



U.S. Department
of Transportation

**Federal Aviation
Administration**

Memorandum

Subject **Program Guidance Letter 86-4**

Date **MAR 31 1986**

From **Manager, Grants-in-Aid Division, APP-500**

Reply to
Attn of

To **PGL Distribution List**

86-4.1 Computerized File of Legal Opinions - Ben Castellano (426-3857).
APP-510 has developed an automated set of files of legal opinions rendered on the airport grant programs since about 1947. The system, using a PFS/File software package on an IBM XT, can search for opinions using either a date or one of a list of keywords. When the opinion is located, there is included a two or three sentence synopsis of the opinion. The full text of the opinion has not been duplicated in the system, but rather is located chronologically in a set of loose leaf binders in APP-510. Currently there are about 220 opinions on file.

If your region has access to an IBM AT or XT, we will gladly send you a diskette containing the file along with a list of keywords used to search it. To help us build this file, we would like to add opinions by regional counsels which may set national precedent. Please call Ben to discuss how your input could be added.

86-4.2 Amendment to Contract Work Hours and Safety Standards Act - Ben Castellano (426-3857). (Reference 5100.38, Par 1400b. & AC 150/5100-6C)
The Department of Defense Authorization Act of 1986, PL 99-145, amended the Contract Work Hours and Safety Standards Act to eliminate the requirement that contractors pay employees performing in Federal or Federally-assisted construction contracts, time and one-half the basic rate for hours in excess of eight hours a day. The requirement for hours worked per week in excess of 40 hours was not affected. Contracts are subject to this new provision if they were signed on or after January 1, 1986 unless State or local law requires the overtime rate for over eight hours. If a contract signed after January 1, 1986 contains a separate contractual obligation (although not a statutory requirement) for payment of the daily overtime rate for work in excess of eight hours, advice of regional counsel should be sought. The ATP handbook and the Labor AC will be revised to reflect this change.

86-4.3 Friction Measuring Devices - Ben Castellano (426-3857). (Reference 5100.38, Par. 566)

FAA has now approved four friction measuring devices for use in measuring runway coefficient of friction for maintenance (not operational) purposes. While two of these devices are towed vehicles and the other two are self-contained, they all accomplish the same result. However, the prices vary considerably with the two towed vehicles (with tow truck included) costing approximately \$50,000 to \$60,000, and the self-contained ones, \$85,000 to \$125,000. Because of the FAA's desire to accommodate the sponsor's preference and still assure that grant funds are not used to procure more expensive equipment than needed to meet the basic requirement, we have established the following policy after discussions with the Office of Airport Standards and OMB:

a. If a sponsor uses the FAA spec in AC 150/5320-12 with no modification, we will participate with AIP funds in the purchase of the vehicle according to the proper share (75% of 90%) of the lowest responsive and responsible bid. To insure maximum competition, field offices should require that the sponsor send copies of the invitation for bid to all approved manufacturers. In reviewing these bids for cost reasonability prior to award, regions should investigate carefully situations where the low bid exceeds the set price (see item b. below) to determine that the terms of procurement did not unreasonably limit competition and that all approved manufacturers were advised of this procurement.

b. If the sponsor specifies a self-contained unit, FAA's participation will be limited to a set price based on historical cost of meeting the FAA spec with no modification. The sponsor will be responsible for paying the difference between the bid price of the unit and the prorated share (75% or 90%) of this set price, which has been set at \$56,800 (Federal share either \$42,600 or \$51,120). This price will be periodically reviewed and changed as necessary.

c. Until further notice, please send copies of all bid abstracts for friction measuring devices to AAS-200. This will enable them to periodically revise the set prices, as appropriate.

86-4.4 Off-Airport Expenditure of Airport Revenue - Ed Williams (426-3857).

Section 511(a) (12) of the AAIA obligates sponsors to use all revenues generated by the airport for capital or operating costs of the airport. However, it also allows expenditure of aviation revenues on other (non-aviation) transportation facilities owned by the airport sponsor.

All airport sponsors who currently or are proposing to divert airport revenues to other non-aviation facilities should be advised that FAA will view such treatment of airport revenues as evidence of the sponsor's ability to fund airport projects without Federal discretionary grant assistance. This policy will be published in the Federal Register as soon as practicable.

We are not requesting a special audit of all obligated airports, but do suggest that you contact and advise those airport sponsors which are known to own or operate non-aviation transportation facilities.

While we gain some experience with this approach, we request that you consult with us before making programming decisions involving discretionary funds in these cases.

86-4.5 Airport System Planning Grants - Dick Rodine (426-3857).

Several recent system planning applications have been forwarded to Washington for approval (see PGL-86-3.2) based on preliminary work scopes and estimated costs with detailed work scopes and final costs to be developed after issuance of a tentative allocation. This practice does not allow effective management of system planning funds. Effective immediately, regions should not approve or send to Washington for approval system planning applications that do not have a complete detailed work scope with associated budget estimates. Since this is the first time in the AIP that it is likely the full 1% system planning set-aside will be used, it is important we closely monitor all remaining system planning grants. Emphasis also should be placed on assuring that the project will produce a useful, complete, and cohesive product at a reasonable cost. Costs for continuous system planning which do not produce such a product are inelible.



Lowell H. Johnson

Attachment
Updated Index

Canceled

Index for New Program Guidance Letters System

Issued by APP-500

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- 85-1.3 Retainage
- 85-1.4 Advance of Grant Payments
- 85-1.5 Changes in Airport Classification
- 85-1.6 Portable Hangars on Federally Funded Aprons
- 85-1.7 Eligibility - Emergency Operations Centers

PGL #85-2 - August 30, 1985

- 85-2.1 Deletion of Air Conditioning from "Basic" Noise Attenuation Package

PGL #86-1 - November 29, 1985

- 86-1.1 Taxiway Holding Position Markings

PGL #86-2 - January 28, 1986

- 86-2.1 Use of a Contingency Factor in Establishing Grant Amounts
- 86-2.2 Eligibility of Equipment Procurement Under System Planning

PGL #86-3 - February 11, 1986

- 86-3.1 PAPI
- 86-3.2 Airport System Planning Grant Applications
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PGL #86-4 - March 19, 1986

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