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U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

ORDER
5100.38C

Effective Date:
June 28, 2005

SUBJ: Airport Improvement Program Handbook

1. **PURPOSE.** This Order provides guidance and sets forth policy and procedures to be used in the administration of the Airport Improvement Program. Several FAA Orders and Advisory Circulars are referred to in this directive. The references appear as the basic publication number without any suffix. However, the latest issuance of the publication should be used as the reference.

2. **DISTRIBUTION.** This Order is distributed electronically to all addresses of the ZRP-510 special distribution list and to all Airports District Offices.

3. **CANCELLATION AND EXPLANATION OF CHANGES.** Order 5100-38B, Airport Improvement Program Handbook, dated May 31, 2002, and Change 1, dated January 8, 2004, are cancelled. In addition, Order 5100-38B, Change 2 dated May 16, 2005 replaced in its entirety. Except for an updated cover, Order 5100-38C is identical to the Change 2, which both include new policy changes within Vision 100 – Century of Flight Authorization Act of 2003, Public Law 108-176.

4. **FORMS AND REPORTS**. Virtually all forms and reports are generated by the Airport Improvement Program grants management system. Eventually, all forms will be automated as we move to e-commerce. Most of the forms depicted in the Appendices are in digital format and can be completed in a word processing program. Hard copies of many of the forms will continue to be available as long as needed. When we transition to electronic processing of the grant program, all forms will be available on the web and will be available for sponsors to complete and submit online.

Dennis E. Roberts
Director, Airport Planning
and Programming

Distribution: Electronically to ZRP-510: A-FAS-1 (MAX) Initiated By: APP-520

RECORD OF CHANGES

DIRECTIVE NO.
5100.38C

REC NO

CHANGE TO BASIC	SUPPLEMENTS			OPTIONAL	CHANGE TO BASIC	SUPPLEMENTS			OPTIONAL

FOREWORD

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Director, Airport Planning
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Chapter 1. INTRODUCTION

Section 1. GENERAL

1. PURPOSE.

This order provides guidance and sets forth policies and procedures for the administration of the Airport Improvement Program (AIP) by the Federal Aviation Administration (FAA).

2. AUTHORIZING LEGISLATION.

a. The AIP is authorized by Chapter 471 of Title 49 of the United States Code (U.S.C.), which is referred to as the "Act". Previously, the AIP was authorized by the Airport and Airway Improvement Act of 1982 (P.L. 97-248, as amended), which was repealed in 1994 by Public Law 103-272 (July 5, 1994), Codification of Certain U.S. Transportation Laws at Title 49 U.S.C. and the provisions were recodified as Chapter 471. No substantive changes were made in the recodification. Since the original authorization the Act has been amended in 1994, 1996, 1999, 2000, 2001, 2002 and again in 2003, to change the annual authorizations for fiscal year 1994 through FY 2007 as well as numerous other program changes. The Act's broad objective is to assist in the development of a nationwide system of public-use airports adequate to meet the current needs and the projected growth of civil aviation. The Act provides funding for airport planning and development projects at airports included in the National Plan of Integrated Airport Systems (NPIAS).

b. The Act also authorizes funds for noise compatibility planning and to carry out noise compatibility programs as set forth in the Aviation Safety and Noise Abatement Act of 1979 (P.L. 96-143). Public Law 103-272 (July 5, 1994), Codification of Certain U.S. Transportation Laws at Title 49 U.S.C., also repealed the Aviation Safety and Noise Abatement Act of 1979, as amended, and recodified it without substantive change at Title 49 U.S.C.

c. Several notable name changes were contained in the recodification language. The term "enplanements" was replaced with the term "passenger boardings." The codification also refers to passenger facility fees instead of passenger facility charges. These terms, when used in a discussion of legislative provisions and program objectives, are interchangeable.

3. POLICY.

The highest aviation priority of the United States is the safe and secure operation of the airport and airway system. Policy statements in enabling legislation address minimizing noise impacts on nearby communities; developing reliever airports; developing cargo hub airports; developing systems that use various modes of transportation; protecting and enhancing natural resources; and reducing aircraft operation delays. In addition, such policies address converting former military air bases to civil use or improving additional joint-use facilities; and implementing a variety of other provisions to ensure a safe and efficient airport system.

The FAA supports the policies by giving highest priority to projects that enhance safety and security of our airport system. Other major policy objectives are advanced by assigning high priority to the award of AIP funds to maintain airport infrastructure and increase the capacity of facilities to accommodate growing passenger and cargo traffic. The United States' aviation policies are strengthened by statutory provisions that direct specific funding to help minimize current and projected noise impacts; convert current and former military air bases that are available for civil use; preserve and enhance capacity, safety, and security at primary and reliever airports; and ensure continued funding availability to general aviation and nonprimary commercial service airports. Discussion of these funding designations is provided in the sections that follow dealing with apportioned and discretionary funds.

Title 49 U.S.C., Section 47103 requires the Secretary of Transportation to publish a national plan for the development of public use airports in the United States. This plan, the NPIAS, lists development considered necessary to provide a safe, secure, efficient, and integrated airport system meeting the needs of civil aviation, national defense, and the U. S. Postal Service. An airport must be included in this plan to be eligible to receive a grant under the AIP. The latest published edition of the NPIAS, before the issuance of this order, covered 2005-2009. It was transmitted to Congress on September 30, 2004. That report identified 3,344 existing airports of significance to air transportation and included estimates that $39.55 billion in AIP-eligible development is needed over the 5-year period of 2005-2009 to meet the needs of all segments of civil aviation.

