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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 20, 2004

Mr. Joseph H. Boardman
Commissioner
Department of Transportation
State Office Building Campus – Building #5
Albany, NY 12232

Re: Privatization of Stewart International Airport
Monitoring of Capital Construction Projects
Report 2003-S-38

Dear Mr. Boardman:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, and Article II, Section 8 of the State Finance Law, we have audited the actions taken by the Department of Transportation in monitoring capital construction projects at Stewart International Airport for the period April 1, 2000 through June 30, 2003. This is our second report addressing the Department's privatization of Stewart Airport. The first report (2002-S-57) addresses the actions taken by the Department in monitoring compliance with certain provisions in the 99-year lease for the operation and improvement of Stewart Airport.

A. Background

Stewart International Airport (Stewart) is located in New Windsor, New York, near the City of Newburgh, about 60 miles north of New York City. A former Air Force Base, Stewart was acquired by the Department of Transportation (Department) in 1982, and was operated by the Department with the assistance of contractors until April 1, 2000. At that time, as part of an airport privatization program sponsored by the Federal Aviation Administration (FAA), the Department leased Stewart to SWF Airport Acquisition, Inc. (SWFAA), a subsidiary of the National Express Corporation, for a period of 99 years.

Stewart Field first opened in the late 1930s as a small Army aviation field associated with the U.S. Military Academy at West Point. During World War II, the facility was converted to a major military base and in 1948 became Stewart Air Force Base, housing the Strategic Air Command. In 1969, 1,552 acres were purchased by the Metropolitan Transportation Authority (MTA) for use as a fourth major airport for the New York City metropolitan area. In 1971, an

additional 8,000 acres of land adjacent to the airport, known as the Stewart Airport Properties, were purchased by the MTA for the purpose of accommodating expanded airport operations and airport compatible development. However, the development of larger commercial aircraft reduced the need for a reliever airport serving New York City, and in 1982, operational jurisdiction for the airport was shifted from the MTA to the Department.

Beginning in 1985, the Department commissioned a development plan and later initiated a federally funded master plan for the airport and its surrounding properties. The Department also sought to upgrade the facilities through various capital projects. In one of these projects, the Department attempted to initiate the construction of a new access road for the airport. However, civic and environmental groups are opposed to the construction of the roadway and litigation initiated by these groups has delayed the start of the project. The land that is to contain the roadway was previously used for hunting, trapping and fishing as a result of a 1974 agreement between the MTA and the New York State Department of Environmental Conservation (DEC). At the time of our audit fieldwork, the contract for the project had been let, but the contract had not been awarded and construction cannot begin until the ongoing litigation is resolved.

In an effort to enhance Stewart's value and performance, a Request for Proposal was issued seeking a private company to take over airport operations. SWFAA's parent company was selected as the preferred bidder, and on April 1, 2000, assumed control of Stewart under the terms of a 99-year lease with the Department. The lease calls for SWFAA to pay the Department \$24 million upon the signing of the lease, \$6 million when four parcels of property formerly used for landfill are remediated by the Department and transferred to SWFAA, and \$5 million when a contract is awarded by the State for the construction of a new access road to Stewart.

According to the lease, the Department will complete nine capital-related projects that were either ongoing or completed but not closed-out at the time of the lease. In addition, SWFAA is to invest a total of \$48.6 million in capital improvements at Stewart during the first five years of the lease period, subject to certain contingencies (such as the availability of anticipated Federal grants and the volume of business conducted at Stewart during that period). The capital improvements to be made by SWFAA are generally described in a preliminary capital improvement plan that is included in the lease. Each year SWFAA is to submit to the FAA an updated five-year capital improvement plan, and provide the Department with a copy of the approved plan.

The lease may be assigned to another party by SWFAA anytime after the fifth year, subject to the Department's written approval. Other lease requirements are described in more detail in Report 2002-S-57, which addresses the actions taken by the Department in monitoring compliance with certain of these requirements.

