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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration [Docket No. 27955]

Policy for Letter of Intent Approvals Under the Airport Improvement Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of policy; request for comments.

SUMMARY: The FAA is clarifying its policies on reviewing and analyzing requests for Letters of Intent (LOIs) under the Airport Improvement Program (AIP) or successor programs. The FAA will consider three factors in reviewing requests for LOIs: the project's effect on overall national air transportation system capacity; project benefit and cost; and the airport sponsor's financial commitment, including project timing. The FAA also solicits comments on the new policy. Following review of the comments, the FAA may revise this policy.

DATES: The comment closing date is November 30, 1994.

ADDRESSES: Comments may be mailed or delivered in duplicate to: Federal Aviation Administration, Office of Airport Planning and Programming, Attn: Mr. Stan Lou (APP-520), room 614, 800 Independence Avenue, SW, Washington, DC 20591. Comments must be marked: Policy for Letter of Intent Approvals Under Airport Improvement Program.

FOR FURTHER INFORMATION: Contact Stan Lou, FAA, Programming Branch, APP-520, room 614, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267-8809.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are invited on this notice of policy and all communications received on or before the closing date for comments will be considered by the FAA. FAA may subsequently issue a change to this policy after considering the comments.

Background

In 1987, legislation was enacted authorizing the issuance of LOI's. The Codification of Certain U.S. Transportation Laws as Title 49, United States Code, Public Law No. 103-272, (July 5, 1994), section 47110(e)(2)(C) states: The provisions of this subsection applies to a project the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title. Section 47115(d) states: In selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section, the Secretary shall consider--(1) the effect the project will have on the overall national air transportation system capacity; (2) the project benefit and cost; and (3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity.

General

The FAA is authorized to issue an LOI for certain airport development projects when current obligating authority is not timely or adequate to meet a sponsor's desired timing for a project. Under this provision, a sponsor may notify the FAA of an intention to carry out a project without Federal funds and request that the FAA issue an LOI. The FAA evaluates the proposal and, if approved, issues a letter stating that reimbursement will be made according to a given schedule, as funds become available. A sponsor who has received an LOI, therefore, may proceed with a project without waiting for an AIP grant, is assured that all allowable costs related to the approved project remain eligible for reimbursement, and may receive more favorable financing to pay related costs on the basis of announced Federal support for the project.

Discussion

Since FY 1987, the FAA has issued 48 LOI's (43 at primary airports and 5 at reliever airports). The total payments contemplated in these LOI's total nearly \$2 billion (\$1.5 billion of discretionary and \$0.5 billion of entitlements). Of this, \$0.9 billion has been granted to airports. The balance of \$1.1 billion would be granted to airports through the year 2005. These LOIs include \$0.8 billion discretionary and \$0.3 billion entitlements. The following chart summarizes this information.

LOI Payment Schedule

| | Entitlement | Discretionary | Total |
|------------------------------|--------------------|----------------------|----------------------|
| ----- (2) FY 1988-1994 ----- | | | |
| Primary..... | \$244,630,376 | \$549,608,584 | \$794,238,960 |
| Reliever..... | 173,053 | 88,540,096 | 88,713,149 |
| Subtotal..... | 244,803,429 | 638,148,680 | 882,952,109 |
| ----- (2) FY 1994-2005 ----- | | | |
| Primary..... | 277,208,862 | 719,185,089 | 996,393,951 |
| Reliever..... | 0 | 112,000,000 | 112,000,000 |
| Subtotal..... | 277,208,862 | 831,185,089 | 1,108,393,951 |
| Total..... | 522,012,291 | 1,469,333,769 | 1,991,346,060 |

At the beginning of each fiscal year, the FAA, in its administration of the AIP, sets aside the amounts of discretionary funds to "cover" the LOI payment schedules. For the primary airports, the main sources of the discretionary funds are the "capacity, safety, security, noise (CSSN)" set aside and the remaining discretionary. For reliever airports, the source is the 5 percent "reliever" set aside.

In the first 5 years of administering the LOI component of the AIP, the overall level of the AIP increased from \$1.2687 billion in FY 1988 to \$1.9 billion in FY 1992, and then decreased to \$1.8 billion in FY 1993, \$1.69 billion in FY 1994, and \$1.45 billion in FY 1995. The amount of CSSN and remaining discretionary likewise increased from \$205.1 million to \$524.8 million in FY 1992, and decreased to \$299.9 million in FY 1993 but has now stabilized at \$325 million annually in current legislation. During these years, the FAA initially established an

administrative policy that no more than 50 percent of the available CSSN discretionary would be committed to LOI's. In FY 1992, this policy was amended to include both CSSN and remaining discretionary. The FAA worked closely with airport sponsors to develop work programs and LOI payout schedules which maintained the 50 percent rule. We expect to maintain this policy. Reliever LOI's were not routinely used as a funding vehicle since most reliever sponsors cannot "up front" the construction costs.

The convergence of growing demand and reduced availability of AIP discretionary funds dictates a new strategy for approval of LOI's. For the foreseeable future, the overall level of the AIP may not increase. This is primarily the result of budgetary pressures. Secondly, the amount of available discretionary funds has diminished from the level available in FY 1992 to the current level of no less than \$325 million annually. Against this discretionary level, numerous airport sponsors are requesting LOI's for many important projects. The FAA, therefore, has developed this policy to consider competing LOI requests.

Policy--The FAA intends to consider requests for Letters of Intent (LOI) under the Airport Improvement Program (AIP) (or successor programs) at primary or reliever airports only for airside development projects with significant capacity benefits. This focus is intended to maximize the systemwide impact of capacity projects, especially given the limited amounts of funds available for LOI projects. The FAA will use this policy in considering all future LOI requests.

