

# Airport, Guard dispute has nationwide implications



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(Photo: David Scrivner/Iowa City Press-Citizen)

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The Iowa Air National Guard leases 172 acres at the Des Moines International Airport for \$1 a year.

Airport officials say the land is worth about \$5 million a year. They say the Guard should pay market-rate rent or the airport could lose federal funding due to Federal Aviation Administration

rules.

The simmering lease dispute has dragged on for more than a year. It could come to a head Tuesday when the Des Moines Airport Authority Board is scheduled to consider terminating the Guard's dollar-a-year lease.

One thing both sides agree on: Des Moines has become a battleground for a larger dispute between federal agencies that could affect airports and Guard units nationwide.

“As Des Moines goes, so goes the nation.”

Kevin Foley, Des Moines airport executive director

“We absolutely would set precedent,” Des Moines airport executive director Kevin Foley said. “If it was just Des Moines, I think it would have come to a resolution already, but it has national implications. ... As Des Moines goes, so goes the nation.”

Said Brig. Gen Drew DeHaes of the Iowa National Guard: “There is a disagreement right now between

the Air Force and the FAA, and that, in my opinion, is the crux of this whole argument. ... This isn't Des Moines versus the 132nd or the Iowa Air National Guard. In my opinion, it's much bigger."

The dispute stems from the federal government's 2012 decision to cut F-16 fighter jets from the Iowa Air National Guard's 132nd Wing, which is stationed at the airport. The unit's new mission includes surveillance, cybersecurity and remotely piloting unmanned aircraft that fly overseas.

About a dozen other Air National Guard units from Nashville to Fort Smith, Ark., to Battle Creek, Mich., have been assigned similar missions after losing manned aircraft. And if the 132nd Wing loses its dollar-a-year lease due to the new mission, it could mean more expensive leases for Guard units around the country, Guard officials say.

"A lot of those airports are looking to Des Moines for a way forward, and they're kind of waiting to see what happens," DeHaes said.



### Why the lease matters

At issue is whether the 132nd Wing's new duties qualify as an "aeronautical mission" under FAA rules.

The FAA requires airports to charge market-rate rent to all tenants on the airfield, except military units that have an aeronautical mission. Air National Guard units with aeronautical missions are allowed to pay nominal leases, like the dollar-a-year agreement in Des Moines.

A growing number of Guard units around the country are transitioning from flying jets to other missions, like operating unmanned aircraft, and Des Moines' lease dispute could determine whether they have to pay higher rents at civilian airports.

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Amid declining defense spending, such an increase could be the difference between keeping or cutting entire Guard units, said Col. Greg Hapgood, a spokesman for the Iowa National Guard.

Airport officials, meanwhile, say they could lose federal funding if they don't raise the Iowa Air National Guard's rent. A clause in the airport's FAA grants requires the airport to charge market-rate rent except to tenants with a military aeronautical mission, Foley said.

This year, the Des Moines airport is scheduled to receive \$13 million in FAA grants to rebuild an aging runway.

An FAA regional office said in 2013 that the 132nd Wing's new mission does not qualify as an aeronautical mission. The agency gave the Des Moines airport until August 2016 to raise the Guard's rent or face losing its grant funding.

U.S. Air National Guard officials, though, said 132nd Wing is conducting an aeronautical mission.

"The Air Force believes all their mission sets are aeronautical in nature," said Col. Michael McDonald, director of installations and missions support for the Air National Guard.

Complicating the matter is the fact that Guard officials are seeking to move 10 Black Hawk helicopters from a base in Boone to the Des Moines airport. It could take two years to gain approval from federal authorities, but the move would cement the 132nd Wing's work as an aeronautical mission, Guard officials say.

McDonald agreed the lease dispute in Des Moines could have implications for Guard units around the country.

"Des Moines is on the leading edge of the issue," he said. "As the Air Force has drawn down the number of manned aircraft they have, we are encountering this at a number of places, and Des Moines is one of the first."

The Guard's lease at the Des Moines airport, originally signed in 1975, extends through 2060. Maj. Gen. Tim Orr with the Iowa National Guard said Air Force legal counsel believes the lease is still valid.

But Foley said it's not the airport's job to subsidize the Air National Guard.

"They have national security responsibilities and they need to support themselves," he said. "I don't know why it is the responsibility of any one entity, whether it is the Des Moines airport, or whether it is any other airport or any other city ... to provide space for a national security responsibility. It should be on the federal tax rolls."

### **Cost to passengers**

The lease dispute could ultimately trickle down to passengers.

When the 132nd Wing's F-16s were cut, the unit cut its firefighting team that had protected civilian and military aircraft at the airport.

In turn, the airport last year hired a private firm — Pro-Tec Fire Services — to provide firefighters on the airfield at a cost of about \$1.3 million a year.

About 1.2 million passengers took off from Des Moines last year, so the added cost of providing firefighters equates to slightly more than \$1 per passenger.

Foley said a portion of those costs will ultimately be passed on to travelers through a fee the airport charges airlines.

between an airline picking Des Moines for a new flight over another, cheaper airport, he said.