4. APPLICATION OF POLICY AND GUIDANCE PRINCIPLES.

The contents of this handbook are similar to prior versions based on principles below.

a. Unless it is considered necessary to achieve standardization in grant program administration across the country, procedures and requirements not dictated by legislation, regulation, or factors beyond FAA control are left to the discretion of the regions. It is recognized that the diversity among the regions of program needs, available resources, and Airports Division organizational structures dictate that flexibility must be given Airports Division Managers for efficient grant program administration. At the same time, however, the AIP must be perceived by the aviation community as an even-handed program administered uniformly in every State. This principle results in the inclusion in the handbook of standard "special conditions" to be used in frequently encountered grant conditions and in greater reliance on regional discretion in project management.

b. The handbook attempts to summarize appropriate information from other guidance material when possible, so that direct reference to the original material is seldom needed. However, some of these documents are so closely related and applicable to day-to-day grant activity that they should be considered companion documents to this handbook and should be, in fact, a part of each program manager's tools for daily program administration. One source of frequently referenced guidance material used in this handbook is advisory circulars (AC's). The FAA issues advisory circulars to inform the aviation public in a systematic way of nonregulatory material of interest. The following guidance should be used in conjunction with this handbook:

(1) Title 49 CFR, Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements for State and Local Governments;"

(2) Title 49 CFR, Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs;"

(3) FAA Order 5100.20, "Program Control and Reporting Procedures - Airport Grant Programs;"

(4) Advisory Circular 150/5100-6, "Labor Requirements for the Airport Improvement Program;"

(5) Advisory Circular 150/5100-15, "Civil Rights Requirements for the Airport Improvement Program;"

(6) Advisory Circular 150/5100-16, "Airport Improvement Program Grant Assurance Number One - General Federal Requirements:"

(7) FAA Order 5090.3, "Field Formulation of the National Plan of Integrated Airport Systems (NPIAS);"

(8) FAA Order 5100.37, "Land Acquisition and Relocation Assistance for Airport Development Projects;"

(9) FAA Order 5050.4, "Airport Environmental Handbook;"

(10) FAR Part 150, "Airport Noise Compatibility Programs;"

(11) FAA Order 5100.39, “Airports Capital Improvement Plan;”

(12) Other advisory circulars, orders, agency directives, regulations, etc., are referenced in this handbook for guidance in particular areas. They may be consulted when more details are required.

c. Where possible, the administrative procedures for both the region and the sponsors have been simplified with a view toward reducing the workload for the regions and field offices as well as reducing burdensome detail and paperwork for sponsors. If there are any areas in this handbook where further progress toward this goal can be made (within the purview of the FAA), they should be brought to the attention of the Airports Financial Assistance Division, APP-500; ATTN: Airport Improvement Program Branch, APP-520.

5. WAIVERS.

Except where options are specifically noted in this order or where non-mandatory language is used, e.g., "may" or "as determined by the field office", the procedures and requirements are mandatory in nature. Any deviation from them must be approved by the Director of the Office of Airport Planning and Programming or designee. All requests for deviations should be sent to the Director of the Office of Airport Planning and Programming for processing.

6. HANDBOOK FORMAT.

a. The handbook is arranged beginning with explanation, definition, and description of major kinds of projects and overall requirements followed by the step-by-step process in carrying out a typical grant from project formulation to grant closeout. The final chapter covers Civil Rights/Labor enforcement.

b. Similar subject matter in different chapters is cross-referenced to avoid text duplication and to lead the reader through the applicable guidance. A subject index at the end of certain previous editions of the handbook has been omitted since electronic search engines may replace this guide for users.

c. Except as noted, the appendices to the handbook contain all forms normally used in the grant process as well as standardized language to be used for special conditions. Standard language and forms used for Civil Rights and Labor requirements are to be found in the two advisory circulars on those subjects. Forms for program control and reporting are found in FAA Order 5100.20.

d. Guidance newly issued as a Program Guidance Letter (PGL), which is appropriate for inclusion in the handbook, will be included in subsequent handbook changes. PGLs will continue to be issued for items that are not appropriate handbook material, for example short-term policy guidance or detailed information on particular subjects, and to provide interim guidance between handbook changes.

7. - 19. RESERVED.

Section 2. TITLE 49 UNITED STATES CODE

20. GRANT AUTHORITY.

Title 49 U.S.C., Section 47104(a) authorizes the Administrator to make grants for airport planning and development in the United States and certain other entities as described in Paragraph 25. The grants assist the development of public-use airports served by air carriers, commuters and general aviation.

21. REVENUE SOURCES.

The Airport and Airway Trust Fund, which was established by the Airport and Airway Revenue Act of 1970, provides the revenues used to fund AIP projects. The Trust Fund concept guarantees a stable

funding source whereby users pay for the services they receive. In 1997, Congress enacted new taxes that fund the Trust Fund. Each component of the taxes and the percentage of the total revenue derived from them during FY 2003 are shown in Table 1. The percentages show relative contributions of taxes.

