

Reference: LEGAL
Section: GENERAL
Title: REVENUE GENERATION
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I. PURPOSE

The purpose of this policy is to define the policy of the Niagara Frontier Transportation Authority (the "NFTA") and its subsidiary, Niagara Frontier Transit Metro System, Inc. ("Metro" and, together with the NFTA, the "Authority"), regarding revenue generation including, without limitation, revenue generated through the incidental use of any real property or equipment that is acquired, improved or maintained by the Authority using any Federal Transit Administration (FTA) funding.

II. POLICY

The presence of tenants or revenue generating equipment on Authority or Metro property has financial, legal and other ramifications. The General Counsel and Chief Financial Officer must have knowledge of all such situations whether they be new arrangements or changes in existing understandings including, among others, the increase or decrease in space occupied and the installation of vending machines.

Facility staff is the first line of defense against unauthorized introduction of revenue equipment on facilities, changes in existing understandings, and other matters that might have an effect on the revenues that should be collected from tenants and users of the particular operation. Accordingly, the facility heads are to ensure that they, or responsible members of their staff, abide by the following guidelines with respect to revenue generation:

1. No unilateral decisions by facility personnel are to be made concerning admission of tenants or revenue generating equipment on NFTA or Metro property. Such matters are to be referred to the Manager, Facilities & Property, Director of Aviation or Director of Public Transit for appropriate review and recommendation. He/She, in turn, will advise the facility head, General Counsel, and Chief Financial Officer as to the determination made in each instance.
2. Any changes in existing arrangements, whether or not concurred in by facility management, should be promptly reported to the General Counsel, Chief Financial Officer, Manager, Facilities & Property, Director of Aviation or Director of Public Transit for appropriate review and action, such as revenue billing revisions. Examples of changes might include alternations in square footage occupied, relocations, addition or deletion of revenue equipment, utility hook-ups, etc.

The “incidental use” of real property or equipment requires the prior written approval of the FTA. “Incidental Use” is defined as the authorized use of real property or equipment acquired or improved with FTA funds for purposes of transit, but which also has limited non-transit purposes due to transit operating circumstances. “Real Property” is defined as land, affixed land improvements, structures and appurtenances. FTA approval will only be given if the non-transit purpose (i) is limited, (ii) does not interfere with public transportation uses or safety, (iii) is compatible with intended public transit uses, (iv) does not interfere with the Authority’s continuing control over the Real Property or equipment, (v) generates additional revenues that are based on competitive market terms and (vi) the revenues are applied towards eligible transit capital projects, enhance system ridership or operating costs. All Incidental Use requests should reflect sufficient detail to evidence compliance with the terms of this paragraph and be forwarded to the Manager, Facilities and Property who will present each such request to the General Counsel and Chief Financial Officer as well as the Director of Aviation or Director of Public Transit, as applicable.