



AU18-F05 Department of Aviation Rental Car Agencies Follow-up Report

**City Auditor's Office
Kimberly L. Houston
Interim City Auditor**

October 12, 2021

Executive Summary

As part of our annual audit plan, we conducted a follow-up of the AU15-004 Department of Aviation, Rental Car Agencies audit dated February 2, 2017. The objective of the original audit was to determine whether airport management is ensuring concession fee payments from rental car agencies are accurate and timely.

The original audit made 14 recommendations for improvement over seven (7) areas to executive and department management. The seven (7) areas included: concession fees paid on net revenue, gross revenue reporting errors, completeness and timeliness of monthly gross revenue statements, accuracy and timeliness of CPA attestation reports, enforceability of contract concession fee amendment language, assessment of late fees, and annual recalculation of the adjusted minimum annual guarantee.

Prior management accepted recommendations from the original audit and agreed to make appropriate process changes.

During this follow-up project, prior management, aforementioned above, left employment with the City. This project was completed with new leadership throughout the chain of command at Aviation. Additionally, new management joined Finance and Procurement which responded to recommendations that impact citywide operations.

The audit scope for this project was October 2019 – December 2020.

In March 2021, management indicated 10 of 14 recommendations have been implemented. We reviewed information submitted and found eight (8) have been implemented.

Due to scope limitations, the remaining six (6) recommendations will be reexamined in a future engagement to allow new management to develop, implement and adjust new processes. A complete list of recommendations and current statuses can be seen on pages 1-4. Additional information on recommendations can be found in Appendix A.

Management agrees with the conclusions of this report and their responses can be found in Appendix B. We would like to commend staff from Aviation and Finance and Procurement for their assistance in this process.

Table of Contents

| | |
|-----------------------------------------------------------------------------------|-----------|
| Executive Summary | i |
| Table of Contents | ii |
| AU18-F06 Department of Aviation Rental Car Agencies Follow-up Report | 1 |
| Appendix A – Additional Follow-up Information | 5 |
| A. Concession Fee Paid on Net Revenue Instead of Gross Revenue | 5 |
| B. Other Reporting Errors in Gross Revenue | 6 |
| C. Incomplete/Untimely Monthly Gross Revenue Statements | 7 |
| D. Untimely and Unreliable Annual CPA Attestation Reports..... | 8 |
| E. Unenforceable Amendment Language | 8 |
| F. Late Fees Not Assessed on Concession Fee Payments | 9 |
| G. Adjusted Minimum Annual Guarantee (MAG) is Not Calculated Annually | 9 |
| Appendix B – Management’s Response | 10 |

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AU18-F06 Department of Aviation Rental Car Agencies Follow-up Report

| Issue No. | Recommendation/Corrective Action Plan | Management Assertion | Status |
|-----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------|
| A. Concession Fee Paid on Net Revenue Instead of Gross Revenue | | | |
| 1 | Did Aviation management enforce the contract requirement for reporting gross revenue? If not, were the terms of the contract updated to redefine the revenue to be reported? | <i>Implemented</i> | <i>Implemented</i> |
| 2 | Did Aviation consult with the City Attorney's Office to explore options to recover underpaid concession fees and penalty fees from the RAC agencies? | <i>Implemented</i> | <i>Implemented</i> |
| B. Other Reporting Errors in Gross Revenue | | | |
| 1 | Did Aviation management develop written procedures for contract management that included instructions and timeliness for: | | <i>Not Implemented¹</i> |
| | <ul style="list-style-type: none"> • Identifying the contract administrator | <i>Implemented</i> | |
| | <ul style="list-style-type: none"> • Validating and verifying the RAC agencies self-reported gross revenue and concession fee payments | <i>Implemented</i> | |
| | <ul style="list-style-type: none"> • Assessing penalty fees for underpayment of concession fees | <i>Implemented</i> | |
| | <ul style="list-style-type: none"> • Conducting supervisory reviews and managing this effort | <i>Implemented</i> | |
| 2 | Did Aviation management consult with the City Attorney's Office and explore options to recover underpaid concession fees and penalty fees from the RAC agencies? | <i>Implemented</i> | <i>Implemented</i> |

¹ We faced scope limitations due to new procedures being developed March 2021, outside our audit scope. Adequate time is necessary after introduction of new procedures to allow management to ascertain if performance meets their desired outcomes. For this reason, we are unable to perform tests against the newly developed procedures and will follow-up on these recommendations in a future engagement.