Table 1 Aviation Taxes

AVIATION COMPONENT	COMPUTATION FORMULAE	PERCENT
Domestic Passenger Ticket Tax *(Including Areas of Canada and Mexico Not More Than 225 Miles from the Continental United States)*	7.5% from October 1, 1999, to September 30, 2007	49
Domestic Passenger Flight Segment	$3 per Segment during Calendar Year (CY) 2002 Indexed to Consumer Price Index (CPI) after CY 2002	20
Passenger Ticket Tax at Rural Airports *(Having Less Than 100,000 Boardings and More Than 75 Miles from an Airport with 100,000 Boardings)*	7.5% of Ticket Cost Beginning Oct. 1, 1997 (Excludes Flight Segment Component)	1
International Departure and Arrival Taxes *(Where Domestic Tax Does Not Apply)*	$12 Per Person Departure Tax Plus $12 Per Person Arrival Tax Beginning Oct. 1, 1997 Indexed to CPI Beginning Jan. 1, 1999	15
Special Rule for Flights between Continental US and Alaska or Hawaii	$6 Departure Tax for International Facilities Indexed to CPI Beginning Jan. 1, 1999 Plus a Portion of the Domestic Passenger Ticket Tax	
Frequent Flyer Tax	7.5% of Frequent Flyer Award Value	2
Waybill Domestic Freight and Mail	6.25% of Shipment Cost	5
Commercial Fuel Tax	4.3¢ Per Gallon	6
General Aviation Fuel Tax	Aviation Gasoline – 19.3¢ Per Gallon Jet Fuel – 21.8¢ Per Gallon	2

22. AIP AUTHORIZED FUNDING LEVELS.

The Act, as amended, authorizes the use of monies from the Airport and Airway Trust Fund to make grants under the AIP on an annual fiscal year basis. Figure 1 and Table 2 depict amounts (in millions) that were authorized and subsequently limited by appropriations acts for the AIP. Appropriation limitations generally fall short of authorized levels.

Funds authorized but remaining after a fiscal year, due to appropriations limitations, carry forward to future fiscal years unless the Congress takes specific action to limit such amounts. During the annual appropriations process, Congress may also limit the funding that may be obligated for grants to an amount that differs from the annual authorization. (See Paragraph 32.) Rescissions may be enacted as a bookkeeping device reducing the authorized level to the amount limited by appropriations acts.

23. TYPES OF AIRPORTS AND AIRPORT ACTIVITIES.

The only airports, or portions thereof, eligible for AIP funding are public use airports that serve civil aviation. The definition for airports in the law refers to any area of land or water used or intended for landing or take-off of aircraft. This includes, within the five categories of airports listed below, special

types of facilities including seaplane bases, heliports and facilities to accommodate tilt rotor aircraft. An airport includes an appurtenant area used or intended for airport buildings, facilities, as well as rights of way together with the buildings and facilities.

When aircraft operators are exempt from paying the aviation taxes described in Table 1, their airport activity would not be included in the justification or design for an AIP project. (For instance, certain Federal agencies that operate Government-owned aircraft for fire fighting do not contribute to the Airport and Airway Trust Fund.) An exception to this general rule has been identified within 49 USC 47504(c)(6) for approved noise compatibility programs involving military aircraft. The statute authorizes use of AIP funds where military aircraft are the primary cause of noise provided FAA approved the compatibility program with that activity as justification.

