

**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

WASHINGTON, D.C. 20591

DATE: 6 AUG 1982

IN REPLY
REFER TO: APP-510

SUBJECT: FY 82 Program Guidance Letter #2



FROM: Manager, Grants-in-Aid Division, APP-500

TO: All Regions and AAC-960
Attention: Chief, Airports Division

2.1 Alerting Airport Sponsors - (Ed Williams, 426-3857).

There will be a notice in the Federal Register to advise sponsors that, to insure consideration of their requests, they must submit preapplications by September 1. Since the Federal Register is unlikely to come to the attention of all potential grantees, we suggest that you contact those sponsors in your region which you feel are likely to request a project in FY 82 and advise them of these schedules.

2.2 Distribution of Grant Agreement - (Bob Yatzeck, 426-3857).

The requirement set forth in paragraph 1144,b,(4) of Order 5100.36 to distribute one executed copy of each grant agreement to APP is rescinded effective with the start of the FY 1982 program. Copies of agreements associated with prior year grants should continue to be distributed to APP.

2.3 Revisions to Davis-Bacon Regulations - (Bob Yatzeck, 426-3857).

On May 28, the Department of Labor (DOL) issued revised final regulations regarding the administration and enforcement of the Davis-Bacon and Related Acts, with a scheduled effective date of July 27. The Building and Construction Trades Department, AFL-CIO, and a number of affiliated unions filed suit against the DOL seeking to prevent the implementation of the revised regulations. On July 22, the Court issued a preliminary injunction enjoining the DOL from implementing certain provisions of the revised regulations pending a decision on the merits. Accordingly, the effective dates of the entire regulations as published in the Federal Register on May 28 are stayed until further notice. Therefore, the FY 82 program should be administered with no change in the Davis-Bacon requirements.

2.4 MBE Requirements - (Ed Williams, 426-3857; Bob Birdsong, ACR-4, 426-3785; Irene Miels, AGC-120, 426-3475).

Since we expect that new airport aid legislation will be enacted shortly before the end of the fiscal year, it is again necessary to make modifications to the MBE requirements of 49 CFR Part 23 as we did last year in order to permit grant execution prior to September 30 when funding authority for FY 1982 will expire. The following procedures, which were developed jointly by the FAA Offices of Civil Rights, Airport Planning and Programming, and the Chief Counsel, should be followed with respect to grant awarded during FY 1982.

1. Airport grant applicants who have not previously been required to develop an MBE program, but who would now be obligated under an FY 82 grant, will be allowed 90 days to submit the program for FAA approval. The following special provision should be included in these grants:

"The recipient will submit for FAA approval a Minority Business Enterprise Program as required by 49 CFR Part 23 section 23.41(a) no later than 90 days after the date of this agreement rather than prior to the grant as specified in 23.41(b). All other requirements in Part 23, as amended, become effective as applicable upon execution of this grant."

If an applicant has received previous approval of its MBE program from another operating administration, it is not required to resubmit the program to the FAA. In this case, the applicant should submit a copy of the letter indicating approval, and the program is deemed acceptable by the FAA, in accordance with 23.41(d)(2). If the applicant has submitted an MBE program to another modal administration, but has not yet received approval, it should so indicate in its submission to the FAA. The Civil Rights Staff should then coordinate the review process with the appropriate regional office of that mode. The grant may be awarded pending approval of the plan. If the applicant is a State Department of Transportation no review is required by the region.

2. If a sponsor had previously received approval of an MBE program, the overall goals and leasing goals, together with any new methodology used in establishing them, should be reviewed by the sponsor, revised as necessary and approved by FAA in accordance with 23.43(d)(2) and

23.45(g)(3)(i). Separate percentage goals must be established in each case for minorities and women. The revised overall goals and leasing goals should be submitted as soon as possible in order that FAA may approve them prior to grant award, as required by 23.41(B). However, this requirement may be waived if it appears that grant award would be jeopardized due to time constraints. In these cases, the grant may be made but sponsors may not issue invitations for bid until the overall goals are approved by FAA. No special provision in the grant agreement is needed, since the sponsor must be in compliance with its MBE program to be eligible for a new grant. Contract goals for the new grant should be established and may be reviewed by FAA if it is felt necessary.

The new legislation will no longer use the present system of categorizing airports by hub designations, general aviation, etc. However, you should continue to apply this system in determining the obligations under 23.41 until the MBE Regulation can be revised to incorporate the new legislation.

2.5 Eligibility Change - Airfield Signs - (Bob Yatzeck, 426-3857).

Paragraph 784 Airfield Signs of 5100.36 is amended to add "runway distance remaining markers" as eligible items. AAS-1 memo to All Regions dated July 7 gives interim technical standards.

2.6 Eligibility Change - Passenger Boarding Devices - (Bob Yatzeck, 426-3857).

Paragraphs 543.b. and 751.b.(4)(b) of 5100.36 are amended to delete "boarding devices" from the list of ineligible items. A General Counsel opinion has determined that these items, required by 49 CFR Part 27 (Handicapped Program) are eligible as terminal development items and therefore could be included under a terminal development project.


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