| Issue No. | Recommendation/Corrective Action Plan | Management Assertion | Status | |
|----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------|------------------------|
| B. Other Reporting Errors in Gross Revenue | | | | |
| 3 | Did City Management develop a written City-wide contract management policy and training curriculum? | <i>In Progress</i> | <i>Did Not Review</i> | |
| | Did City Management require departments to name a contract administrator for each contract? | | | |
| | Did City Management require contract administrators to attend training? | | | |
| C. Incomplete/Untimely Monthly Gross Revenue Statements | | | | |
| 1 | Did Aviation Management develop written procedures for contract management to include instructions and timelines for: | | <i>Not Implemented¹</i> | |
| | <ul style="list-style-type: none"> Verifying the gross revenue statement has been certified by a (pre-determined) company officer or business partner | | | <i>Implemented</i> |
| | <ul style="list-style-type: none"> Verifying that a required detailed transaction report has been provided in a format that is usable by Aviation staff (e.g., Excel spreadsheet) | | | <i>Not Implemented</i> |
| | <ul style="list-style-type: none"> Verifying the gross revenue statement is submitted by the due date | | | <i>Implemented</i> |
| | <ul style="list-style-type: none"> Assessing and collecting penalties for non-compliance | | | <i>In Progress</i> |
| | <ul style="list-style-type: none"> Conducting supervisory reviews and monitoring of this function | | | <i>Implemented</i> |
| 2 | Did Aviation consult with the City Attorney's Office to explore options to recover underpaid concession fees and penalty fees from the RAC agencies? | <i>Implemented</i> | <i>Implemented</i> | |

| Issue No. | Recommendation/Corrective Action Plan | Management Assertion | Status |
|-----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------|
| D. Untimely and Unreliable Annual CPA Attestation Reports | | | |
| 1 | Did Aviation management develop written procedures for contract management which include instructions and timelines for: | | <i>Not Implemented¹</i> |
| | <ul style="list-style-type: none"> Tracking the CPA attestation report for required information | <i>In Progress</i> | |
| | <ul style="list-style-type: none"> Assessing late fees when RAC agencies are non-compliant | <i>Implemented</i> | |
| | <ul style="list-style-type: none"> Comparing the information provided in the attestation report against the monthly gross revenue statements provided by the RAC agency and adjusting as needed | <i>Implemented</i> | |
| <ul style="list-style-type: none"> Conducting supervisory review and monitoring of this function | <i>Implemented</i> | | |
| 2 | Did Aviation management consult with the City Attorney's Office to explore options to recover late fees? | <i>Implemented</i> | <i>Implemented</i> |
| E. Unenforceable Amendment Language | | | |
| 1 | Did Aviation improve contract language clarity by ensuring it is written in a manner that is understandable by both Aviation and RAC? | <i>Implemented</i> | <i>Implemented</i> |
| 2 | Did Aviation work with the City Attorney's Office to negotiate with RAC agencies to revoke item Q.4 and clarify Q.1 of the 2013 contract amendment? | <i>Implemented</i> | <i>Implemented</i> |
| F. Late Fees Not Assessed on Concession Fee Payments | | | |
| 1 | Did Aviation develop written procedures for contract management which includes instructions and timelines to assess late fees? | <i>Implemented</i> | <i>Not Implemented¹</i> |
| 2 | Did Aviation consult with the City Attorney's Office to explore options for recovery of late concession fee payments? | <i>Implemented</i> | <i>Implemented</i> |

| Issue No. | Recommendation/Corrective Action Plan | Management Assertion | Status |
|--------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------|
| G. Adjusted MAG is Not Calculated Annually | | | |
| 1 | Did Aviation management develop written procedures for contract management which include instructions and timelines for: | <i>In Progress</i> | <i>Did Not Review</i> |
| | <ul style="list-style-type: none"> Calculating adjusted Minimum Annual Guarantee (MAG) for each RAC agency | | |
| | <ul style="list-style-type: none"> Obtaining management approval of the adjusted MAG | | |
| | <ul style="list-style-type: none"> Communicating the results to each RAC agency | | |
| | <ul style="list-style-type: none"> Conducting supervisory review and monitoring of this function | | |

| Legend: | |
|--------------------|------------------------------------------------------------------|
| <i>[Issue No.]</i> | City Executive management recommendation/corrective action plan. |
| Did not review | Testwork was not conducted. |

Staff Acknowledgements:
 Brianna Annas, CFE Auditor-in-Charge
 Grayson Meyer, Senior Auditor

Appendix A – Additional Follow-up Information

A. Concession Fee Paid on Net Revenue Instead of Gross Revenue

During the original audit, all rental car agencies (RAC) calculated self-reported concession fees based on net revenue (revenue less discounts) instead of gross revenue as required by contracts.

Recommendation(s):

A.1 Determine whether the benefit of enforcing the contract requirement for reporting gross revenue outweighs the cost. If not, the terms of the contract may need to be updated to redefine the revenue to be reported.