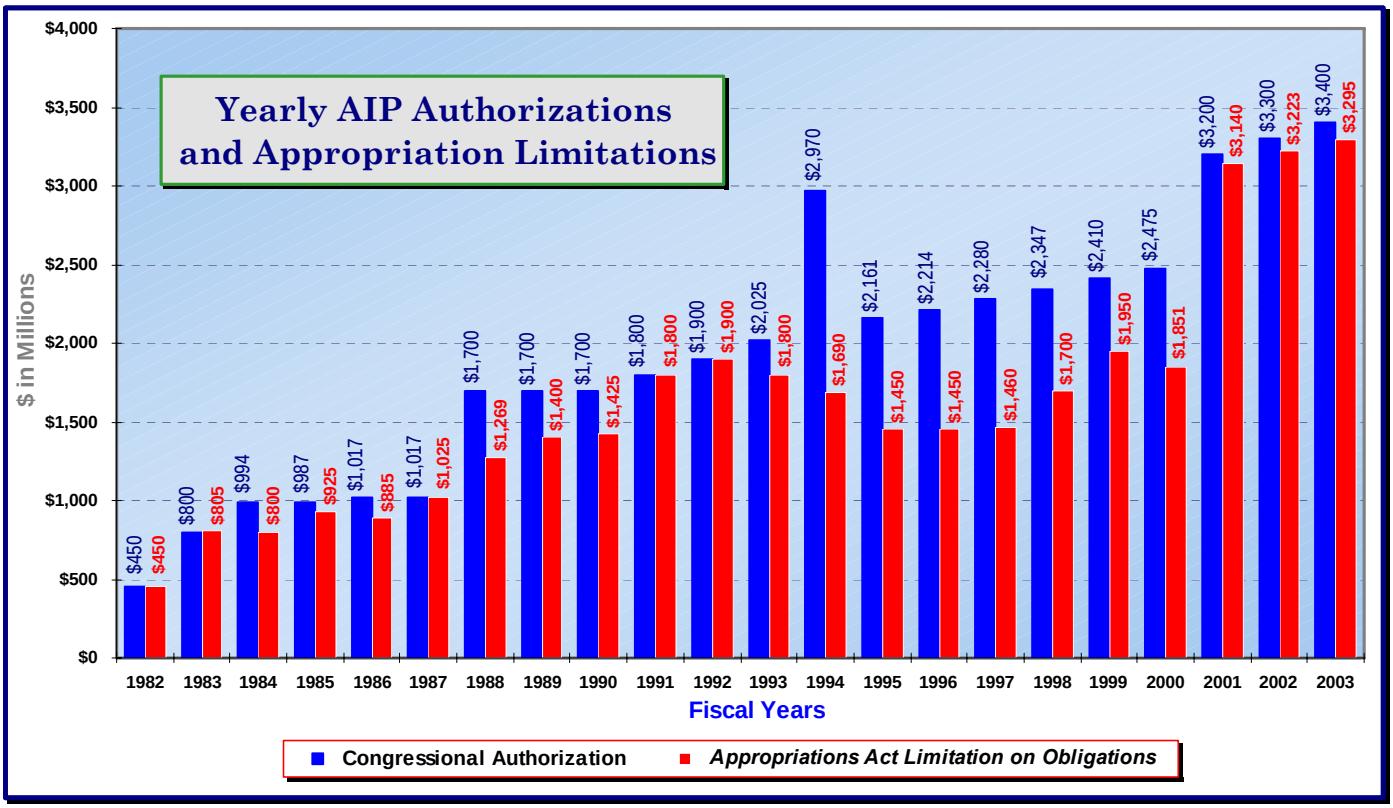

Figure 1 Typical Correlation between Yearly Authorization and Appropriation Levels

The law defines airports by categories of airport activities, including commercial service, primary, cargo service, reliever, and general aviation airports. Categories in Table 3 are defined as follows:

Commercial Service Airports are publicly owned airports that have at least 2,500 ***passenger boardings*** each calendar year and receive scheduled passenger service. ***Passenger boardings*** refer to revenue passenger boardings on an aircraft in service in air commerce whether or not in scheduled service. The definition also includes passengers who continue on an aircraft in international flight that stops at an airport in any of the 50 States for a non-traffic purpose, such as refueling or aircraft maintenance rather than passenger activity. ***Passenger boardings*** at airports that receive scheduled passenger service are also referred to as ***Enplanements.*** A pilot program on airport privatization may apply to individual commercial service airports, in which case, some private rather than public ownership provisions are allowed. Questions on it should be directed to the Airport Compliance Branch, AAS-400.

Table 2 Yearly AIP Authorizations and Appropriation Limitations (In Millions)

Fiscal Year	Congressional Authorization	Appropriations Act Limitation on Obligations
1982	$ 450.00	$ 450.00
1983	$ 800.00	$ 804.52
1984	$ 993.50	$ 800.03
1985	$ 987.00	$ 925.00
1986	$1,017.00	$ 885.24
1987	$1,017.20	$1,025.05
1988	$1,700.00	$1,268.70
1989	$1,700.00	$1,400.00
1990	$1,700.00	$1,425.00
1991	$1,800.00	$1,800.00
1992	$1,900.00	$1,900.00
1993	$2,025.00	$1,800.00
1994	$2,970.30	$1,690.00
1995	$2,161.00	$1,450.00
1996	$2,214.00	$1,450.00
1997	$2,280.00	$1,460.00
1998	$2,347.00	$1,700.00
1999	$2,410.00	$1,950.00
2000	$2,475.00	$1,850.60
2001	$3,200.00	$3,140.00
2002	$3,300.00	$3,223.00
2003	$3,400.00	$3,295.00

(1) Nonprimary Commercial Service Airports are **Commercial Service Airports** that have at least 2,500 and no more than 10,000 **passenger boardings** each year.

(2) ***Primary Airports*** are ***Commercial Service Airports*** that have more than 10,000 ***passenger boardings*** each year. Hub categories for ***Primary Airports*** are defined as a percentage of total ***passenger boardings*** within the United States in the most current calendar year ending before the start of the current fiscal year. For example, calendar year 2000 data are used for fiscal year (FY) 2002 since the fiscal year began 9 months after the end of that calendar year. Table 3 depicts the formulae used for the definition of airport categories based on statutory provisions cited within the table, including ***Hub Type*** described in 49 USC 47102.

b. ***Cargo Service Airports*** are airports that, in addition to any other air transportation services that may be available, are served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100 million pounds. "Landed weight" means the weight of aircraft transporting only cargo in intrastate, interstate, and foreign air transportation. An airport may be both a commercial service and a cargo service airport.

Table 3 Definition of Airport Categories

AIRPORT CLASSIFICATIONS		HUB TYPE: PERCENTAGE OF ANNUAL PASSENGER BOARDINGS	COMMON NAME
Commercial Service: *Publicly owned airports that have at least 2,500 passenger boardings each calendar year and receive scheduled passenger service* **§47102(7)**	**Primary:** *Have more than 10,000 passenger boardings each year* **§47102(11)**	**Large:** *1% or more*	***Large Hub***
		Medium: *At least 0.25%, but less than 1%*	***Medium Hub***
		Small: *At least 0.05%, but less than 0.25%*	***Small Hub***
		Nonhub: *More than 10,000, but less than 0.05%**	***Nonhub Primary***
	Nonprimary	**Nonhub:** *At least 2,500, and no more than 10,000**	***Nonprimary Commercial Service***
Nonprimary *(Except Commercial Service)*			**Reliever §47102(18)**
			General Aviation
Other than Passenger Classification			**Cargo Service §47114(c)(2)**

*****Nonhub Airports* **–** Locations having less than 0.05 percent of the United States passengers, including any nonprimary commercial service airport, are statutorily defined as nonhub airports. For some purposes we separate primary locations within this hub type, although more than 100 nonhub airports are currently classified as a nonprimary commercial service airport.

c. ***Reliever Airports*** are airports designated by the FAA to relieve congestion at ***Commercial Service Airports*** and to provide improved general aviation access to the overall community. These may be publicly or privately-owned.

d. The remaining airports, while not specifically defined in Title 49 USC, are commonly described as ***General Aviation Airports***. This airport type is the largest single group of airports in the U.S. system. The category also includes privately owned, public use airports that enplane 2500 or more passengers annually and receive scheduled airline service. The airport privatization pilot program authorized under Title 49 U.S.C., Section 47134, may affect individual general aviation airports. Under this program, some private rather than public ownership provisions are allowed, and questions on it should be directed to AAS-400.