B. Audit Scope, Objectives and Methodology

We audited the actions taken by the Department in monitoring capital construction projects at Stewart for the period April 1, 2000 through June 30, 2003. Our examination of capital expenditures extended through May 7, 2003; our examination of project status extended

through July 30, 2003. The objectives of our performance audit were to determine whether the monitoring mechanisms established by the Department were sufficient for the long-term nature of the lease and whether the pending access road construction project has been handled in an appropriate and timely manner. To accomplish our objectives, we interviewed Department managers and staff, officials from SWFAA, and officials from the New York State Thruway Authority. We also reviewed and analyzed Department and SWFAA records, and visited Stewart to observe the status of capital projects.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and do our audit to adequately assess those procedures and operations included within the audit scope. Further, these standards require that we understand the Department's internal control systems and compliance with those laws, rules and regulations that are relevant to the Department's procedures and operations that are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach when selecting activities to be audited. This approach focuses our efforts on those procedures and operations identified through our preliminary survey as having the greatest probability for needing improvement. Consequently, by design, we use our finite audit resources to identify where and how improvements can be made. Thus, we devote little audit effort to reviewing procedures and operations that may be relatively efficient or effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under Generally Accepted Government Auditing Standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

C. Results of Audit

We found the Department needs to improve its mechanisms for monitoring construction projects at Stewart. Three of the nine projects to be completed by the Department have been delayed and are not yet completed, and the Department's project records were in disarray. The delay in completing one project will result in the Department incurring an additional \$500,000 in

unnecessary airport related expenses, and the delay in completing another project could potentially result in the loss of as much as \$3.4 million in Federal funds. We also found that certain project records need to be maintained and retained by SWFAA for the State's interests in Stewart to be adequately protected.

We further determined that the Department needs to review the amount of resources expended to date to pursue the access road project both in terms of costs, almost \$15 million, and staff. The project is already delayed for more than three years by groups opposed to its location, and the outcome of the ongoing litigation cannot be predicted. We recommend the Department evaluate all of the factors related to the access road project in terms of time, costs and funding and assess whether the current plan is in the best interest of all parties. Such activities should be documented.

1. Monitoring Mechanisms

We examined the records and other mechanisms used by the Department to monitor construction projects at Stewart, and found that improvements are needed.

a. Department Projects

The Department is to complete nine capital-related projects that started before Stewart was leased to SWFAA. At the time of our audit fieldwork, six of these projects had been completed at a total cost of \$21.75 million. Three of the completed projects, which together cost about \$920,000, were designs or studies. The remaining three completed projects, which together cost about \$20.83 million, were construction projects involving security enhancements, the expansion of a terminal, and the expansion of cargo facilities. The nine projects are listed in the following table:

Status of Department Projects As of May 2003			
Description	Status/Time Period for Work	Cost (Millions)	
		Estimated	Actual
Security Access	Closed 8/20/93 - 9/10/99	\$1.20	\$1.60
Terminal Expansion	Closed 1/1/94 - 8/31/99	16.30	16.00
North Cargo Apron Expansion Phase II	Closed 10/31/95 - 8/26/97	2.62	3.23
Deicing Study	Complete - Not Closed	.18	.21
Relocation of Airfield Lighting Control Vault (Design Only)	Complete - Not Closed	.25	.21
Runway 9/27 Overlay (Design Only)	Complete - Not Closed	.80	.50
Runway 16 Approach	In Progress 7/15/95 - 4/26/02	3.50	.13
Master Plan	In Progress 11/16/92 - 8/31/01	1.24	1.21
Southwest Fuel Farm	In Progress 6/21/98-5/18/01	6.30	7.76
Total		\$32.39	\$30.85

We asked Department officials for the documentation relating to the three construction projects that were completed at a cost of about \$20.83 million. For one of the projects, the officials were unable to provide most of this documentation; for the other two projects, the files provided by the officials were missing important documentation including construction schedules, critical path schedules (which indicate when critical tasks should be completed), and logs of monitoring performed by the Department's project engineers. Overall, the Department's records were in disarray; they were stored in a disorganized fashion in several different locations. It is therefore possible that additional records exist, but have been misplaced.