Instead of enforcing contract requirements in place at the time of the audit, Aviation management elected to introduce new contracts between the City and RACs. In October 2019, a new contract was in place with gross revenue reporting requirements that were designed to be clearer and more specific.

Management's Assertion: Implemented

Audit Status: Implemented

A.2, B.2, C.2, D.2, F.2 Consultation with City Attorney's Office

Audit combined recommendations related to Legal consult for reading ease.

We recommended Aviation management consult with the City Attorney's Office (Legal) to explore options to recover underpayment of concession fees, penalty fees or late fees due to:

- errors in calculating gross revenue (A.2, B.2),
- incomplete or untimely submission of gross revenue statements (C.2),
- unreliable or untimely CPA attestation reports (D.2), and
- untimely concession fee payments (F.2).

After Aviation management consulted with Legal, it was determined Aviation would address these areas in forthcoming new contracts in lieu of enforcing existing contract language.

Management's Assertion: Implemented

Audit Status: Implemented

B. Other Reporting Errors in Gross Revenue

RACs underreported gross revenue due to inappropriately applying discounts, excluding revenue streams, not including all airport rental locations, and making computation errors.

Recommendation(s):

B.1 Aviation management should develop written procedures for contract management which would include instructions and timelines to:

- identify the contract administrator,
- validate and verify the RAC agencies self-reported gross revenue and concession fee payments,
- assess penalty fees for underpayment of concession fees, and
- conduct supervisory reviews and monitoring of this function.

Written procedures were developed by Aviation outside the audit scope which occurred after the start of this audit engagement (January 2021). Procedures were presented to auditors February 2021 and revisions March 2021. Adequate time is necessary after introduction of new procedures to allow management to ascertain if performance meets their desired outcomes. For this reason, we are unable to perform tests against the newly developed procedures and will follow-up on this recommendation in a future engagement.

Management’s Assertion: *Implemented*
Audit Status: *Not Implemented*

B.3 City management should: develop a written city-wide contract management policy and training curriculum, require departments to name a contract administrator for each contract and require contract administrators to attend training.

Audit referred management from Procurement and Finance and Procurement, during the original audit and this project, respectfully, to State of Texas Procurement and Contract Management Guide. This manual provides directions, step-by-step guidance, and a framework for contract development, oversight, and contractor reviews using public procurement best practices (see insert for excerpt).

Management from Finance and Procurement state a contract management policy and training curriculum development are in progress.

Management’s Assertion: *In Progress*
Audit Status: *Did Not Review*

“The objective of contract management is to ensure the contract is performed satisfactorily and the responsibilities of both parties – the agency and the contractor- are properly discharged. Effective contract management prevents, minimizes, and resolves problems and potential claims and disputes.”

Primary responsibilities of a Contract Manager include but are not limited to:

- *Serving as the primary point of contact*
- *Implementing quality control and contract monitoring*
- *Monitoring contract progress and performance*
- *Verifying accuracy of submitted documents*
- *Identifying and resolving disputes*

C. Incomplete/Untimely Monthly Gross Revenue Statements

Management did not enforce contract requirements for timely submission of gross revenue statements or ensure statements were certified (signed by business partner or officer). Detailed transaction information was not collected to allow for an accurate review of statements. Penalty fees were not assessed or collected for underpaid concession fees.

Recommendation(s):

C.1 Aviation management should develop written procedures for contract management which would include instructions and timelines to:

- verify the gross revenue statement has been certified by a (pre-determined company officer or business partner
- verify the required detailed transaction report has been provided in a format usable by Aviation staff (e.g., Excel spreadsheet)
- verify the gross revenue statement is submitted by the due date
- assess and collect penalty fees for non-compliance
- conduct supervisory reviews and monitoring of this function

A preliminary review of gross revenue statements submitted by RAC reveals continued contractual non-compliance. See Exhibit 1.

Exhibit 1 Review of Gross Revenue Statements

| Rent-A-Car Gross Revenue Reporting | | | | |
|--------------------------------------------------------|-------------------------------|-----------------------------|------------------------------|----------------------------|
| Agency | Contract Form Utilized | Certified Statements | Submitted by Due Date | Transaction Details |
| <i>Avis</i> | 15/15 | 15/15 | 12/15 | 0/15 |
| <i>Alamo - National</i> | 0/15 | 0/15 | 15/15 | 0/15 |
| <i>Dollar-Thrifty</i> | 0/15 | 13/15 | 13/15 | 0/15 |
| <i>Enterprise</i> | 0/15 | 0/15 | 15/15 | 0/15 |
| <i>Hertz</i> | 0/15 | 12/15 | 13/15 | 0/15 |
| Source: RAC gross revenue statements Oct 2019-Dec 2020 | | | | |

Written procedures were developed by Aviation outside the audit scope and after the start of this audit engagement. For this reason, we are unable to perform tests and will follow-up on this recommendation in a future engagement.

