



Frequently Asked Questions: FAA’s December 7, 2023, Air Carrier Incentive Program (ACIP) Final Policy

This document answers frequently asked questions (FAQs) stakeholders may have related to the Air Carrier Incentive Program (ACIP) Policy Statement regarding incentives offered by airport sponsors. As background, FAA’s Policy and Procedures Concerning the Use of Airport Revenues (64 Fed. Reg. 7696 (Feb. 16, 1999)) established that the certain costs related to promoting new air service to establish or retain scheduled air service are permissible. On December 7, 2023, FAA published a final policy that updates and clarifies ACIP guidance.

These FAQs will not have the force and effect of law and are not meant to bind the public in any way, and the publication of this guidance is intended only to provide information to the public regarding existing requirements under the law and agency policies. Mandatory terms such as “must” in these FAQs describe established statutory or regulatory requirements.

1. What is the purpose of an ACIP?

An ACIP is a tool to incentivize new air service for a limited time, through discounts on certain airport costs (e.g., marketing assistance, reduction in landing fees), and designed to establish and achieve sustainable air carrier service. The purpose of an ACIP is not to subsidize air carrier operations. ACIPs must be in compliance with applicable federal obligations, including revenue use and unjust discrimination requirements.

2. What are some of the major updates in the 2023 ACIP Policy?

While detailed updates are contained in the final policy, below are some of the major changes:

- a. The definition of new service was modified to include:
 - Any nonstop service to an airport destination not currently served with nonstop service from the origin airport;
 - Any service to the origin airport by a new entrant carrier; or
 - A significant increase in capacity on preexisting service to a specific airport destination
- b. An airport sponsor may not identify specific airport destination targets and only offer incentives to those markets.

- c. Section on transparency sets an expectation that airport sponsors will provide effective notification of the availability of ACIP terms and conditions, as well as post-contract disclosure of incentives granted.
- d. A sponsor of an airport of any size with a limited incentive budget can restrict incentives to the first carrier that qualifies if the limits and qualification criteria are clearly articulated in keeping with the advance disclosure provisions of the policy.
- e. Marketing funds can be provided to a carrier only after the carrier has paid the marketing provider and submitted an invoice to the airport for incentive-related marketing.
- f. Airport sponsors can provide certain types of technical assistance to non-airport entities on ACIPs that do not involve airport revenues.

3. Will FAA approve an ACIP?

FAA does not approve ACIPs. However, at a sponsor or an air carrier's request, FAA will review a sponsor's ACIP, and provide feedback on whether the ACIP appears to be consistent with Grant Assurances, related policies (e.g., Revenue Use Policy), and the ACIP Policy itself.

4. Are airport sponsors required to create, implement, and offer an ACIP for new service or for a new entrant?

No. It is an airport sponsor's choice whether to implement an ACIP or not. If an airport sponsor chooses to have one, then the ACIP Policy applies in conjunction with the sponsor's federal obligations.

5. What happens to incentive agreements that are in effect when the new policy goes into effect?

Incentive agreements that are in place when this new policy goes into effect may continue to operate as agreed, if the incentives were issued under an ACIP that complied with the FAA's previous ACIP guidance.

6. Can an airport sponsor mention or emphasize in its ACIP certain preferences to certain markets or destinations?

Yes, an airport sponsor may identify destinations or markets it has interest in having service to. However, the sponsor cannot deny participation if new service is proposed to other qualifying new service destinations not identified in the ACIP. Any preferred or targeted markets must be published as part of a sponsor's ACIP. Regardless, sponsors who elect to reference specific markets or destinations should be cognizant of the cautions detailed in the ACIP Policy, federal obligations and FAQ 7.

7. Can airport sponsors distinguish between separate airport destinations within a single metropolitan area?

Yes, within the context of what constitutes a new destination or service, each airport within a metropolitan area can be defined as a separate airport destination. For example, even if an airport already has service to DCA, the sponsor could still offer incentives to IAD as a new destination.

Similarly, if the airport has existing service to DCA, the sponsor cannot reject or deny ACIP participation to a carrier seeking service to IAD, which, in this example, did not exist before.

8. Does FAA have specific criteria that define a ‘significant increase in capacity’?

No, the ACIP Policy encourages airport sponsors to reasonably define a threshold percentage increase to qualify for incentives. The FAA recognizes that local circumstances may differ in terms of what constitutes a “significant” increase.

9. How should airport sponsors provide public notification of ACIP availability, including any limits and criteria for the first air carrier to establish service?

Airport sponsors should provide public notification in a way that makes sense for their local circumstances, including compliance with any local public disclosure requirements. In general, posting on an airport sponsor’s website would be considered to provide broad notification to all carriers. The FAA suggests that airport sponsors also work collaboratively with air carriers to determine any appropriate additional methods of notification, such as potential coordination through the local airport affairs representative.

10. Any problem if an airport sponsor adjusts or modifies an incentive after negotiating with an air carrier, resulting in terms that differ from the published ACIP?

Yes. Modifying the terms of an ACIP for a specific carrier without notice could raise concerns of unjust discrimination. If the airport sponsor wants to make changes to an existing ACIP, the airport sponsor should publish the revised terms of conditions of its ACIP at least 30 days prior to signing an incentive agreement.

11. Can increased frequency or upgauging incentives be the only incentive offered as part of an ACIP?

No. Increased frequency incentives or upgauging incentives cannot be the only type of incentive offered in an air carrier incentive program. An ACIP must also include other types of incentives, such as incentives for service to a new airport destination and/or by a new entrant.

12. Is a waiver of costs considered to be a subsidy?

Waiving a cost that an airport sponsor would otherwise charge a carrier (e.g., landing fees or terminal rents) is not considered a subsidy, if it is for a limited duration consistent with the ACIP Policy. However, waiving or assuming a cost that would normally be charged by a third party (ground handling, fuel, etc.) would be considered a subsidy and is not permissible.

13. What does FAA consider to be a prohibited subsidy?

A subsidy occurs when airport revenue flow, under all circumstances or conditionally, to a carrier with no goods or services being provided to the airport in return. For this purpose, air service is not considered a “service” provided to the airport. Any incentives where airport revenue or assets (e.g., fuel) are transferred to a carrier, directly or indirectly (e.g., revenue or loan guarantees) would be regarded as prohibited subsidies.

14. Should airport sponsors disclose funds that were dispersed under ACIP agreements?

The expectation is that airport sponsors will disclose the key terms of the agreements themselves, such as potential amount of the incentive and duration. The airport sponsor should always provide sufficient financial information to non-participating carriers at the airport to provide assurance that charges to those carriers are not affected by an incentive. It is important to note that airport funds disbursed as part of an ACIP are subject to FAA financial review under the applicable federal obligations and processes.

15. Can an ACIP target a particular carrier, type of carrier, or require certain types of aircraft?

No, ACIPs cannot be designed for a particular carrier, or designate a type of carrier, or a certain aircraft type.

16. Can an airport incentivize individual travelers?

Airport sponsors may offer coupons for food, parking or other benefits tied to general use of the airport, if the benefit is not restricted to passengers who fly a specific carrier or route. Airport sponsors, however, are prohibited from offering cash incentives to travelers for flying a route, as this is an impermissible subsidy to the carrier serving that route.