The poor recordkeeping may have been caused, in part, by the fact that the staff responsible for these projects are no longer employed by the Department, and the Department is no longer responsible for operating Stewart. In any case, as a result of these recordkeeping deficiencies, there was no way of evaluating whether the three projects were adequately monitored.

Three of the nine Department projects have not been completed. These three projects, which had incurred about \$9.1 million in costs as of May 2003, involved the construction of a fuel storage facility, the construction of an approach to a runway, and the development of a

master plan for Stewart. Subsequent to the signing of the lease, the Department and SWFAA agreed that the master plan would be completed by SWFAA. The other two construction projects are still to be completed by the Department. We recommend the Department take steps to ensure that the records for these two ongoing projects are as complete and orderly as possible.

While the lease does not specify when the three ongoing projects have to be completed, they were initiated in 1992, 1995 and 1998, respectively. As is described in the following summaries, each project has been subject to long delays that lead us to question the Department's project monitoring practices:

- **Master Plan** - The Department began developing a master plan for Stewart in 1992, and can receive a total of \$1.24 million from the FAA for plan development. The plan was to consider various environmental issues (such as the noise created by the planes and the height of nearby buildings) and identify capital improvement needs. As of November 2001, the Department had spent most (\$1.21 million) of the grant funding, but had not completed the plan. According to Department officials, the plan was 95 percent complete. At that time, the FAA informed the Department that it would no longer fund the development of the plan, noting that the Department had failed to advance the project in a timely manner and some of the information in the plan was dated. The FAA also indicated that it would seek to recover the funding that had been provided, unless the Department entered into an agreement with SWFAA to provide the funds SWFAA needed to complete the plan. Thus, in January 2003, the Department agreed to provide SWFAA with \$500,000 in State funds to finish the master plan. SWFAA officials told us that the Department's work on the plan could not be used and, as of July 2003, the revised master plan was 30 percent completed and was scheduled to be completed by December 31, 2003. As a result of the Department's delay in completing the master plan, an additional \$500,000 of airport funds will be needed to complete the project.
- **Approach to Runway 16** - Stewart's master plan calls for the acquisition of land, or the right of way on land, that is needed to create a clear approach for one of Stewart's runways (Runway 16). This project began in July 1995. The Department obtained a \$3.5 million FAA grant for the project, but the grant was terminated in September 2001 because of the Department's slow progress in acquiring the needed land and right-of-way interests. At the time of our audit, only about \$133,000 had been spent by the Department on the project. A letter from the FAA in December 2002 indicated that future grants for the project might be available if the Department was able to obtain title to the needed land and easements. As a result of the Department's delay, as much as \$3.4 million in Federal funding may be lost. Department and SWFAA officials told us that they expect the scope and cost of the project to be scaled back when the master plan is revised by SWFAA. Department officials are awaiting the completion of these revisions before proceeding with the project. In response to the draft audit report, Department officials indicate that the delay in the Runway 16 project was due to a change made in conjunction with SWFAA and FAA regarding the runway angle of approach.

- Southwest Fuel Farm - The construction of this fuel storage facility began in June 1998 and was scheduled to be completed in July 1999 at a cost of \$6.3 million. As of May 2003, the Department had spent \$7.8 million on the project, and it was scheduled to be completed in December 2003. The facility was substantially completed in May 2001, and no payments have been made to the primary contractor since that time. However, the shop drawings are needed to ensure what the contractor builds will function properly and comply with Department standards. Shop drawings should have been prepared by the contractor and reviewed by the Department prior to construction or installation of the equipment. However, the drawings were not obtained from the contractor until February 2003. There was also a delay in obtaining the operations and maintenance manual from the contractor, and the Department did not accept the manual as substantially completed until June 2003. As a result of these delays, the facility has sat idle since May 2001 and its pumps and motors may have degraded or rusted in that interval. Department officials stated that, if any of the facility's parts have degraded or rusted, the deterioration will be detected when the facility is tested and the Department will require the contractor to replace the faulty parts. We recommend that the Department take legal action against the contractor for the delay in completing the shop drawings and the operations and maintenance manual, and question why such action was not taken sooner. (In response to the draft report, Department officials state that they will decide on whether to take legal action in consultation with the Attorney General's Office once the project is complete.)

