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**DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

DATE: September 27, 1982

WASHINGTON, D.C. 20591

IN REPLY
REFER TO: APP-510

SUBJECT: Program Guidance Letter No. 8



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

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

8.1 Fifty Percent Overage Provision on Land Costs - (Jim Trowbridge - 426-8434).

Section 512(b)(2) of the Airport and Airway Improvement Act states, "in the case of any acquisition of land or interests in land, the maximum obligation of the United States may be increased by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to such acquisition in land or interests therein, based upon current credible appraisals."

This language has led to some confusion in understanding how to deal with land cost increases. Stated another way, the U.S. share would be the usual percent (e.g., 90%, 75%) of the amount stated as land cost in the original grant and 50% for any land cost increase above the amount stated in the original grant with no specified upper limit, provided, of course, that the increase is reasonable and necessary (and so documented).

All costs associated with the acquisition of land in the project are to be included in the land cost estimate, including relocation assistance and payments. Examples of actual or anticipated costs are: acquisition cost of the real property, appraisal fees and/or preliminary cost estimates, administrative expenses, relocation moving costs, replacement housing payments, increased interest differential, and other incidental acquisition and relocation expenses. Since relocation costs are also included in the 50 percent provision, the former process of waiving the 10 percent limitation or increasing the maximum obligation of a grant for relocation payments has been terminated. The November 11, 1971, GC-11 legal opinion and November 16, 1971, AS-602 memorandum that triggered the waiver does not apply.

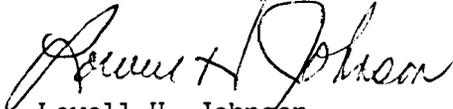
8.2 Estimate of Land Costs - (Jim Trowbridge - 426-8434).

With the advent of reduced U.S. share for land cost overruns, there may be a tendency on the part of sponsors to overestimate the expected costs and thus tie up funds needed for other work. We need to carefully assess such grant requests and closely review the cost.

On those parcels of land for which reimbursement is being requested by the sponsor, the land costs must be backed by acceptable appraisals and any other supportable justification if the final settlement amount was above the approved appraisal amounts.

8.3 Missing Page on Part V Assurances - (Ed Williams - 426-3857).

The copy of revised Part V Assurances sent out September 14 over Ed Williams' signature is missing a page containing Assurance No. 15 (part) thru No. 19. The missing page is attached and is marked page 6.1. Please insert it into the September 14 edition.


Lowell H. Johnson

Attachment

Cancelled

facilities for, and uses in connection with, any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of written requests from the Secretary.

16. Standard Accounting Systems. It will keep all project accounts and records in accordance with a standard system of accounting prescribed by the Secretary.
17. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this title or under the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport.
18. Reports and Inspections. It will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request and will make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request.
19. Airport Revenue. It will expend all revenues generated by the airport, if it is a public airport, for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property: Provided, however, that if covenants or assurances in debt obligations previously issued by the owner or operator of the airport, or provisions in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport shall not apply.

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

WASHINGTON, D.C. 20590



DATE: 11 NOV 1971

IN REPLY
REFER TO: GC-11

SUBJECT: Applicability of full funding provision of P.L. 91-646
to displacements occurring after 1 July 1972

TO: AS-600
Attention: AS-602

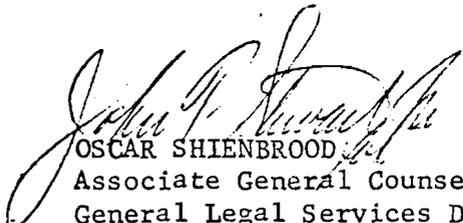
This is to respond to your request of 3 November 1971 in which you inquire as to whether the first \$25,000 of costs for the displacement of a person after 1 July 1972 for a project under a grant agreement executed prior to that date are eligible for payment in full by this agency pursuant to Section 211(a) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646.

Section 211(a) provides that the Federal agency shall pay the first \$25,000 of cost for payments and assistance for a displaced person "on account of any acquisition or displacement occurring prior to July 1, 1972." The statute does not place a time contingency upon when the payments and assistance must be given. The phrase "occurring prior to July 1, 1972" applies only to the acquisition or displacement that must occur to give rise to payments and assistance. Therefore, if an acquisition occurs prior to 1 July 1972, or if a displacement occurs prior to 1 July 1972, and thereafter results in payments and assistance for a displaced person, even after 1 July 1972, these costs will be eligible for full funding under Section 211(a). This would apply even though the displacement itself takes place after 1 July 1972 if the specific acquisition causing the displacement took place prior to that time.

Although not included in your present memorandum, it would be appropriate to respond here to two related questions:

The first question is whether payments may be made under Section 211(c) of the Relocation Act if this would result in payments of more than 10% over the maximum obligation of the United States stated in the grant agreement. The answer is that the 10% limitation would not apply to Section 211(c) payments because these payments are specifically made mandatory by Section 211(c) through amendment of the grant agreement, thereby being deemed to override the general limitation of Section 19, AADAct. In addition, the direction of Section 211(c) may be deemed sufficient to constitute the relocation payments a "new" item not previously included in the grant agreement, permitting amendment of the agreement to include them.

The second question is whether relocation costs may be an allowable cost under ADAP when they are paid by the State agency as a mandatory obligation under State law. The answer is that such costs may be included as part of the land acquisition costs. However, Section 211(b) of the Relocation Act would also come into play, to the general effect that the requirements of the Relocation Act for payments and assistance do not apply to the extent that the payments in the condemnation are essentially equivalent in purpose and effect to payments under Section 211 of that Act.


OSCAR SHIENBROOD
Associate General Counsel
General Legal Services Division, GC-10

Cancelled

16 NOV 1971

AS-602

Applicability of full funding provision of P.L. 91-646
to displacements occurring after 1 July 1972

Regional Directors
Attention: Chiefs, Airport Divisions

The enclosed GC-10 opinion of 11 November 1971 answers a question raised by the Great Lakes Region at the recent meeting of the Chiefs, Airport Divisions in headquarters.

The opinion states that relocation payments are eligible for full funding under section 211(a) of the Act if the displacement occurs prior to 1 July 1972 or the acquisition causing the displacement occurs prior to 1 July 1972 even though the actual displacement does not occur until after that date. If both the displacement and the acquisition causing the displacement occur after 1 July 1972, relocation payments on account of such displacements are not eligible for full funding.

The opinion offers answers to two other related questions which should be carefully noted. The 10 percent limitation on increasing the maximum obligation of a grant does not apply to increases attributable to relocation payments. Also, payments required by State laws are eligible as are other project costs at the normal rate of participation.

This opinion should be widely distributed within each region to reach all personnel dealing with relocation problems.

Original signed by
Lamar E. Guthrie

LAMAR E. GUTHRIE, Chief
Development Programs Division, AS-600

Enclosure

cc:
AS-600(2)
AS-602; AS-650; AS-601
AS-26

AS-602:AElleni:jp:63831:15Nov71
Nocontrol