

Master Book

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**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

DATE: **AUG 19 1982**

WASHINGTON, D.C. 20591

IN REPLY
REFER TO: APP-510

SUBJECT: Program Guidance Letter No. 3



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

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

3.1 Programming Automated Weather Reporting Equipment in FY 1982 - (Bob David, 426-3857).

Under the new airport aid program automated weather reporting equipment will continue to be eligible for funding. The National Airspace System Plan ("The Brown Book") indicates that this equipment will be installed at 806 locations that have ILS/MLS's - 403 under the Facilities and Equipment and 403 under the airport aid program. The Office of Aviation Policy (APO) is developing establishment criteria for this equipment in order to identify the specific airports where it should be installed. This may change the estimate of 806 locations.

To be consistent with the National Airspace System Plan, programming of automatic weather reporting equipment during the Fiscal Year 1982 grant program should be limited to airports that have an existing or programmed full or partial ILS or MLS. This criteria will probably be modified for subsequent programs once the APO establishment criteria is completed. Airports which have submitted an application but do not meet the preceding criteria will be considered on a case by case basis. Proposed justification for funding this equipment at such a location should be forwarded to APP-510 for review.

Any sponsor who desires this equipment should be made aware of the following:

1. The equipment has an expected useful life of 15 years.
2. The sponsor will be obligated to operate and maintain the equipment for its useful life. Since the equipment is relatively new, there is no track record on the maintenance costs.
3. The FAA will not take over the ownership, operation, or maintenance of sponsor acquired equipment even if the location meets the APO developed establishment criteria.
4. The equipment that has been approved to date does not include visibility or ceiling sensors. Consequently, airports that serve FAR Part 121 or 135 operators will still require human observers.

5. Equipment manufactured by ARTAIS and Cardion has been approved for use in the grant program. Consequently, purchase of the equipment must be based upon competitive bidding.

For purposes of the AIP priority system, the equipment should be considered a capacity item.

The decision to program this equipment should be coordinated with the other operating divisions in the regions. Airports divisions should also make sure that the region's associate program manager for this equipment (usually a representative of the Airway Facilities Division) is aware of the programming decision.

3.2 A-95 Requirements - (Jack Cathell, 426-3857).

Executive Order 12372 directs OMB to revoke A-95, but it also requires agencies to continue compliance with rules and regulations which implement A-95 until such time as new ones are developed. Since this is not expected until after January 1983, the FY 1982 AIP will follow current A-95 procedures. Background material for your information is attached.

3.3 Program Income - (Ed Williams, 426-3857).

As a result of your comments on the proposed program income policy, and coordination with the OIG, we have finalized the policy and should apply it for all new grants where applicable. Any FY 1982 AIP grant which includes the acquisition of real property shall contain the following standard assurance to be added to Part V of FAA Form 5100-100:

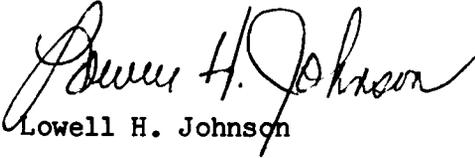
"xx. Revenue from Real Property. It agrees that all net revenue produced from real property purchased in part with Federal funds in this grant shall be used on the airport for airport planning, development, or operating expenses, except that all income from real property purchased for noise compatibility purposes or for future aeronautical use as indicated on Exhibit "A" for this grant shall be used only to fund projects which would be eligible for grants under the Airport and Airway Improvement Act of 1982. Income from noise or future use property may not be used for the sponsor's matching share of any airport grant. Airport fiscal and accounting records shall clearly identify actual sources and uses of these funds."

In administering this assurance, regions may waive the limitation on use of revenue from noise or future development land if the expected net income does not exceed \$25,000 per year, however, such lesser amount must still be used for capital or operating expenses. The "net revenue" would be the gross revenue, beginning on the day the land is conveyed, less any administrative or maintenance expenses deducted in normal property management accounting practices. The term "revenue" includes lease or rental fees, usage fees, sale of agricultural products or timber,

mineral rights or proceeds from sale of minerals. Proceeds from the sale of real property assets (buildings, land, or salvage) are not included in the definition of revenue and are dealt with in accordance with 5100.36, paragraph 635 or in accordance with 5190.6 (Compliance Handbook) paragraph 138 as applicable.