24. CHANGES IN AIRPORT CLASSIFICATION.

a. Primary Airports. Any apportioned funds earned by an airport whose classification has changed from primary to nonprimary commercial service airport will be available to that airport for the entire 3-year (4-year in the case of nonhub primary airports) life of those apportionments regardless of any subsequent change in airport classification. See Paragraph 25a below. Should a primary airport be inadvertently or erroneously classified as a nonprimary in the annual announcement of apportionment distribution, a sum equivalent to the earned apportionments may be made available to the airport from discretionary funds.

b. Reliever Airports. Regions may designate airports as relievers (assuming they meet criteria for relievers) at any time during the year.

c. Other Airports. A few airports change from general aviation to commercial and vice versa during a year. For funding classifications for these borderline airports, consult with APP-520.

25. DISTRIBUTION OF FUNDS.

Statutory provisions require that AIP funds be apportioned by formula each year to specific airports or types of airports. Such funds are available to airports in the year they are first apportioned and they remain available for additional fiscal years as described in Paragraph 33l. Among the recipients of apportioned funds are primary airports, cargo service airports, states (including nonprimary apportionments when applicable) and insular areas (see subparagraph d below), and Alaskan Airports. Figure 2 and Table 4, both at the end of this paragraph, depicts how the funds are divided between funding categories. See Paragraphs 25e for limiting factors concerning apportionment of funds to nonprimary airports.

a. Primary Airports. Each primary airport apportionment is based upon the number of passenger boardings at the airport. If full funding is made available for obligation, the minimum amount apportioned to the sponsor of a primary airport is $650,000, and the maximum is $22,000,000, in accordance with Title 49 U.S.C., Section 47114(c)(1)(B). These funds are calculated as follows:

- $7.80 for each of the first 50,000 passenger boardings
- $5.20 for each of the next 50,000 passenger boardings
- $2.60 for each of the next 400,000 passenger boardings
- $0.65 for each of the next 500,000 passenger boardings
- $0.50 for each passenger boarding in excess of 1 million

Also, in any fiscal year in which the total amount made available under Title 49 U.S.C., Section 48103 is $3.2 billion or more the amount to be apportioned to a sponsor shall be increased by doubling the amount that would otherwise be apportioned under the formula, the minimum apportionment to a sponsor under (a) above will be increased to $1,000,000 rather than $650,000, and the maximum apportionment to a sponsor under (a) above shall be increased to $26,000,000 rather than the $22,000,000.

b. Small Airport Fund. In 1990, legislation was enacted that allows public agencies controlling commercial service airports to charge each boarding passenger using the airport a $1, $2, or $3 passenger facility charge (PFC). Public agencies wishing to impose a PFC must apply to the FAA for such authority and meet certain requirements. The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) made provision for the imposition of a $4.00 or $4.50 PFC as described within Order 5500.1.

Title 49 U.S.C., Section 47114(f) requires that AIP funds apportioned to a large or medium hub airport be reduced if a PFC is imposed at that airport. For a PFC of $3.00 or less the apportionment for

a fiscal year is reduced by 50 percent of the forecast PFC revenue in that fiscal year, but not by more than 50 percent of the apportionments calculated for that fiscal year. In the case of a fee of more than $3.00, the apportionment for a fiscal year is reduced by 75 percent of the projected revenues from the fee in the fiscal year but not by more than 75 percent of the amount that otherwise would be apportioned. This reduction takes place in the fiscal year following the year in which the collection of the fee imposed under Title 49 U.S.C., Section 40117 is begun.

The apportionments that are withheld as a result of PFC collections are distributed, in accordance with Title 49 U.S.C., Section 47116(b) as follows:

- 12.5 percent to the AIP discretionary fund; and
- 87.5 percent to the "small airport fund".

Of the 87.5 percent distributed to the small airport fund, one seventh (1/7) (12.5 percent of the total PFC-reduced apportionment funds) must be spent at small–hub primary airports, and the remaining divided as follows:

(1) one–third (25 percent of the total PFC-reduced apportionment funds) is distributed to general aviation (including reliever) airports, and

(2) the remaining two–thirds (50 percent of the total PFC-reduced apportionment funds) is distributed to nonhub commercial service airports.

c. Cargo Service Airports. Airports qualified as cargo service airports share the 3.5 percent of AIP apportionment made available to them in accordance with Title 49 U.S.C., Section 47114(c)(2). Cargo funds are apportioned to each cargo service airport in the same proportion as its proportion of landed weight of cargo aircraft to the total landed weight of cargo aircraft at all qualifying airports. No cargo service airport is entitled to more than 8 percent of the total amount apportioned to all-cargo service airports.

Beginning in 1997, the Secretary has been authorized to make a portion of the cargo funds available to airports not qualifying for these funds if the Secretary finds the non-qualifying airports will be served primarily by aircraft providing air transportation of only cargo. Contact APP-520 for assistance on this provision.

d. States/Insular Areas.

