



OFFICE OF
INSPECTOR GENERAL

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 10, 2021

OIG-CA-21-028

Thomas E. Jordan
President
West Air, Inc.
5005 E. Andersen Avenue
Fresno, CA 93727

Dear Mr. Jordan:

On September 11, 2020, we initiated an audit of West Air Inc.'s (West Air)¹ certifications of wages, salaries, benefits, and other compensation in its application for financial assistance to the Department of the Treasury (Treasury),² as required under Title IV, Subtitle B, of the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act).³ The CARES Act requires that financial assistance to passenger and cargo air carriers and respective contractors must exclusively be used for the continuation of payments of employees' wages, salaries, and benefits. Passenger and air cargo carriers that do not report salaries and benefits to the Department of Transportation (DOT), referred to as non-241 air carriers,⁴ and contractors requesting financial assistance are required to certify to Treasury via "sworn" financial statements, or other appropriate data, wages, salaries, benefits, and other compensation amounts for the period of April 1, 2019, through September 30, 2019. The CARES Act assigned the Treasury Office of Inspector General (OIG) with responsibility to audit the certifications required to be submitted by non-241 carriers and contractors.

¹ West Air is a cargo air carrier headquartered in Incline Village, Nevada, that provides cargo feeder services to major worldwide courier companies and individual cargo charter services throughout the Pacific Northwest.

² In an engagement memorandum dated April 13, 2020, we notified Treasury officials that we were initiating audits specific to the certifications submitted by passenger and cargo air carriers and contractors that do not report to Department of Transportation (DOT).

³ P. L. 116-136 (March 27, 2020).

⁴ Air carriers that are not required to report salaries and wages to the DOT under 14 CFR Part 241, "Uniform System of Accounts and Reports for Large Certificated Air Carriers" defines "Air carrier, large certificated" as an air carrier holding a certificate issued under 49 U.S.C. 41102, as amended, that: (1) Operates aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds; or (2) conducts operations where one or both terminals of a flight stage are outside the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

The objective of our audit was to assess the accuracy, completeness, and sufficiency of West Air's "sworn" financial statements or other data used to certify the wages, salaries, benefits, and other compensation amounts submitted to and approved by Treasury. The scope of our audit included West Air's certified application, financial statements, tax returns, and other documentation submitted to Treasury on April 3, 2020, as part of its Payroll Support Program's (PSP1) *PAYROLL SUPPORT APPLICATION FORM for Air Carriers and Contractors* (PSP1 Application). We selected West Air's certification submitted to Treasury for audit as part of a non-statistical sample of non-241 passenger and air cargo carriers and contractors.⁵

On April 3, 2020, West Air submitted its PSP1 Application to Treasury requesting \$[REDACTED] of financial assistance for the continuation of payments of employees' wages, salaries, and benefits. Treasury and West Air entered into a *Payroll Support Program Agreement* on May 14, 2020, for the requested amount with Treasury making an initial payroll support payment of \$1,050,543. However, on May 29, 2020, Treasury informed West Air officials that the company included employee compensation in its payroll support program application that was not included on its Internal Revenue Service (IRS) Form 941 (Employers Quarterly Federal Tax Return) filing for the same period.⁶ West Air submitted a *Revised Awardable Amount* form to Treasury on June 9, 2020 to correct its awardable amount to \$2,974,054, having made reductions to its employees' wages, salaries, and benefits. Treasury made additional payments from June through September 2020 to West Air totaling \$1,923,511 for a total awardable amount equal to \$2,974,054.

As part of our audit, we reviewed (1) Title IV, Subtitle B, Air Carrier Worker Support of the CARES Act; (2) Treasury's *Guidelines and Application Procedures for Payroll Support to Air Carriers and Contractors under Division A, Title IV, Subtitle B of the Coronavirus Aid, Relief and Economic Security Act*; (3) Treasury's *Q&A: Payroll Support to Air Carriers and Contractors*; and (4) the *Payroll Support Program Agreement*. While we reviewed payroll registers, organizational charts, and tax records from West Air to support its certification to Treasury, we paused this audit in February 2021 to address a systemic issue identified in audits of other PSP1 recipients. Specifically, corporate officer

⁵ Under PSP1, there are 611 recipients that include passenger (241 and non-241 carriers) and cargo air carriers and contractors. For cargo air carriers and contractors, we selected all cargo air carriers and contractors and divided them into four tiers based on initial payment amounts from Treasury. The four tiers for cargo air carriers included payments ranging from \$0 - \$1,100,000 (Tier 1); \$1,100,001 - \$2,200,000 (Tier 2); \$2,200,001 - \$3,300,000 (Tier 3); and any payments above \$3,300,001 (Tier 4). We selected the cargo carrier with the highest payment amount from each tier with West Air receiving the highest initial payment in Tier 1 of \$1,050,543.28.

⁶ As part of the Payroll Support Application Form for Air Carriers and Contractors, non-241 air carriers and contractors were required to complete a table of salaries and wages, benefits, bonuses, and similar payments for its employees from April 1, 2019, through September 30, 2019, referred to as the awardable amount. Applicants for PSP1 payments were required to submit their completed IRS Form 941 "Employers Quarterly Federal Tax Return" covering the same time period. Employers use IRS Form 941 to (1) report salaries and wages, income taxes, Social Security taxes or Medicare taxes withheld from employees' paychecks; and (2) pay the employer's portion of Social Security or Medicare taxes.

compensation⁷ and employer-side payroll taxes,⁸ that are unallowable, were included in awardable amounts on recipients' PSP1 Applications. West Air officials informed us that they unintentionally overstated the awardable amount by \$ [REDACTED] as a result of including corporate officer pay on its PSP1 Application. West Air's overstatement was part of the cumulative overstatements that we reported to Treasury in an interim audit update on our audits of non-241 air carrier and contractor certifications.⁹

On February 23, 2021, West Air returned all \$2,974,054 of its award to Treasury. West Air officials informed us that their business industry was not negatively impacted by the Coronavirus Disease 2019, and therefore had no need for PSP1 funding. West Air and Treasury signed a *Payroll Support Program Withdrawal Agreement* on February 25, 2021, and March 5, 2021, respectively. The withdrawal agreement terminated West Air's *Payroll Support Program Agreement* signed on May 14, 2020. Because West Air returned its full awardable amount of \$2,974,054 under PSP1, we are terminating the audit.

We appreciate the courtesies and assistance provided by your staff. Should you have any questions regarding this letter, please contact me at (202) 486-1420.

Sincerely,

/s/

Deborah L. Harker
Assistant Inspector General for Audit
Office of Inspector General

cc: Jacob Leibenluft, Chief Recovery Officer, Office of Recovery Programs,
Department of the Treasury

⁷ The CARES Act and the PSP1 Application define an employee as an individual, other than a corporate officer, who is employed by an air carrier or a contractor. The definition states that recipients are to exclude corporate officers in the determination of what is considered an employee.

⁸ The CARES Act and PSP1 Application do not explicitly state that the recipient should exclude employer-side payroll taxes, it does state that only wages, salaries and benefits are allowable. In the *PSP Agreement*, Treasury management defined the terms wages, salary, and benefit as "excluding any Federal, state, or local payroll taxes paid by the Recipient."

⁹ *Interim Audit Update – Air Carrier and Contractor Certifications for Payroll Support Program* (OIG-21-025; issued March 31, 2021).