Also, each Exhibit "A" must clearly show the boundaries of land parcels in each of three categories - current aeronautical use, noise abatement, and future development - so that later audit determinations can be made on revenue usage by the sponsor.

Please note that this new program income policy does not change the procedures or policy governing the calculation of the original grant amount as prescribed in 5100.36, paragraph 635, except that temporary rental or lease revenue need not be deducted from the grant amount.


Lowell H. Johnson

Attachment

Cancelled



Memorandum

U.S. Department of
Transportation
Office of the Secretary
of Transportation

APPROPRIATE ACTION: ALG-1

~~ARP-1~~

APP-1

Subject ACTION: Consultation with State and
Local Government on Federally Assisted
Programs and Projects

Date August 4, 1982

From Barnett M. Ancelet, *Barnett M. Ancelet*
Director of Installations and Logistics

Reply to
Attn of Taylor: x64160

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appro
actio*

To Chief of Staff, USCG

- ✓ Associate Administrator for Administration, FAA
- Associate Administrator for Planning and
Policy Development, FHWA
- Associate Administrator for Administration, FRA
- Associate Administrator for Administration, NHTSA
- Associate Administrator for Administration, UMTA
- Associate Administrator for Policy and Administration, MARAD
- Associate Administrator for Policy, Plans and
Program Management, RSPA

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Executive Order No. 12372, signed by President Reagan on July 14, 1982, established new policies regarding coordination with state and local government about Federal and federally assisted projects. The Executive Order also directed the Office of Management and Budget (OMB) to cancel OMB Circular A-95, Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects. Attached for your information is OMB Bulletin No. 82-15 that provides interim policy guidance on consultation with state and local governments prior to the adoption of new regulations implementing the Executive Order.

The OMB Bulletin directs all agencies to use their existing A-95 implementing procedures until new regulations are issued to implement Executive Order 12372. OMB plans to work with Federal agencies to develop Government-wide requirements to be issued by December 31, 1982. Agency requirements must be issued by April 30, 1983.

If you have any questions concerning the Executive Order, please contact Charles Ventura or Robert Taylor at 426-4160.

Attachment



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

BULLETIN NO. 82-15

July 19, 1982

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Consultation with State and Local Governments on
Federally Assisted Programs and Projects

1. Purpose. This Bulletin provides interim policy guidance governing consultation with state and local governments prior to adoption of new regulations implementing Executive Order No. 12372.
2. Authority. Executive Order No. 12372 and the Intergovernmental Cooperation Act.
3. Background. The President has issued an Executive Order entitled "Intergovernmental Review of Federal Programs." The Order institutes a new policy providing elected officials of state and local governments the opportunity to establish their own process for review of Federal financial assistance or direct Federal development activities undertaken by the agencies. It also provides that all Federal agencies shall continue to comply with the requirements of A-95 and their own rules and regulations until new regulations are adopted.
4. Policy.
 - (a) Agencies are directed by Executive Order No. 12372 to retain their existing A-95 implementing procedures and regulations until new implementation rules and regulations are issued not later than April 30, 1983.
 - (b) Until new regulations are issued, Federal agencies shall continue to require applicants for Federal assistance to seek reviews through existing state and local review mechanisms established pursuant to Circular A-95, unless a state sets up alternative interim intergovernmental review processes. OMB will inform the agencies of instances where states have made changes in the present A-95 clearinghouse system if such changes occur before the new regulations are issued.
 - (c) Rules, regulations, procedures, and program guidances for state and local review of direct Federal development projects shall likewise remain in effect. This shall include any memorandums of agreement between agencies, states, and areawide organizations established under Part II of OMB Circular A-95.

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(d) Between now and April 30, 1983, the agencies will work with OMB in developing rules and regulations implementing Executive Order No. 12372.