We note that, in our prior audit of the capital program at Stewart (Report 94-S-51, issued in May 1995), we identified significant weaknesses in the practices used by the Department to monitor construction projects at Stewart. We recommended that these practices be improved. While our follow-up review in February 1997 indicated that improvements had been made, the long delays in these three projects and the recordkeeping weaknesses in the other three projects indicate that further improvements are needed. We therefore recommend the Department closely monitor the work that remains to be done on the Southwest Fuel Farm and Runway 16 projects, and closely monitor the work on the access road project, once that project is initiated.

b. SWFAA Projects

At the time of our audit fieldwork, SWFAA had completed, or was close to completing, four construction projects. These four projects, which had cost a total of \$22 million as of March 31, 2003, involved the rehabilitation and improvement of aircraft runways and taxiways, the expansion of cargo facilities, and the improvement of glycol collection systems (glycol, which is used to deice airplanes, can pollute groundwater if it is not properly collected and disposed).

We asked SWFAA officials for the documentation relating to the management and execution of these four projects. Such documentation should include the minutes of the meetings with the project's construction management firm, the project's critical path schedule, the engineer's daily log, the engineer's detailed construction schedule, and numerous other records.

We asked for this documentation to check whether the project work was reported as done, and because the Department may need it if action had to be taken to address performance failures in the constructed items or the construction process. As the owner of Stewart, the Department would have an interest to protect in any such action.

We found that SWFAA did not have most of this documentation. SWFAA had minutes of some, but not all, of the meetings with the construction management firms, and generally had none of the other critical records. SWFAA officials were eventually able to obtain most of the records we sought (except the critical path schedules) from the projects' construction management firms, and we were able to review these records. However, such firms can go out of business, relocate, change ownership or revise their record retention policies. As a result, if critical project records are not maintained by SWFAA, they may not be available if matters relating to performance warranties or contractor liability need to be resolved. We therefore recommend that SWFAA be required to maintain and retain all critical project records.

Department officials stated that SWFAA is already required by section 13.04 of the lease to retain certain records for capital projects. While this is so, the records required by the lease do not include the records we sought (i.e., the critical path schedule, the engineer's daily log, the engineer's detailed construction schedule, etc.). Consequently, the existing requirement is not sufficient.

2. Access Road Project

Cars entering or leaving Stewart must use a single entrance, which is located off of a local two-lane road in New Windsor. As this limited means of access would lead to serious traffic congestion as the number of people using Stewart increased, the Department planned to improve access to Stewart through the construction of a new access roadway. However, before these plans could be finalized, the Federal Highway Administration required that an environmental impact study be performed to assess the various options for such a roadway, and public hearings be held to solicit public reaction to the options. While an environmental impact study had been performed in 1992, a new study was required in December 1997, due to revised traffic projections.

The 1997 environmental impact study was to be performed by an engineering firm. The firm's findings were to be presented to the Department, and after public hearings were held, the final decision about the roadway was to be made by the Department.

Since 1992, the Department has been assisted by the New York State Thruway Authority (NYSTA) in its efforts to improve access to Stewart. NYSTA was authorized by 1992 State legislation to contribute \$15 million to these efforts. NYSTA was specifically authorized by the law to help "provide direct access to Stewart International Airport from interstate eighty-four," which is located near the airport and is maintained by NYSTA. NYSTA has performed a facilitator/advisor role on the project, coordinating efforts between the Department and the other governmental entities that are involved. NYSTA officials told us that they have spent almost all of the \$15 million, including about \$10 million for the 1997 environmental impact study and

other design work, \$1 million for design work on the alternative selected as a result of the 1997 environmental impact study, and \$2.5 million for work performed on an airport road that is to connect to the new roadway. Once the \$15 million is fully expended, NYSTA will remain involved in the project in an advisory capacity.