### **Terminal funding at stake**

The lease dispute also raises questions about the airport's \$420 million plan to build a new terminal on the south side of the airfield by 2024.

The airport is about \$200 million short for the project, and airport officials are expected to seek money from the state, among other sources, to fill the gap. That makes Gov. Terry Branstad's support critical.

Branstad serves as the state's commander in chief of the Iowa National Guard and has been a vocal supporter of the Guard unit.

Foley acknowledged that terminating the Guard's lease could make it more difficult to raise money for the new terminal. But he said he doesn't intend to make Branstad pick between supporting the airport or the Guard.

"I don't believe we're going to send a letter of termination" for the Guard's lease, Foley said. "I think we're going to try to get this worked out."

If the lease dispute drags on, it would delay the new terminal. As part of the terminal plan, the airport wants to expand space for general aviation, which includes corporate jets and recreational aircraft.

Airport officials say it would be ideal to expand general aviation onto part of the 132nd Wing's current base. Airport officials say the Guard should need less space since losing the F-16s. They have asked the Guard to determine how much — if any — of the 172-acre site it can relinquish to the airport.

If the Guard keeps all 172 acres, the airport will have to find another place to expand general aviation. Until that is determined, the airport can't begin designing the terminal project, Foley said.

Guard officials, though, said terminating the 132nd Wing's lease would only cause more delays.

"If they continue to push the lease issue, at some point in time it's going to be raised to the level where the federal government is going to have to take that on, and if that means litigation, then it could be ... something that goes on for years at a lot of expense to the citizens of the state of Iowa, and I'm not so sure that's necessary," Orr said.

### **Both sides voice frustration**

Exasperation over the lingering lease dispute has been evident on both sides.

Airport officials asked the Guard in January 2014 to begin negotiating a new lease and to determine how much land it needed. Since then, the airport has given the Guard three extensions to start the negotiations.

"There is a fair amount of frustration that we can't seem to get to a resolution on it," Foley said.

But he added: "No one, and I do mean no one, is trying to push the Guard off the airport. What we've asked them to do repeatedly is 'reduce your footprint. Tell us what you need to operate and then we'll work with you on the value of that property.' "

But Orr said those decisions are out of his hands. The U.S. Air Force and the Army Corps of Engineers must approve any new lease or a reduction in the base's size.

The Air Force and the Corps have begun an appraisal of the property, but it's not yet complete.

The lease dispute, he said, is just one more challenge for the 132nd Wing, which has endured two wars and the elimination of the F-16s program in recent years.

"We have men and women who have transitioned their lives, transitioned their families to this new mission and they have accepted it, and now we're finding our challenge is not the Department of Defense, it's not overseas, it's within our own city and that's frustrating," he said.

#### **How we got here**

- **December 2012:** Congress agrees to a spending bill that includes cutting the Iowa Air National Guard's F-16 fighter jets stationed at the Des Moines airport. The unit receives a new mission to remotely pilot unmanned aircraft that fly missions overseas.
- **Dec. 20, 2013:** After seeking an opinion from the Federal Aviation Administration, the Des Moines airport receives a letter from a FAA regional office saying the 132nd Wing's new mission does not qualify as an "aeronautical mission." The distinction is important because to receive FAA grants, the airport is required to charge market-rate rent to all tenants without an aeronautical mission designation.
- **Early 2014:** The airport informs the Iowa Air National Guard of the FAA's opinion and asks to renegotiate its dollar-a-year lease. Guard officials ask for six months to obtain an appraisal of the property.
- **August 2014:** The Guard requests and the airport grants a six-month extension on the lease negotiations.
- **April:** Guard officials tell the Airport Authority Board they are still waiting for the U.S. Air Force to complete the appraisal and determine how much land at the airport the Guard needs to retain. Airport officials say they are frustrated by the delays, but vote on a 90-day extension of the lease negotiations.
- **July 14:** The Airport Authority Board is scheduled to meet and decide whether to terminate the Guard's lease or keep the lease in place and grant another extension.

#### **Airport Authority Board meeting**

- **WHAT:** At its monthly meeting, the board is scheduled to go into closed session to consider terminating the lease of the Iowa Air National Guard's 132nd Wing. The unit leases 172 acres at the airport for \$1 a year. Airport officials say they risk losing federal funding if they don't charge the Guard a market-rate rent.
- **WHEN:** 9 a.m. Tuesday.
- **WHERE:** Des Moines airport board room, second floor of the airport terminal.

#### **Issue at a glance**

Des Moines airport officials want to negotiate a new lease with the Iowa Air National Guard, which rents 172 acres at the airport for \$1 a year. Airport officials say they have to raise the Guard's rent or risk losing federal funding.

Air National Guard officials say the lease is valid and should continue.

Both sides agree the issue has placed Des Moines at the center of a larger dispute

between the Air Force and the Federal Aviation Administration over which military operations qualify as "aeronautical missions." The distinction is important because in order to receive FAA grants, airports have to charge market-rate rents to all tenants, except military units with an aeronautical mission.

If it's decided the Iowa Air National Guard must pay a market-rate rent, that could set precedent for other Guard units around the country.

The airport board is scheduled to consider terminating the Guard's lease at its monthly meeting Tuesday.