Funds commonly described as State apportionments are made available within states under various conditions.

(1) If AIP has funding available under $3.2 billion, a total of 18.5 percent of the annual amount made available for obligation is apportioned for use at nonprimary commercial service, general aviation, and reliever airports within the States and insular areas in accordance with Title 49 U.S.C., Section 47114(d). Of this 18.5 percent, 99.34 percent is apportioned for airports based on an area/population formula within the 50 States, the District of Columbia, and Puerto Rico, while the remaining 0.66 percent is apportioned for airports in the insular areas (Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands).

(2) If AIP has funding available equal or more than $3.2 billion, 20 percent of the annual amount made available for obligation is apportioned for use at nonprimary commercial service, general aviation, and reliever airports within the States and insular areas. Of this, a direct apportionment will be made to nonprimary airports in accordance with Paragraph e. below. Of the funds remaining after deduction of the nonprimary apportionment, 99.38 percent is apportioned for airports based on an area/population formula within the 50 States, the District of Columbia, and Puerto Rico, while the remaining 0.62 percent

is apportioned for airports in the insular areas (Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands).

(3) Although the apportionment is designated for use in these political entities, the FAA has the responsibility for determining which airports should receive grants in jurisdictions not funded through the State Block Grant Program. Funds apportioned for use within the states and insular areas remain available for the fiscal year in which first authorized and the three fiscal years immediately following.

(4) A special rule under 49 USC 47114(d)(4) provides that amounts apportioned as described within this subparagraph for airports of Alaska, Hawaii and Puerto Rico may be used at any primary or nonprimary airport in addition to other designated entitlements. This flexibility in using funds applies under subparagraph f below to the Alaskan supplemental apportionment as well.

e. Nonprimary Airports. In the event that AIP is funded at $3.2 billion or more, a portion of the funds apportioned in Subparagraph d(2) is apportioned directly to sponsors of nonprimary airports. The amount of these individual nonprimary airport apportionments is –

(1) 20 percent of the 5-year cost of the need listed for a particular airport in the most recently published NPIAS; or

(2) an overall cap of $150,000.

f. Alaska Supplemental Funds. Funds are apportioned for certain Alaskan airports to ensure that Alaska receives at least as much as these airports were apportioned in FY 1980 under previous grant-in-aid legislation in accordance with Title 49 U.S.C., Section 47114(e).

g. Discretionary Fund. Remaining funds form the "discretionary fund." These funds are of two types. One type is discretionary set-aside funds, which are more fully described in Paragraph h below. The other type consists of those funds remaining after the apportionments are made and the set-asides are accommodated. Of these remaining funds, 75 percent, known as capacity/safety/security/noise (C/S/S/N), is to be used for preserving and enhancing capacity, safety, security, and carrying out noise compatibility planning and programs at primary and reliever airports. The remaining 25 percent, known as remaining or pure discretionary funds, may be used for any eligible project at any airport.

(1) Projects funded with any discretionary funds should be based on the national priority system in Paragraph 320. Ordinarily a project with a high numerical score will not be deferred in order to fund lower priority work. Regions should document project files if a higher priority project has been deferred to a later fiscal year in favor of other work. For instance, when new information becomes available projects in the current year Airport Capital Improvement Plan may be unexpectedly delayed for a variety of reasons. If this happens, regions should notify APP-520 of deferral and the reason. See 49 USC 47115(d)(2)(A).

(2) The sponsor must be able to commence the work on projects using discretionary funds during the same fiscal year as the grant agreement or within 6 months, whichever is later. Regions should ensure project schedules are realistic. (When a project has been delayed, see Paragraph 1151 on suspension of the grant, if appropriate.) For purposes of this provision, regions should construe "commence the work" to mean –

(a) Initiation of the effort for projects with planning or design;

(b) Initial title search or other preliminary work for land projects;

(c) Physically underway for construction or noise compatibility implementation; and

(d) Execution of the purchase contract for equipment projects.

h. Set-Aside Funds. Portions of AIP funds are set-asides designed to achieve specified funding minimums. A minimum amount of funding is directed to the noise, MAP, and reliever set-asides.

(1) Noise. An amount equal to 35 percent of the discretionary fund is reserved for noise compatibility planning and implementing noise compatibility programs under Title 49 U.S.C., Section 47501 et seq. (formerly the Aviation Safety and Noise Abatement Act of 1979). Such minimum can be met with apportioned or discretionary funds. Eligible projects for the noise set-aside funding include:

(a) Noise compatibility planning under 49 USC 47505(a)(2);

(b) Noise compatibility implementation programs under 49 USC 47504(c);

(c) Noise mitigation projects approved in an environmental record of decision for an AIP airport development project even if the sponsor has not met Part 150 requirements;

(d) Compatible land use planning and projects carried out by State and local governments around large and medium hub airports under 49 USC 47141; and

(e) Clean Air Act projects as defined by 49 USC 47102(3)(F), 47102(3)(K), and 47102(3)(L) except for constructing or purchasing capital equipment that would benefit primarily a revenue-producing area of the airport used by a non-aeronautical business.

(2) Military Airport Program (MAP). Four percent of the discretionary fund is used for the MAP.