Five separate alternatives were considered by the 1997 environmental impact study; in addition, two of these alternatives included a number of different variations. Generally, the five alternatives consisted of the following:

- 1) a no-build alternative in which major construction was avoided by widening a local highway with access to the two nearby interstate highways (I-84 and I-87);
- 2) a no-build alternative in which major construction was avoided by applying traffic congestion management strategies to the existing roadway system;
- 3) an alternative in which the existing roadway system was retained for the present and major improvements, such as the widening of roadways, and interchange ramps were performed at a later date;
- 4) an alternative in which a new local access road was constructed and the existing entrance was retained; or
- 5) an alternative in which a new roadway was constructed providing direct access from either I-87 or I-84.

In comparing the alternatives, a number of issues were considered, including right-of-way impacts, construction cost, wetlands impact, economic growth and traffic on local roadways. After public hearings were held and public comments solicited, the final decision was made by the Department in July 2000. A variation on the fifth alternative was selected: the construction of a new diamond interchange on I-84 at the site of the existing Drury Lane overpass, along with supporting construction, reconstruction and roadway modification. This option became known as the Drury Lane project. See Exhibit A for a map.

Once the decision was made to proceed with the Drury Lane project, opposition was presented by various civic and environmental groups. Wetland permits were needed from DEC and the U.S. Army Corps of Engineers. These permits were challenged, but after further studies were made by DEC and the U.S. Army Corps of Engineers, the permits were issued in July 2002 (DEC) and October 2002 (U.S. Army Corps of Engineers). In addition, in October 2000, litigation was initiated in Federal Court in an effort to prevent the construction of the new roadway. The Stewart Park and Reserve Coalition (SPARC), the Sierra Club and the Orange County Federation of Sportsmen jointly initiated the litigation. Among the arguments made by the group was the contention that, even though the property in question was acquired for transportation purposes, the State allowed the property to be used for recreational purposes and thus made the property parkland that is entitled to special protection under the law.

On September 30, 2002, the Federal Court ruled in favor of the Department. The groups that initiated the litigation appealed the decision, and the group's request for an injunction against the construction, pending the outcome of the appeal, was granted. As of September 30, 2003, the appeal was still pending. (Federal Appeals Court ruled on this case December 12, 2003, finding that the State did not take proper account of 30 years of recreational use of adjacent Stewart Properties known as the "buffer zone". On April 16, 2004, the New York State Court of Appeals denied the State's request for a full-panel re-hearing of a ruling against the plan for the access road. The State has indicated it would conduct the perk review, if required, and is still considering the Drury Lane project.)

The contract for the Drury Lane project was let by the Department in September 2002, but was not awarded because of the injunction. Since the contract was not awarded within 45 days of being let, the contractor was allowed to withdraw its bid, and on September 10, 2003, nearly one year after the contract was let, the contractor withdrew its bid. As a result, even if the injunction is lifted, the contract will have to be rebid. The bid of the contractor who withdrew totaled \$42.6 million.

We conclude that the future viability of the Drury Lane project is uncertain. Construction may continue to be delayed by court injunction, may be delayed by further litigation, and may even be forbidden by a judicial ruling. The Department therefore needs to assess the amount of resources in terms of time, staff and funds that have been expended to date and determine what is a reasonable cost to continue in the manner and for how long. In addition, the longer the delay in awarding a contract for the project, the longer the State must wait for the \$5 million that is due from SWFAA when the contract is awarded. We recommend the Department evaluate and document its decisions regarding future actions related to the access road project for improved access to Stewart.

Recommendations

1. *Improve the system for maintaining records relating to the Department's construction projects at Stewart.*

(Department officials agree that the system for maintaining records needs improvement but note that records will continue to be maintained in multiple locations.)

2. *Initiate legal action against the contractor on the Southwest Fuel Farm project.*

(Department officials replied to our draft report that once the project is completed the State Attorney General in consultation with the Department's legal and technical staff will decide whether legal action is necessary.)

Auditor's Comments: The project was to have been completed in July 1999 at a cost of \$6.3 million. As of May 2003 the project was still not completed and the cost had risen to \$7.8 million. Accordingly, it may be prudent to expedite discussions with the Attorney General.

