

STATE OF CONNECTICUT



*AUDITORS' REPORT
BRADLEY ENTERPRISE FUND
MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT
OF EMERGENCY SERVICES AND PUBLIC PROTECTION AND THE
CONNECTICUT AIRPORT AUTHORITY
FISCAL YEARS ENDED JUNE 30, 2016 AND 2017*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT J. KANE

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October 23, 2019

EXECUTIVE SUMMARY

In accordance with the provisions of Section 2-90b of the Connecticut General Statutes, we audited reimbursements made by the Connecticut Airport Authority (CAA) to the Department of Emergency Services and Public Protection (DESPP) for the cost of law enforcement services at Bradley International Airport.

Our objective was to determine whether the CAA reimbursements to DESPP were in accordance with the provisions of Section 21 of Public Act 9-07, September Special Session and the September 23, 2009 memorandum of understanding (MOU) between the departments of Transportation and Public Safety for law enforcement services at Bradley International Airport.

The key findings and recommendations are presented below:

Page 4	While Public Act 09-07 required the reimbursement of “all associated costs”, the practice and MOU executed under the authority of that legislation, provided that reimbursements are limited to the amounts included in Bradley International Airport’s budget for law enforcement services. The Connecticut Airport Authority should seek legislation to amend its law enforcement reimbursement policies with the limitations imposed by its federally-approved airport security program.. (Recommendation 1.)
Page 5	Section 21 of Public Act 09-07, September Special Session, required the departments of Transportation and Public Safety (DOT and DPS) to enter into a memorandum of understanding (MOU) in order to reimburse DPS for the cost associated with providing sworn state police officers at Bradley International Airport. Currently, the Connecticut Airport Authority (CAA) reimburses the Department of Emergency Services and Public Protection (DESPP – successor agency to DPS) for services provided by the Connecticut State Police. The Connecticut Airport Authority should seek legislation to amend existing statutory provisions addressing Bradley International Airport law enforcement services in order to reflect current organizational structure and nomenclature. Furthermore, the authority should enter into a new memorandum of understanding with the Department of Emergency Services and Public Protection. (Recommendation 2.)

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

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October 23, 2019

AUDITORS' REPORT

We have conducted an audit in accordance with Section 2-90b of the General Statutes, which requires us to audit reimbursements to the Department of Emergency Services and Public Protection (DESPP) for the cost of law enforcement services provided by the department at Bradley International Airport. The audit consists of determining if these reimbursements were made in accordance with Section 21 of Public Act 09-07, September Special Session, effective October 5, 2009, and a memorandum of understanding (MOU) entered into pursuant to the act.

Although this legislation was not codified into the General Statutes, it is special in nature and remains in full force and effect according to its terms.

COMMENTS

BACKGROUND

When Public Act 09-07, September Special Session, was enacted, the Department of Transportation (DOT) administered Bradley International Airport within the Bradley Enterprise Fund (also known as the Bradley International Airport Operations Fund) and the Department of Public Safety (DPS) provided law enforcement services at Bradley International Airport.

The Department of Public Safety's Troop W provided law enforcement services to Bradley International Airport for several years prior to the enactment of Public Act 9-07. Before the act, there was no formal agreement regarding the number of necessary law enforcement staffing or that DOT would pay these costs through the Bradley Enterprise Fund. Pursuant to the act, DOT and DPS executed an MOU for law enforcement services at the Bradley International Airport on September 23, 2009. One of the key terms of the MOU is that the number of law enforcement officers on site has to be in compliance with the federally-approved Bradley International Airport Security Program (ASP) and the Airport Certification Manual. In addition, DPS would be required to provide dispatcher service 24 hours a day, 7 days a week. The DOT payment to DPS in any fiscal year could not exceed the total amount budgeted for law enforcement services, unless there are unforeseen events that lead to extra costs.

The Department of Public Safety was reorganized into DESPP by Public Act 11-51, effective July 1, 2011. Troop W was consolidated with Troop H (Hartford) effective March 9, 2012, and

Troop H continued to provide law enforcement services to Bradley International Airport through the audited period and thereafter.

Public Act 11-84, effective July 1, 2011, established the Connecticut Airport Authority (CAA) to operate Bradley International Airport and the state's other 5 general aviation airports. Prior law assigned airport-related powers, duties, and functions to several agencies. The act automatically transferred those duties to CAA. However, DOT retained its responsibilities in this area until it transferred them to CAA by memoranda of understanding, as of July 1, 2013.

