

**STANDARD OPERATING PROCEDURE FOR ACCOUNT/AUDIT OF
PASSENGER SERVICE FEE (SECURITY COMPONENT) BY
JVC/PRIVATE AIRPORTS**

1. Background:

1.1 In terms of Rule 88 of the Aircraft Rules, 1937, the licensee of an airport is entitled to collect fees to be called as Passenger Service Fees (PSF) from the embarking passengers at such rate as the Central Government may specify. Licensee is also liable to pay for security component to any security agency designated by the Central Government for providing the security service.

1.2 As per Ministry of Civil Aviation (MoCA) letter no. AV-13024/047/2003-SS dated 9th May, 2006, PSF at airports would be collected by the respective Airport Operator, which could be AAI, JVC, or a private operator. For the Security Component of PSF, [hereinafter referred to as PSF (SC)], an Escrow account would be opened by the JVC/Private Operator and the account will be operated by them and monies collected for the PSF (SC) would be deposited in the said account.

1.3 Further, in terms of MoCA's Order no.AV.13024/047/2003-SS dated 20.6.2007, the amount of PSF to be collected will be decided by MoCA which includes Security Component and Facilitation Component. However, after Airports Economic Regulatory Authority (AERA) becomes functional, PSF will be fixed by AERA. On the basis of advice received from Department of Legal Affairs, Ministry of Law & Justice, it was also clarified that PSF (SC) collected at an airport operated by a JVC or a private-operator will be utilized at the airport concerned only to meet the security related expenses of that airport. However, Airports Authority of India (AAI) will be considered as a single licensee in respect of its airports for this purpose with liberty to pool the PSF (SC) collections from such airports and use the same for meeting the security related expenses at any of its airports.

1.4 PSF is subject to applicable Service Tax and airlines have been authorized, presently, to deduct collection charge @ 2.5% of the PSF.

2. Nature of security component of PSF:

2.1 Aviation security is an activity reserved for the Government of India. Force deployment at the airports, security requirements including the requirement of capital items and specifications thereof are laid down by the Government/Bureau of Civil Aviation Security (BCAS). As stated above, PSF is levied under Rule 88 of

the Aircraft Rules, 1937 and covers security component as well as facilitation. While the fee is collected by the licensee of the airports, i.e., the airport operator, through the airlines, the security component thereof, which constitutes 65% of the total amount, can be used only in terms of directions issued by the Government/BCAS, from time to time. The amount collected by the airport operator, which is kept separately in an escrow account, is thus held in fiduciary capacity.

2.2 Since the amount is held by the airport operator in fiduciary capacity for the Government, the accounts thereof would have to be maintained separately in accordance with the procedure laid down by the Government and have to be offered for audit by the Comptroller & Auditor General of India (CAG).

3. Escrow Account Operating Procedure:

3.1 For PSF (SC) a separate Escrow Account shall be opened and operated by JVC/Private Operator, with a Scheduled Nationalized Bank.

3.2 An Escrow Account agreement will be entered with the Escrow Banker by the JVC/Private Operator.

3.3 The format of Escrow Agreement will include details such as, Definitions for Establishment of Escrow Account and declaration of Trust, the Escrow Account provisions, Term and Termination, Representations and Warranties of Escrow Bank and JVC/Private Operator and Miscellaneous provisions.

3.4 Parties to the Escrow Agreement would consist of JVC/Private Operator and Escrow Bank. However, the Escrow Account Agreement will have a Clause by which the MoCA will have supervening powers to direct the Escrow Bank on the issues regarding operation as well as withdrawals from Escrow Account.

3.5 Escrow Account shall be maintained, controlled and operated by Escrow Bank under the Escrow Agreement as under:

- i) **PSF (SC) Account:** JVC/Private Operator shall deposit immediately all PSF (SC) collections into the "PSF (SC) Account."
- ii) **Withdrawal from PSF (SC) Account:** The Escrow Bank shall allow withdrawal by JVC/Private Operators of amounts deposited into the PSF (SC) account only towards the following purposes, in the order of priority by descending order:

- a. To pay amounts towards Taxes, including Income Tax on PSF (SC) income as per provisions of Income Tax Act, 1961, Service Tax or any other statutory dues.
 - b. To pay for security related expenses to Central Industrial Security Force (CISF).
 - c. To pay other security related expenses in terms of MoCA Order dated 20.6.2007 or any other decision of MoCA/BCAS or any other government agency, from time to time.
- iii) **Deployment of Surplus:** Any surplus standing at the credit of the Escrow Account should be deployed by the Escrow Bank in its own Deposit Account. On maturity or otherwise, the proceeds, shall be credited in Escrow Account.