3. *Closely monitor the work that remains to be done on the Southwest Fuel Farm and Runway 16 projects, and closely monitor the progress of the access road project once that project has been initiated.*

(Department officials replied to our draft audit report that, they will continue to closely monitor these projects.)

4. *Require SWFAA to retain all critical records relating to construction projects, including but not limited to, the engineer's logs, construction schedules and the critical path schedule. Periodically review the project records maintained by SWFAA to determine whether they comply with the record retention requirements.*

(Department officials replied to the draft report that, they cannot require SWFAA to retain records not required by the lease, but they will advise SWFAA to maintain all records recommended by the audit.)

Auditor's Comments: Department officials need to work with SWFAA to ensure that critical records for their capital projects are retained.

5. *Evaluate all of the factors related to the access road project needed to improve access to Stewart, in terms of time, staff and funding and assess whether it is reasonable and in the best interest of the State and all other parties to continue in this manner and for how long. Such decisions should be documented.*

(Department officials disagree. They maintain that reevaluation of this project prior to final disposition of all legal action related to the project would not be an effective use of staff or financial resources.)

Auditor's Comments: We maintain that the delay and uncertainty associated with the project warrant reevaluation of decisions and documentation of the results.

Draft copies of this report were provided to Department of Transportation officials for their review and comment. Department officials agree with some of our recommendations and are taking steps to implement them. Their comments have been considered in preparing this final report, and are included as Appendix A. Appendix B, State Comptroller's Notes, includes our comments with respect to certain matters contained in the Department's response to our draft audit report.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Transportation shall report to the Governor, the State Comptroller, and the leaders of the Legislature and its fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Major contributors to this report were Gerald Tysiak, Steve Goss, Myron Goldmeer, James Pugliese, Jennifer Paperman, Melissa Clayton, and Dana Newhouse.

We wish to thank the management and staff of the Department of Transportation for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Carmen Maldonado
Audit Director

cc: Robert Barnes, DOB
John Samaniuk, DOT



Exhibit A



STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION
ALBANY, N.Y. 12232

JOSEPH H. BOARDMAN
COMMISSIONER

GEORGE E. PATAKI
GOVERNOR

Ms. Carmen Maldonado
Audit Director
Office of the State Comptroller
Division of State Services
State Audit Bureau
123 William Street – 21st Floor
New York, New York 10038

Re: Privatization of Stewart International Airport
Monitoring of Capital Construction Projects
Working Draft Audit Report 2003-S-38

Dear Ms. Maldonado:

Thank you for the opportunity to respond to your "Working Draft" Report on the Monitoring of Capital Construction Projects at Stewart International Airport. The Department of Transportation's (Department) responses to the report's recommendations, and comments on the report, are included herein.

Report Recommendations

1. Improve the system for maintaining records relating to the Department's construction projects at Stewart.

DOT Response: The Department agrees with this recommendation, however, by virtue of the nature of the State's relationship with the Airport, records will continue to be maintained in multiple locations. This is necessary because certain records need to be within the Department's control while others are needed by the lessee at the airport.

2. Initiate legal action against the contractor on the Southwest Fuel Farm project.

DOT Response: The Southwest Fuel Farm project has many complex legal issues associated with it. The Department's priority is, and shall continue to be, completion of the project. Once completed, whether legal action is initiated or not will be the decision of the Office of the State Attorney General, in consultation with the Department's legal and technical staffs.

3. *Closely monitor the work that remains to be done on the Southwest Fuel Farm and Runway 16 projects, and closely monitor the progress of the access road project once that project has been initiated.*

DOT Response: The Department will continue to closely monitor these projects.

4. *Require SWFAA to retain all critical records relating to construction projects including but not limited to, the engineer's logs, construction schedules and critical path schedule. Periodically review the project records maintained by SWFAA to determine whether they comply with the record retention requirements.*

DOT Response: The Department cannot require SWFAA to maintain any records other than those contained in their lease with the Department. However, the Department will advise SWFAA to maintain all critical project records as recommended by your audit.