The assets of the Bradley Enterprise Fund were transferred into the CAA Bradley International Airport Enterprise Fund during the fiscal year ended June 30, 2014. The Connecticut Airport Authority continues to reimburse DESPP for the cost of providing law enforcement services to Bradley International Airport from the CAA Bradley International Airport Enterprise Fund.

The Airport Security Coordinator assigned to Bradley International Airport (a federal employee) is responsible for preparing the airport security program (ASP). This plan details the necessary law enforcement personnel for the day-to-day operations of the airport. CAA representatives informed us that Bradley International Airport can only pay for the law enforcement services that are required under the ASP. To do otherwise would violate federal revenue diversion laws and/or federal grant and airport sponsor assurances. Revenue diversion laws prohibit the use of airport revenue for payments that exceed the fair and reasonable value of those airport services.

The ASP is not required to take into account the structure of a state police troop. Federal law requires law enforcement personnel to have arrest authority, be identifiable, have a firearm they are authorized to use, and have completed a training program prescribed by the state. Troop H is commanded by a state police lieutenant. A master sergeant is second in command, and is the troop's executive officer. In the absence of the troop commander, the master sergeant assumes their duties. The Bradley International Airport operating budget does not specify individual positions.

AUDIT OBJECTIVE AND METHODOLOGY

Our audit objective was to determine whether the reimbursements requested by DESPP and reimbursed by CAA were in accordance with the provisions of Section 21 of Public Act 09-07, September Special Session, and the MOU executed pursuant to the act.

We reviewed the public act, the terms of the MOU, and the amount budgeted by CAA for law enforcement services for the fiscal years ended June 30, 2016 and 2017. We also reviewed the invoices submitted by DESPP for reimbursement to determine if the invoices contained only appropriate Troop H costs. We reviewed Core-CT and CAA records to confirm the amounts CAA reimbursed to DESPP.

RESULTS OF REVIEW

Reimbursements totaled \$5,463,557 and \$5,284,556 for the fiscal years ended June 30, 2016 and 2017, respectively. These amounts agreed to the approved budgets established in accordance with the ASP and were supported by DESPP invoices evidencing actual costs incurred. Although we noted minor variances, we did not further review them as they were immaterial.

The Department of Emergency Services and Public Protection was reimbursed for costs incurred up to the amount of the approved budget in accordance with the MOU executed by DPS and DOT on September 9, 2009. Accordingly, the total paid was limited to the amount included in Bradley International Airport's budget for law enforcement services. However, Section 21 of Public Act 9-07, September Special Session, requires the reimbursement of "all associated costs." This apparent conflict is discussed further in the State Auditors' Findings and Recommendations section of this report.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our examination of the records of the Bradley Enterprise Fund disclosed the following 2 findings and recommendations, neither of which were presented in the previous audit:

Conflict Between Legal Requirements and Actual Practice

Criteria: Section 21 of Public Act 09-07 (September Special Session), required the Department of Transportation (DOT) and the Department of Public Safety (DPS) to enter into an memorandum of understanding (MOU) to provide that all associated DPS costs for providing law enforcement services at Bradley International Airport be paid from the Bradley Enterprise Fund. DPS and DOT executed the MOU on September 9, 2009 which, pursuant to public act, limited the payment for law enforcement services to the Bradley International Airport's budgeted amount for law enforcement services, unless there were special circumstances.

Bradley International Airport can only pay for the law enforcement services that are required under its federally approved airport security program (ASP). To do otherwise would violate federal revenue diversion laws and/or federal grant and airport sponsor assurances. Federal revenue diversion laws prohibit the use of airport revenue for payments that exceed the fair and reasonable value of the services provided.

Condition: Although the legislation required the reimbursement of "all associated costs", the MOU executed under the authority of that legislation, provided that reimbursements are limited to the amounts included in Bradley International Airport's budget for law enforcement services. Any costs incurred in excess of the amount budgeted are not reimbursed.

Effect: The existing statutory requirement to recover all associated costs conflicts with the budgetary limitation imposed by the federally-approved airport security program.

Cause: It appears that the airport security program limitations were not taken into consideration when the legislation was drafted.

Prior Audit Finding: This finding has not been previously reported.