5. Timing. Agencies shall submit proposed rules and regulations for OMB review during the next several months.

6. Inquiries. For further information, contact James F. Kelly, Deputy Associate Director for Intergovernmental Affairs (202-395-3774).

7. Sunset Date. This Bulletin expires on April 30, 1983.



DAVID A. STOCKMAN
DIRECTOR

Cancelled

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

July 14, 1982

EXECUTIVE ORDER

-----12372-----

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 401(a) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231 (a)) and Section 301 of Title 3 of the United States Code, and in order to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for the State and local government coordination and review of proposed Federal financial assistance and direct Federal development, it is hereby ordered as follows:

Section 1. Federal agencies shall provide opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance or direct Federal development.

Sec. 2. To the extent the States, in consultation with local general purpose governments, and local special purpose governments they consider appropriate, develop their own processes or refine existing processes for State and local elected officials to review and coordinate proposed Federal financial assistance and direct Federal development, the Federal agencies shall, to the extent permitted by law:

(a) Utilize the State process to determine official views of State and local elected officials.

(b) Communicate with State and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions.

(c) Make efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the designated State process. For those cases where the concerns cannot be accommodated, Federal officials shall explain the bases for their decision in a timely manner.

(d) Allow the States to simplify and consolidate existing Federally required State plan submissions. Where State planning and budgeting systems are sufficient and where permitted by law, the substitution of State plans for Federally required State plans shall be encouraged by the agencies.

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(OVER)

(e) Seek the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas. Existing interstate mechanisms that are redesignated as part of the State process may be used for this purpose.

(f) Support State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a Federally-prescribed membership, which is established for a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

Sec. 3. (a) The State process referred to in Section 2 shall include those where States delegate, in specific instances, to local elected officials the review, coordination, and communication with Federal agencies.

(b) At the discretion of the State and local elected officials, the State process may exclude certain Federal programs from review and comment.

Sec. 4. The Office of Management and Budget (OMB) shall maintain a list of official State entities designated by the States to review and coordinate proposed Federal financial assistance and direct Federal development. The Office of Management and Budget shall disseminate such lists to the Federal agencies.

Sec. 5. (a) Agencies shall propose rules and regulations governing the formulation, evaluation, and review of proposed Federal financial assistance and direct Federal development pursuant to this Order, to be submitted to the Office of Management and Budget for approval.

(b) The rules and regulations which result from the process indicated in Section 5(a) above shall replace any current rules and regulations and become effective April 30, 1983.

Sec. 6. The Director of the Office of Management and Budget is authorized to prescribe such rules and regulations, if any, as he deems appropriate for the effective implementation and administration of this Order and the Intergovernmental Cooperation Act of 1968. The Director is also authorized to exercise the authority vested in the President by Section 401(a) of that Act (42 U.S.C. 4231(a)), in a manner consistent with this Order.

Sec. 7. The Memorandum of November 8, 1968, is terminated (33 Fed. Reg. 16487, November 13, 1968). The Director of the Office of Management and Budget shall revoke OMB Circular A-95, which was issued pursuant to that Memorandum. However, Federal agencies shall continue to comply with the rules and regulations issued pursuant to that Memorandum, including those issued by the Office of Management and Budget, until new rules and regulations have been issued in accord with this Order.

Sec. 8. The Director of the Office of Management and Budget shall report to the President within two years on Federal agency compliance with this Order. The views of State and local elected officials on their experiences with these policies, along with any suggestions for improvement, will be included in the Director's report.

THE WHITE HOUSE,
July 14, 1982.

RONALD REAGAN

Canceled

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

July 14, 1982

FACT SHEET ON EXECUTIVE ORDER ON

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

SUMMARY: President Reagan today issued an Executive Order which establishes a new federal policy of consultation and cooperation with state and local governments in the administration of federal financial assistance and development programs. The Executive Order advances the Administration's New Federalism and regulatory relief initiatives in several important ways.

Under the new Order, federal agencies are required to make every effort to accommodate the recommendations of state and local governments concerning federal programs affecting their jurisdictions. Federal agencies are required to defer to the states' own procedures for developing such recommendations; to inform state and local elected officials of proposed federal actions as early as possible; and, where state and local recommendations cannot be accommodated, to explain why in a timely fashion. The Order also contains provisions to strengthen the authority of state and local elected officials and encourage simplification of state planning requirements imposed by federal laws.

