regulations.

4*. Environmental, airspace and airport layout plan* requirements. It will not use PFC revenue on a project until the FAA has notified the public agency that—

(a) Any actions required under the National Environmental Policy Act of 1969 have been completed;
(b) The appropriate airspace finding has been made; and
(c) The FAA Airport Layout Plan with respect to the project has been approved.

5*. Nonexclusivity of contractual agreements.* It will not enter into an exclusive long-term lease or use agreement with an air carrier or foreign air carrier for projects funded by PFC revenue. Such leases or use agreements will not preclude the public agency from funding, developing, or assigning new capacity at the airport with PFC revenue.

6. *Carryover provisions*. It will not enter into any lease or use agreement with any air carrier or foreign air carrier for any facility financed in whole or in part with revenue derived from a passenger facility charge if such agreement for such facility contains a carryover provision regarding a renewal option which, upon expiration of the original lease, would operate to automatically extend the term of such agreement with such carrier in preference to any potentially competing air carrier or foreign air carrier seeking to negotiate a lease or use agreement for such facilities.

7. Competitive Access. It agrees that any lease or use agreements between the public agency and any air carrier or foreign air carrier for any facility financed in whole or in part with revenue derived from a passenger facility charge will contain a provision that permits the public agency to terminate the lease or use agreement if—

(a) The air carrier or foreign air carrier has an exclusive lease or use agreement for existing facilities at such airport; and
(b) Any portion of its existing exclusive use facilities is not fully utilized and is not made available for use by potentially competing air carriers or foreign air carriers.

8. Rates, fees and charges.

(a) It will not treat PFC revenue as airport revenue for the purpose of establishing a rate, fee or charge pursuant to a contract with an air carrier or foreign air carrier.
(b) It will not include in its rate base by means of depreciation, amortization, or any other method, that portion of the capital costs of a project paid for by PFC revenue for the purpose of establishing a rate, fee or charge pursuant to a contract with an air carrier or foreign air carrier.
(c) Notwithstanding the limitation provided in subparagraph (b), with respect to a project for terminal development, gates and related areas, or a facility occupied or used by one or more air carriers or foreign air carriers on an exclusive or preferential basis, the rates, fees, and charges payable by such carriers that use such facilities will be no less than the rates, fees, and charges paid by such carriers using similar facilities at the airport that were not financed by PFC revenue.

9. Standards and specifications. It will carry out the project in accordance with FAA airport design, construction, and equipment standards and specifications contained in advisory circulars current on the date of project approval.

10. *Recordkeeping and Audit.* It will maintain an accounting record for audit purposes for a period of 3 years after completion of the project. All records will satisfy the requirements of 14 CFR Part 158 and will contain documentary evidence for all items of project costs.

11. *Reports*. It will submit reports in accordance with the requirements of 14 CFR Part 158, Subpart D, and as the Administrator may reasonably request.

12. *Airport Noise and Capacity Act of 1990.* It understands 49 U.S.C. 47524 and 47526 require the authority to impose a PFC be terminated if the Administrator determines the public agency has failed to comply with that act or with the implementing regulations promulgated thereunder.