Recommendation: The Connecticut Airport Authority should seek legislation to amend its law enforcement reimbursement policies with the limitations imposed by its federally-approved airport security program. (See Recommendation 1.)

Agency Response: “The Connecticut Airport Authority concurs with the recommendation. The CAA plans to include a request in the CAA’s 2020 legislative package to ensure that the provisions under Section 21 of Public Act 09-07 appropriately account for federal revenue diversion laws and airport grant and sponsor assurances. As noted in the report, these federal requirements pre-empt state law and they should be acknowledged in the Public Act.”

Obsolete Legislation and Memorandum of Understanding

Criteria: Legislation and contractual agreements should be updated as necessary to conform with current organizational structure and nomenclature.

Condition: Section 21 of Public Act 09-07, September Special Session, required the departments of Transportation and Public Safety (DOT and DPS) to enter into a memorandum of understanding (MOU) in order to reimburse DPS for the cost associated with providing sworn state police officers at Bradley International Airport. Currently, the Connecticut Airport Authority (CAA) reimburses the Department of Emergency Services and Public Protection (DESPP – successor agency to DPS) for services provided by the Connecticut State Police.

Section 2-90b of the General Statutes requires the Auditors of Public Accounts to audit reimbursements made from the Bradley Enterprise Fund to DESPP to cover the cost of Troop W operations carried out in accordance with the MOU between DESPP and DOT. Currently, reimbursements to DESPP are made from the Bradley International Airport Enterprise Fund to cover the cost of Troop H operations carried out in accordance with the MOU between DPS and DOT. A memorandum of understanding was never executed between DESPP and DOT and CAA has taken over the DOT role to reimburse for public safety costs at Bradley International Airport.

Effect: The obsolete MOU language may raise questions whether the agencies possess the proper authority within the current process.

Cause: CAA and DESPP did not update the MOU to reflect changes in operations..

Prior Audit Finding: This finding has not been previously reported.

Recommendation: The Connecticut Airport Authority should seek legislation to amend existing statutory provisions addressing Bradley International Airport law enforcement services in order to reflect current organizational structure and nomenclature. Furthermore, the authority should enter into

a new memorandum of understanding with the Department of Emergency Services and Public Protection. (See Recommendation 2.)

Agency response:

“The Connecticut Airport Authority concurs with the recommendation. The CAA has attempted to revise numerous statutes since the final DOT transfer in 2013, and the CAA will add these revisions to its 2020 legislative package. The CAA has also already initiated preliminary discussions with DESPP regarding a new memorandum of understanding, and the CAA will continue to pursue this effort moving forward.”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

Our prior audit report on the Bradley Enterprise Fund did not contain any recommendations.

Current Audit Recommendations:

- 1. The Connecticut Airport Authority should seek legislation to amend its law enforcement reimbursement policies with the limitations imposed by its federally-approved airport security program.**

Comment:

Section 21 of Public Act 9-07, September Special Session, requires the reimbursement of “all associated costs.” In practice, the amounts reimbursed are limited to the amounts included in Bradley International Airport’s budget for law enforcement services. Any costs incurred in excess of the amount budgeted are not reimbursed.

- 2. The Connecticut Airport Authority should seek legislation to amend existing statutory provisions addressing Bradley International Airport law enforcement services in order to reflect current organizational structure and nomenclature. Furthermore, the authority should enter into a new memorandum of understanding with the Department of Emergency Services and Public Protection.**

Comment:

Section 21 of Public Act 09-07, September Special Session, required the departments of Transportation and Public Safety (DOT and DPS) to enter into a memorandum of understanding (MOU) in order to reimburse DPS for the cost associated with providing sworn state police officers at Bradley International Airport. Currently, the Connecticut Airport Authority (CAA) reimburses the Department of Emergency Services and Public Protection (DESPP – successor agency to DPS) for services provided by the Connecticut State Police. A memorandum of understanding was never executed between DESPP and DOT and CAA has taken over the DOT role to reimburse for public safety costs at Bradley International Airport.

ACKNOWLEDGMENTS

The Auditors of Public Accounts would like to recognize the auditors who contributed to this report:

Marcin Baran
James Carroll

CONCLUSION

In conclusion, we wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Connecticut Airport Authority and the Department of Emergency Services and Public Protection during the course of our examination.



Marcin Baran
Associate Auditor

Approved:



John C. Geragosian
State Auditor



Robert J. Kane
State Auditor