4. Accounting Procedure:

4.1 JVC/Private Operator shall maintain the books of accounts for PSF (SC) on mercantile basis as per Standard Accounting Policies and Practices.

4.2 JVC/Private Operator will bill the respective airlines for PSF (SC) separately.

4.3 The payment received for PSF (SC) (net of TDS) shall be deposited immediately by the JVC in the Escrow Account maintained for the purpose.

4.4 JVC/Private Operator shall account for permissible security related expenditure, both of Revenue and Capital nature, incurred from Escrow Account.

4.5 JVC/Private Operator will ensure realization of dues from the airlines regularly.

4.6 It shall be the responsibility of the JVC/Private Operator to account for the Tax Deducted at Source, if any, by the Airlines from the above payments.

TDS amount is to be adjusted against income tax liability on PSF (SC). If TDS amount is higher than income tax liability on PSF (SC) the balance amount shall be deposited by JVC/private operator in escrow account provided it has been allowed to adjust such excess TDS against its income tax liability other than income tax liability on PSF (SC). Otherwise, refund will be duly applied and refund amount (including interest, if any) received from the tax authority shall be credited to the escrow account.

4.7 In case, amount available in PSF (SC) including previous surpluses, if any, deployed in terms of para 3.5 (iii), is not sufficient to pay Income Tax / or any other security related expenses, JVC/Private operator may approach MoCA or any Regulator appointed for this purpose to suitably enhance PSF (SC). Any security related expenditure incurred by JVC/Private Operator pending enhancement of PSF (SC) shall be reimbursed to JVC/Private operator from PSF (SC) account, in terms of the final decision of MoCA/Regulator.

4.8 In terms of clarification dated 30.6.2008 issued by the Central Board of Direct Taxes (CBDT), the receipts on account of PSF (SC) are taxable as income in the hands of the airport operator. As such, a consolidated return would have to be filled before the tax authorities. Following situations may arise in this regard:

- (a) The revenues of airport operator and PSF (SC) income may be taxable on stand alone basis and on consolidated basis.
- (b) There may be a net taxable income on consolidated basis due to other revenues of the airport operator, whereas there may be a deficit in PSF (SC).
- (c) There may be a net taxable income on consolidated basis due to surplus in PSF (SC) account though the other income of the airport operator on stand alone basis may indicate loss.
- (d) The airport operator may not need to pay taxes due to carry forward of losses even though PSF (SC) account may show the surplus during the relevant assessment year.

The JVC/private operator shall deal with the above situations as under:

- (a) The tax component may be booked to the PSF (SC) account in proportion to its liability on a stand alone basis.
- (b) No amount need to be booked. However, the deficit account may be separately maintained for adjustment in future as if it was a carried forward loss.
- (c) Tax amount may be calculated and recorded separately and the actual amount paid may be booked to the PSF (SC) account.
- (d) Notional liability on account of surplus in the PSF (SC) may be calculated even in the years when no tax is paid. The account may be debited to the extent of the notional tax liability in the assessment

year when the airport operator has to pay taxes after the carry forward of losses has been exhausted. This situation will also apply on vice-versa basis where carry forward of losses on the PSF (SC) account is used to defray the tax liability of the company from its revenues.

4.9 The Collection Charges on PSF (SC) payable to the airlines shall be treated as expenditure from PSF (SC).

4.10 Service Tax collected and remitted by the airlines on Security Component of PSF shall also be deposited by the JVC/Private Operator in the Escrow Account and payment for such service tax on PSF (SC) shall be made from Escrow Account after availing input Service Tax benefit, if any.

4.11 JVC/Private Operator will maintain all the details and records relating to raising of bills, realization of dues, payments, Escrow Account operation etc. for audit by CAG.

4.12 JVC/Private Operator shall furnish Receipts and Payments account, on quarterly basis, to MoCA as per **Annexe-A**. The quarterly accounts should be submitted within 30 days of the end of the respective quarter.

4.13 Annual Financial Accounts, i.e., Income and Expenditure Account and Balance Sheet for PSF(SC) shall be prepared. The surplus of Income over Expenditure shall be transferred to the head "PSF (SC) Fund".

4.14 The Annual Accounts should be submitted to the MoCA as well as CAG within 3 months of the close of the financial year.

