

FAA criticizes Clem's oversight of Aurora airport

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Statesman Journal



Thomas Patterson | Statesman Journal file
The FAA called financial management of the Aurora State Airport "deficient at best."

August 25, 2010

Federal regulators say an aircraft parking lease awarded by former state aviation director Dan Clem violated federal policies by benefiting a businessman at the expense of the Aurora State Airport.

The Federal Aviation Administration also says that state financial management of the busy airport is "deficient at best."

The feds recently gave the state 30 days to submit a plan of correction, action required to continue the flow of \$150,000 per year in federal funding for the airport.

Federal scrutiny of leasing practices at the state-owned airport in north Marion County focused on a 2008 lease Clem awarded to TLM Holdings and its managing member, Ted Millar.

The 25-year lease, plus a possible five-year extension, granted TLM aircraft parking space totaling 31,359 square feet. It called for TLM to make an in-kind payment of \$78,000, consisting of paving work.

The deal was signed by Clem and Millar on Aug. 8, 2008.

FAA regulators determined that the lease violated a federal policy that requires airport rates and charges to be set in a way that is transparent, reasonable and fair, according to an Aug. 6 letter sent to the state by Dave Roberts, a civil engineer and project manager for the agency's Northwest Mountain Region in Renton, Wash.

"ODA in its response was unable to provide any documentation on how the \$78,000 in-kind payment was determined or calculated relative to the land value," it says. "It appears that ODA does not have a transparent, reasonable, consistent methodology for setting rates and is therefore acting contrary to the Rates and Charges Policy."

Aviation regulators also determined that the paving work benefited the businessman but not the airport, violating the FAA's Revenue Use Policy.

"ODA stated that the leased property was to be exclusively used by TLM," Roberts stated in the letter. "Therefore, at the end of the lease term there is no value received by the airport for the use of the property."

"If TLM had provided investment in other airport property that is open to all users and not just TLM, that investment could be credited as in-kind services ... absent any payment for the leased property, the payment of \$78,000 for paving the leased property appears contrary to FAA's Revenue Use Policy."

The Statesman Journal obtained the FAA letter through a public records request filed with the Oregon Department of Aviation.

Clem defends lease

Contacted Tuesday, Clem said he disagreed with the federal findings. As he has done in the past, Clem defended his awarding of the lease to TLM.

"It was to the benefit of the airport, not to any one person," he said. "If you visit the airport today, you'll see that the space is being used. It was needed."

Aurora State Airport is one of 28 state-owned airports overseen by the aviation department. Located near Interstate 5 about midway between Salem and Portland, it ranks as the third busiest airport in the state (behind Portland International and Hillsboro airports).

Clem said TLM's paving work will provide long-term benefits for the airport.

"That airport is scheduled for an air control tower and potentially even more traffic," he said. "I would argue that at the end of the lease, they have more tarmac and space for aircraft to move around in, off of the runway and taxiways."

Questions about the lease Clem awarded to Millar were first raised by a former state airports manager, William Pruitt, who claimed he was wrongly fired by Clem, in part because he objected to the lease.

Clem chose Pruitt to be second-in-command at the aviation department in June 2008. He fired him about three months later after they locked horns about the disputed lease and other issues.

Pruitt sued the state and the aviation department in August 2009, claiming that he was wrongly fired by Clem after he blew the whistle.

A \$650,000 state settlement of the suit emerged Oct. 19 — the same day Clem stepped down as aviation chief, citing his desire to consider a possible run for political office beyond his seat on the Salem City Council.

The state settlement with Pruitt collapsed after officials discovered that he had filed for bankruptcy shortly before the deal was struck.

Pruitt had no legal authority to accept the settlement after filing for bankruptcy, according to state officials and the bankruptcy trustee.

A new settlement of Pruitt's whistleblower claims now is pending but it is being challenged by Pruitt.

The tentative settlement calls for the state to pay \$300,000 to the bankruptcy estate as a full settlement of Pruitt's whistleblowing claims, said Tony Green, spokesman for the Oregon Attorney General's Office.

If the settlement receives court approval, the money would be the subject of creditor claims

against Pruitt, Green said.

Pruitt's objections to the proposed settlement are scheduled to be heard by a federal bankruptcy court judge on Aug. 31.

Feds criticize state oversight

The FAA criticized the Oregon aviation department's overall fiscal management of the Aurora airport, following a review of leases, lease applications and other documents, according to Roberts' letter.

"It is clear from this information that ODA's control of the airport finances and leasing practices are deficient at best," he wrote.

To continue receiving federal funding for the airport, state aviation officials must provide the FAA with an action plan to correct deficiencies cited by the federal review, Roberts said.

Among the specific changes sought by federal regulators:

- Lease rates at the Aurora airport should be corrected and reflect a transparent and reasonable methodology.
- The lease application process needs to be revamped.
- State aviation officials need to provide the FAA with a full accounting of airport revenues and expenses.
- The state needs to prepare a strategy to make the airport as self-sufficient as possible.

The FAA set a 30-day deadline for the state to turn in a plan of correction, with the clock starting on Aug. 6.

Doug Hedlund, interim head of the ODA since February, said Tuesday that the agency will meet the federal deadline.

"We will have something submitted, but it's not ready at this time," he said.

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