(3) Reliever. If the AIP is funded at $3.2 billion or above, 0.66 percent of the discretionary fund is available for a limited number of reliever airports with:

(a) More than 75,000 annual operations;

(b) A runway with a minimum usable landing distance of 5,000 feet;

(c) A precision instrument landing procedure;

(d) At least 100 based aircraft; and

(e) At least 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings at the airport relieved.

i. Minimum Discretionary Funds. The Act states that, beginning in FY 1997, not less than $148 million, plus an amount equal to payments from the discretionary funds for LOIs issued prior to January 1, 1996, must be available as discretionary funds (capacity/safety/security/noise and remaining) after all apportionments and set-aides are satisfied. If less than this amount remains, all apportionments (except for Alaska supplemental funds) and set-asides are to be reduced by the same percentage to ensure that this amount is available for discretionary grants.

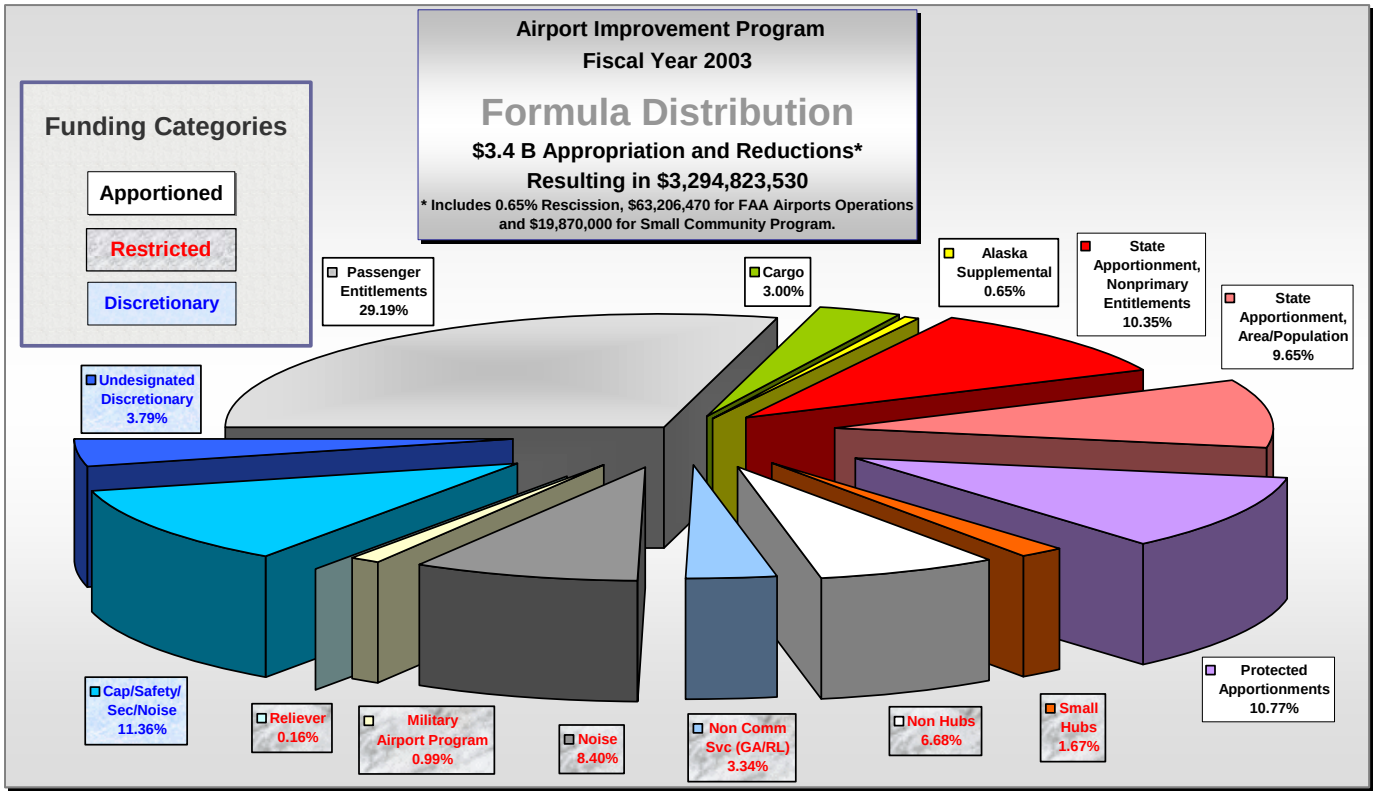

Figure 2 Typical Percentage Distribution of AIP

j. Additional Airports. The small airport and discretionary funds may be used to provide grants during FY 2004-07 for sponsors of airports located in the Republic of the Marshall Islands, Federated States of Micronesia, and Republic of Palau. Using up to $2.5 million of discretionary funds in any fiscal year during FY 2004-07, the Secretary of Transportation may enter into a reimbursable agreement with the Secretary of Interior for airport development projects at Midway Island Airport.

26. FEDERAL SHARE OF PROJECT COSTS.

a. The Federal share of the allowable project costs is determined by requirements in 49 USC 47109. An upward adjustment to these rates applies at some airports in certain states due to the large amount of federally owned land area within the State. For applicability of these upward adjustments, see Appendix 23. The appendix should be used for calculation of the Federal share whenever rates within it are higher than in this subparagraph. In other cases, the rates are as follows:

(1) For large and medium hub airports, the Federal share is 75 percent. However, for noise program implementation at large and medium hubs, the Federal share is 80 percent under 49 USC 47504(c)(4)(A).