BACKGROUND: The Executive Order substantially revises the current system of intergovernmental consultation over federal grant and development programs. The old system, under OMB Circular A-95, required state and local governments to follow prescribed review procedures and to review specified federal programs. The system also required review of federal programs by state and local agencies without regard to the priorities of their elected leadership.

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The A-95 process became highly bureaucratic and burdensome. Under Circular A-95, annual reviews of over 100,000 grant applications created a staggering paperwork burden costing over \$50 million each year--with little positive return to state and local governments and their citizens. The new Executive Order directs the revocation of Circular A-95, and shifts the initiative for setting review procedures and priorities to the states and localities. This shift will:

- o Provide states the opportunity to establish their own review and coordination procedures, which must be recognized by federal agencies;
- o Encourage more timely and effective participation by state and local elected officials in federal decisions concerning programs and projects within their jurisdictions;
- o Reduce federal regulatory requirements; and
- o Strengthen State and local governments by diminishing the influence of special purpose agencies created primarily to administer federally funded programs.

SCOPE: The Executive Order covers the federal activities listed below. A state's review process may cover all or only some of these activities, based on the priorities of state and local officials.

- o All categorical grant-in-aid programs identified in the Catalog of Federal Domestic Assistance;
- o Research and demonstration programs affecting states or municipalities;
- o Assistance in the form of loans or loan guarantees;
- o All federal real property acquisition and construction activities, including Corps of Engineers projects and military bases;
- o Major changes in the use of land, water, or real property owned or leased by the federal government;
- o The issuance or modification of licenses and permits; and
- o Planning requirements mandated by the federal government.

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The Order is not applicable to the following federal activities:

- o Proposed federal legislation, regulations, and budget formulation;
- o Direct payments to individuals;
- o Financial transfers for which federal agencies have no funding discretion or direct authority to approve specific sites or projects (i.e., block grants, revenue sharing, etc.); and
- o Classified programs or activities where formal consultation would endanger national security.

Federally recognized Indian tribes are exempted from the requirements of the Executive Order.

IMPLEMENTATION: State and local governments are encouraged to fashion their own procedures (or to refine existing ones) for reviewing and making recommendations on financial assistance and direct developments proposed by the federal government. States must consult with local governments in establishing the procedures recognized by the Executive Order, and may delegate, in specific instances, review and recommendation responsibilities to local elected officials. The new Order is consistent with the Administration's view that local elected officials should work together in solving their common problems.

Federal agencies will examine present consultation procedures and eliminate repetitive and prescriptive requirements wherever possible. Where existing statutes provide for consultation with state and local governments consistent with the policies of the Executive Order, no new regulations will be required. Federal agencies will also permit states to simplify and consolidate federally required state plans, and will discourage the creation or reauthorization of special-purpose planning organizations that are federally funded, have federally prescribed memberships, or are not adequately accountable to state or local elected officials.

The Office of Management and Budget will maintain a listing of the review procedures adopted by the states and oversee federal implementation of the Executive Order.

Federal agencies will begin to use the new consultation procedures not later than April 30, 1983. Existing regulations under OMB Circular A-95 will remain in force until then. By this date, states should have notified OMB of their designated consultation procedures or have decided not to participate.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 19, 1982

CIRCULAR NO. A-95
Rescission
Transmittal Memorandum No. 2

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Evaluation, Review and Coordination of Federal and
Federally Assisted Programs and Projects

This memorandum rescinds OMB Circular No. A-95.

The President has issued Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." That Order directs the rescission of A-95 and provides for the institution of a new process for the intergovernmental review of federal programs.

Interim policy guidance to be followed until regulations implementing the Order become effective is being provided by an OMB Bulletin issued today. This policy guidance governs the formulation, evaluation, and review of proposed Federal financial assistance and direct Federal development in compliance with the Intergovernmental Cooperation Act.

DAVID A. STOCKMAN
DIRECTOR