5. *Evaluate all of the factors related to the access road project needed to improve access to Stewart, in terms of time, staff and funding and assess whether it is reasonable and in the best interest of the State and all other parties to continue in this manner and for how long. Such decisions should be documented.*

DOT Response: We disagree with this recommendation at this time. A reevaluation of this project prior to final disposition of all legal action related to the project would not be an effective use of staff or financial resources, nor in the best interests of the State, the Airport, or the people of the Hudson Valley Region. The Department has already carefully considered the alternatives through the Environmental Impact Statement process and selected the best design alternative for this project. All necessary permits have been reviewed and approved.

Report Comments

Page 1, Introduction, and Page 2, B. Audit Scope, Objective, and Methodology. Your report states that your office audited action taken by the Department to monitor capital construction projects at Stewart for the period of April 1, 2000 through June 30, 2003. However, your office selected for audit some projects that began and were completed well before this audit period. For example, work on the three closed capital projects (Security Access, Terminal Expansion, and North Cargo Apron Expansion), began as early as 1992 and was completed by 1999, as shown in the table on page four of your Working Draft. Since 1999, these projects required only final audit or adjusting accounting entries to be considered fully closed. By focusing on older capital projects that preceded your audit scope and which were performed during the period in which Airport management attention was clearly focused on achieving its Privatization objective, your report did not reflect subsequent improvements made in monitoring more recent projects such as the designs for Runway 9/27 overlay and Relocation of the Airfield Lighting Control Vault.

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Note
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* See State Comptroller's Notes, page 17

Ms. Carmen Maldonado
December 29, 2003
Page 3 of 3

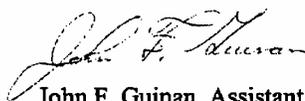
Page 5, Paragraphs 1-3. Your description of recordkeeping for the Department's projects is not accurate. We acknowledge that we were not able to locate records for one of the nine projects in the scope of your review because the staff person who possessed the records had recently separated from the Department. However, records for the remaining projects are filed in boxes by project.

As the report indicates, project boxes are in some cases stored in separate locations. This separation should not be construed to mean disarray. A conscious decision was made to retain construction records at the Airport for SWFAA's availability while financial records were stored at the Department's Main Office. All records were made available to your auditors.

Page 5, Paragraph 5 (Master Plan Update) - Your report does not mention that one of FAA's primary reasons for not progressing the Master Plan as developed by the Department was that FAA felt that the Master Plan should reflect SWFAA's vision. Providing the plan documentation developed by the Department to SWFAA for completion of the Master Plan was in the best interests of the Airport's future. The funding was provided by the Department since lease terms called for the Department to complete this Plan and SWFAA was entitled to funding assistance to complete the project.

Page 6, Paragraph 2 (Approach to Runway 16) - Your report indicates that the "Department and SWFAA officials told us that they expect the scope and cost of the project to be scaled back when the master plan is revised by SWFAA." SWFAA's Master Plan is anticipated to call for a 34:1 approach as opposed to the much more extensive and costly original project proposal of 50:1. The decision to make this change was made in conjunction with SWFAA and FAA after a careful evaluation of the impacts the 34:1 and 50:1 approach clearances would have on the surrounding community. The cost/benefit aspects of reducing the angle of the approach to 50:1, together with the greater environmental impacts of the 50:1 approach, justified the change to the 34:1 approach. It was this decision, determined to be in the best interests of the Airport, that has delayed this project.

Sincerely,



John F. Guinan, Assistant Commissioner
Office of Passenger and Freight Transportation

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Note
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State Comptroller's Notes

1. The Stewart lease began April 1, 2000. According to the lease, the Department was to complete nine capital projects that were either ongoing or were completed but not closed out at the time of the lease. Accordingly, we reviewed all nine projects. The projects that we selected are in the lease.
2. We agree that the records were stored in boxes, and we examined the contents of 61 boxes. However, the boxes were not well labeled and the location of records within the boxes was not systematic, making it difficult to locate key documents.
3. Our point is that the master plan was still not complete after 9 years had elapsed and 98 percent of the funds had been spent. The need to include SWFAA's vision in the Master Plan was not the reason for this lengthy delay.