Management’s Assertion: Implemented
Audit Status: Not Implemented

D. Untimely and Unreliable Annual CPA Attestation Reports

CPA attestation reports did not report gross revenue as defined in contracts, include all revenue as reflected in RAC records, or specify which revenue streams were used to compute concession fees due to Aviation. When these reports were not submitted timely, late fees were not assessed.

Recommendation(s):

D.1 Aviation management should develop written procedures for contract management which would include instructions and timelines to:

- track the submission of the CPA attestation report (to include the required information)
- assess late fees when RAC agencies are non-compliant
- compare the information provided in the attestation report against the monthly gross revenue statements provided by the RAC agency and adjust as needed
- conduct supervisory review and monitoring of this function

Written procedures were developed by Aviation outside the audit scope and after the start of this audit engagement. For this reason, we are unable to perform tests and will follow-up on this recommendation in a future engagement.

Management's Assertion: Implemented

Audit Status: Not Implemented

E. Unenforceable Amendment Language

When a contract amendment was implemented to accommodate a new fueling and maintenance area for the RACs to use for fueling, cleaning, and storage of their rental cars, inadvertently, a portion of the contract amended concession fees payable. Confusing contract language in the amendment led to unenforceable terms.

Recommendation(s):

E.1 For clarity, contract language needs to be written in a manner understandable to both Aviation management and RAC agencies.

New contracts were executed in September 2019.

Management's Assertion: Implemented

Audit Status: Implemented

E.2 Aviation management should enlist the aid of the City Attorney's office to negotiate with the RAC agencies to revoke item Q.4 and clarify Q.1 of the 2013 amendment.

With assistance from Legal, Aviation executed a new contract to alleviate the confusion surrounding the addition of Q.4 in the contract amendment.

Management's Assertion: Implemented
Audit Status: Implemented

F. Late Fees Not Assessed on Concession Fee Payments

Late fees were not assessed when concession fees were not paid on time.

Recommendation(s):

F.1 Aviation management should develop written procedures for contract management which would include instructions and timelines to assess late fees as needed.

Written procedures were developed by Aviation outside the audit scope and after the start of this audit engagement. For this reason, we are unable to perform tests and will follow-up on this recommendation in a future engagement.

Management's Assertion: Implemented
Audit Status: Not Implemented

G. Adjusted Minimum Annual Guarantee (MAG) is Not Calculated Annually

The Adjusted MAG was not recalculated each contract year. The calculation is based on the prior 12-month's activity and should be done immediately at the end of the contract year to be utilized in the subsequent year as required by contract.

Recommendation(s):

G.1 Aviation management should develop written procedures for contract management which would include instructions and timelines to:

- calculate the adjusted MAG for each RAC agency
- obtain management approval of the adjusted MAG
- communicate the results to each RAC agency
- conduct supervisory reviews and monitoring of this function

Procedures are in progress with an implementation date of September 30, 2021.

Management's Assertion: In Progress
Audit Status: Not Implemented

Appendix B – Management’s Response

10/1/2021

Kimberly Houston
Interim City Auditor
Corpus Christi, Texas

Re: AU18-F05 Department of Aviation, Rental Car Agencies
Follow-up Report

The Department of Aviation management has reviewed the
follow-up report and provided its comments below.

Agree

Do Not Agree

Audit 18-F05 was performed under former management.
The current management team believes all audit
recommendations, procedures, and corrective action
statements are now in place. We are looking forward to
the audit teams future review of our newly implemented
procedures. This review should take place in November
of 2021, to allowing time to adequately measure our
success.

Sincerely,



Kevin Smith, Director
Department of Aviation

10-1-21
Date


Steve Viera
Assistant City Manager

10-5-2021
Date


Peter Zanon
City Manager

10-5-21
Date



October 6, 2021

Kimberly Houston
Interim City Auditor
Corpus Christi, Texas

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Re: AU18-F05 Department of Aviation, Rental Car Agencies
Follow-up Report

The Finance and Business Analysis management has reviewed the follow-up report and provided its comments below. As there are no recommendations for management, no responses are required.

Fully Agree

Do Not Agree

Sincerely,

Heather Hurlbert, CPA
Director of Finance and Business Analysis

10-6-21
Date

Constance P. Sanchez 10-6-2021
Constance Sanchez
Chief Financial Officer
Date

Peter Zanoni 10-11-21
Peter Zanoni
City Manager
Date