The FAA's decision to approve an LOI will be made based primarily on a benefit-cost analysis. This analysis will consider local and systemwide benefits in terms of annual aircraft delay savings, measured as the avoided costs of operating delayed aircraft and the value of passenger time associated with avoided delays. In addition, the net value to airlines, the airport, and the public from additional air transportation service will be considered. Project costs will be apportioned among Federal AIP discretionary funds, Federal AIP entitlement funds, and nonfederal funds. Financially sound projects will be selected for LOI approval in a manner that leverages Federal AIP discretionary funds to the maximum extent feasible, consistent with rational investment decisionmaking.

The best candidates for approval will be those projects for a new airport, new runway, or major runway extension at cities or metropolitan areas where the primary airport exceeds or is expected to exceed 20,000 hours of annual air carrier delay. Apron development in support of terminal work is considered airside development. Federal environmental findings must be complete and the project work must be imminent.

Starting in fiscal year (FY) 1995, applications for LOI's are to be submitted to the local FAA office no later than March 1 of the current FY for FAA decisionmaking during that FY. Applications received after March 1 may not be decided upon until the following FY.

This policy does not apply to outstanding LOI's already issued to airport sponsors. The FAA will apply this policy to all other LOI requests.

FAA Review of LOI Requests

The FAA will consider each proposed project in accordance with the following selection criteria. Each of the following three items will be reviewed for an LOI request.

1. Project Effect on Overall National Air Transportation System Capacity

The FAA will analyze the project(s) effect on overall national air transportation system capacity in accordance with agency methodology and modeling capabilities. To do this, FAA will analyze the airport for which the LOI is requested and estimate the current hours of annual flight delay. The FAA will then determine the systemwide impact of the project (s) in terms of reduced annual aircraft and passenger delays at current and future airport activity levels. The FAA may request information from sources at the airport or may visit the site to collect data needed to model the proposed airport improvement. The FAA will also review any capacity analysis conducted by the airport and submitted with the application.

The data requirements will be airport/terminal airspace specific and will be collected by the FAA. The data required will include, but are not limited to: The approved airport layout plan; type of operations; fleet mix; peak hour airfield mix by class; runway occupancy times; taxiway exit percentages; noise, obstruction, terrain, aircraft departure, and aircraft arrival constraints; air traffic arrival and departure streams; minimum vectoring altitudes; aircraft separation by aircraft type; length of and approach speeds on common approach by aircraft type and weather; converging and/or parallel runway dependencies; aircraft arrival and departure dependencies; and the different runway use configurations in the various wind and weather conditions. The data available or to be collected are very similar to those data assembled for FAA Airport Capacity Task Force and Capacity Design Teams studies.

Many of the proposed capacity improvements have already been modeled and calibrated during FAA Airport Capacity Design Team studies and would only require updating. The updating would include any new national air traffic approach procedures, separation standards, and capacity initiatives implemented by the specific airport traffic control tower or airport authority.

2. Project Benefit and Cost

Analysis will involve a detailed review of future benefits and costs for each year of the project's expected life, discounted to present value at an appropriate discount rate. The FAA will measure benefits in terms of annual cost savings attributable to reduced delays, to be measured as the avoided costs of operating delayed aircraft (e.g., fuel and oil, crew, and maintenance savings) and the monetary value of saved passenger time. In addition, the net value to airlines, the airport, and the public from additional air transportation service made possible by the capacity project will be considered. Costs will be estimated for planning, construction, operation, and maintenance of the project, and will be apportioned according to origin of funding--Federal AIP discretionary funds, Federal AIP entitlement funds, and nonfederal funds.

To be eligible for further consideration, the proposed project must have present value benefits that exceed present value costs and must have appropriate sponsor financial commitment (see section 3 below). The FAA will select among eligible projects with the object that Federal AIP discretionary funds will attract funding from other sources to the maximum extent feasible, consistent with rational investment decisionmaking. To accomplish this objective, the FAA will consider various measures of project financial viability (e.g., net present values, benefit-cost ratios, and rates of return) relative to the amount of Federal AIP discretionary funds requested. Eligible projects to be funded

entirely with Federal AIP entitlement funds will be approved for LOI's if FAA concludes that entitlement funds will be available.

3. Financial Commitment, Including Project Timing

The FAA will determine the airport sponsor's financial commitment in terms of the airport capital improvement plan and associated financial plan over the lesser of the life of the LOI of 5 years. The plan should include by FY a list of the projects to be implemented, both LOI and non-LOI; and, for each project, the total project cost with a cost breakdown by source of funds (AIP entitlement, AIP discretionary, passenger facility charges (PFC), sponsor, State, and other, including available cash reserve accounts). The amount of funds to be obtained through selling bonds should also be indicated along with the bond rating, if available, and status of issuance.

In making its determination, the FAA will consider the sponsor's commitment of entitlement funds to the proposed project or to higher priority projects, whether PFC's are being applied, the contribution of nonfederal funding sources, diversion of airport revenue off the airport, and whether the sponsor plans to proceed with the project in accordance with all applicable statutory and administrative requirements, with the LOI payments to be used as reimbursements for advance expenditures.

Issued in Washington, D.C. on October 26, 1994. Cynthia Rich, Assistant Administrator for Airports. [FR Doc. 94-26925 Filed 10-26-94; 2:23 pm] BILLING CODE 4910-13-M

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Information supplied by the RCAA.

Designed and coded by Richard T. Kennedy.

The Des Moines City Attorney would like you to read the disclaimer.

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URL: <http://www.ci.des-moines.wa.us/acc/fedreg.html>