4.15 The capital assets, if any, procured out of PSF(SC) by the JVC/Private Operator will be duly accounted for in the books. Further, a separate Asset Register will be maintained for Fixed Assets.

4.16 Any discard/disposal of assets procured through PSF (SC) shall be done as per open, competitive procedure and amounts realized will be deposited in the Escrow Account.

4.17 The JVCs /Private Operator shall prepare the Annual Financial Accounts for PSF (SC) for the years 2006-07 and 2007-08 also on the above basis and submit

the same to MoCA for information and review and to CAG for audit within three months.

5. Audit Procedure:

5.1 Audit of PSC (SC) Accounts shall be conducted by CAG on annual basis or at such periodicity, as may be decided by the CAG.

5.2 JVC/Private Operator shall furnish all the details, documents and records such as bills raised, amounts realized, payments made to CISF, other security related payments and Escrow Account Operations etc., for audit by CAG.

5.3 The audit observations will be forwarded to JVC/ Private Operator for comments and comments of JVC/ Private Operator would be forwarded by MoCA to CAG after due vetting.

5.4 Corrective action, if any, required shall be advised by MoCA to JVC/ Private Operator. JVC/Private Operator shall be bound to comply with such advise.

6. General:

6.1 Pledging/offering of any assets (Bank A/c, Equipment etc.) as guarantee to any bank etc. may not be permitted.

6.2 JVC/Private operator shall not be entitled to any administrative expenses etc. on account of PSF (SC). However, legal expenses, if any, shall be allowed only with the approval of MoCA on case to case basis.

6.3 JVC/Private Operator shall nominate an officer to coordinate and deal with the PSF(SC) related matters, under intimation to MoCA and CAG.

6.4 A format of Income and Expenditure Account and Balance Sheet is enclosed as **Annexe-B**. Format may be modified by JVC/Private operator as per requirements, from time to time, with the concurrence of MoCA. JVC/Private Operator shall carry out appropriate accounting treatment of PSF (SC)-income and related expenditure- in their accounts.

6.5 Income Tax, Service Tax and any other taxes shall include any surcharge and cess thereon.

6.6 JVC/Private Operator shall account for PSF (SC) in its books JVC shall also account for fixed assets, investments and current assets etc. created out of PSF (SC) in the books. It is clarified that such fixed assets, investments and current assets etc. are held by JVC/Private operator in fiduciary capacity only.

6.7 All fixed assets acquired through PSF (SC) shall be adequately insured by JVC/Private operator and insurance charges shall be paid from PSF (SC).

6.8 Any difficulties in implementation of this SOP or disputes arising due to such implementation shall be referred by the parties concerned to MoCA, whose decision shall be final and binding.

ANNEXE - A to ANNEXURE - IV

QUARTERLY STATEMENT OF RECEIPTS AND PAYMENTS FOR PSF (SC) - ACCOUNT

Rs. in lakhs

RECEIPTS	Amount	PAYMENTS	Amount
Opening Balance (Escrow Bank)		Security related Revenue expenditure	
- Current Account		- CISF	
- Deposit Account		- Others	
PSF (SC) collections (net of collection charges)		Security related Capital Expenditure	
Service Tax		- CISF	
Others (Including interest).		- Others	
		Service Tax	
		Income Tax	
		Other Taxes	
		Other Statutory dues	
		Closing Balance (Escrow Bank)	
		- Current Account	
		- Deposit Account	

ANNEXE-B to ANNEXURE -IV

INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDED 31st MARCH.....

Rs. in lakhs

EXPENDITURE	Amount	INCOME	Amount
Expenditure on CISF Other Security related expenditure Collection Charges to Airlines Service Tax Income Tax Other Taxes Other Expenses * Excess of Income over Expenditure transferred to PSF (SC) Fund.		PSF(SC) – Gross Others (Including interest) * Excess of expenditure over income transferred to PSF (SC) Fund.	

* As the case may be

BALANCE SHEET AS ON 31ST MARCH,

Rs. in lakhs

LIABILITIES	Amount	ASSETS	Amount
PSF(SC) Fund - Opening Balance * Add: Excess of income over expenditure for the year * Less: Excess of expenditure over income for the year - Closing Balance - Other Current Liabilities		Fixed Assets Current Assets and Advances - Sundry Debtors - Advances - Bank Balance (Escrow Account) - Current Account - Deposit Account	

* As the case may be