Table 4 Fiscal Year 2003 Distribution of AIP Grants

FUNDING CATEGORY		
APPORTIONMENTS		
Passenger Entitlements	*$ 961,721,388*	*29.19*
Cargo Entitlements	*$ 98,844,706*	*3.00*
Alaska Supplemental Apportionment	*$ 21,345,114*	*0.65*
State Apportionment for Nonprimary Entitlements	*$ 341,036,416*	*10.35*
State Apportionment Based on Area and Population	*$ 317,928,290*	*9.65*
Carryover	*$ 354,986,941*	*10.77*
SMALL AIRPORT FUND		
Small Hubs	*$ 55,030,653*	*1.67*
Nonhubs (Nonhub Primary and Nonprimary Commercial Service)	*$ 220,122,611*	*6.68*
Nonprimary (Except Commercial Service)	*$ 110,061,306*	*3.34*
DISCRETIONARY FUND		
Capacity/Safety/Security/Noise	*$ 374,323,209*	*11.36*
Pure Discretionary	*$ 124,774,403*	*3.79*
SET ASIDES		
Noise	*$ 276,673,676*	*8.40*
Military Airport Program	*$ 32,549,844*	*0.99*
Reliever	*$ 5,424,974*	*0.16*
AVAILABLE APPROPRIATION	*$3,294,823,530*	*100.00*

***Based on FY 2003 law rather than obligations –**

- Reductions from $3.4 billion appropriation limited the AIP grants: FAA Operations ($63,206,470), Small Community Program ($19,870,000), and the amount of the Rescission ($22,100,000).
- Double entitlement with $26 million maximum and $1 million minimum entitlement.
- State apportionment 20% of AIP. Cargo 3% of AIP. Non-primary entitlement = 150K or 1/5 of need published in FY 98-02 NPIAS, whichever was less. Noise set-aside could include apportionments. Reliever set-aside two-thirds of 1% of discretionary.
- PFC airports returned 50% or 75% of entitlements.
- Double Alaska.
- Carryovers resulted from non-use by the airport sponsor during the fiscal year in which they were apportioned. They were protected for two or three subsequent years. Nonhub airports qualified for the three-year period. Unused apportionments in the current fiscal year were converted for use as discretionary in the current year. However, the protected status reduced discretionary levels in subsequent fiscal years.

(2) For block grants, the Federal share of individual airport projects is not more than 90 percent as described in Paragraph 1092e. A temporary increase the same as Paragraph 26(a)(5) allows Federal shares to be up to 95 percent in State block grant individual airport projects.

(3) The Federal share of costs associated with integrated airport system planning is 90 percent. A temporary increase the same as Paragraph 26(a)(5) allows Federal Shares to be 95 percent.

(4) The pilot program on private ownership of airports includes a Federal share of 70 percent.

(5) For all other airports –

(a) Temporarily between FY 2004 and FY 2007, the Federal share is 95 percent; and

(b) Starting in FY 2008, the Federal share is 90 percent.

b. The Federal share of the allowable project costs may be further adjusted as follows:

(1) Projects under the innovative finance demonstration program may have flexible Federal shares.

(2) Section 601b of P.L. 98-454 (United States Insular Areas of Appropriation Authorization) requires waiver of up to $200,000 of the sponsor's share of a grant issued after March 12, 1980, to American Samoa or the Northern Mariana Islands. For FY 2004-2007, a grant of up to $4 million at the 95 percent participation rate under this rule would require no contribution from the sponsor.

27. MAXIMUM ALLOWABLE GRANT INCREASES.

When increasing the project cost allowable in grant agreements, regions should consider provisions of Paragraph 1142, Appendix 13 and related limitations, such as discretionary fund restrictions described by Tables 14 and 15.

a. Airport Development before December 30, 1987. The United States maximum obligation under a grant agreement made prior to December 30, 1987, shall not be increased by more than 10 percent for development projects or, in the case of land acquisition, by more than 50 percent of the total increase in the allowable project costs attributable to the acquisition.

b. Airport Development between December 31, 1987, and September 30, 1992. The United States maximum obligation under a grant agreement shall not be increased by more than 15 percent for both airport development projects and land acquisition.

c. Airport Development after September 30, 1992. The United States maximum obligation under a grant agreement shall not be increased by more than 15 percent for both airport development projects and land acquisition at primary airports. For land acquisition at other than primary airports, the maximum obligation may be increased by either the 15 percent of the original grant or 25 percent of the increase in total allowable project costs based upon credible appraisals or court award, whichever is greater.

d. Planning Elements. The United States maximum obligation separated under a planning grant or such elements with the project cost separately itemized in any grants cannot be increased even when the scope of work changes.

28. - 29. RESERVED.

Section 3. OVERVIEW OF THE GRANT PROCESS AND PROGRAM FUNDING

30. THE GRANT PROCESS.

Figure 3 represents the steps taken by the FAA and the sponsor for a typical AIP construction project. Not all of these steps are necessary for each project since requirements differ depending upon the work involved, the type of sponsor, project size, etc. The starting point within the project development stage is capital improvement planning, which should receive early attention of regions to ensure the succeeding steps in the process work well. Except for the Congressional notification process and the approval of projects exceeding the dollar limits delegated to the regions, all actions shown for FAA are carried out in the regions and field offices. Details on requirements and procedures for each of the steps are found in ensuing chapters of this handbook.

31. RESTRICTIONS ON LOBBYING AND INFLUENCING FEDERAL EMPLOYEES.

Title 49, Code of Federal Regulations (CFR), Part 20, contains requirements regarding lobbying and influencing Federal employees by a private entity, association, State, authority, or local government. See paragraph 311l.

a. Certification regarding such lobbying is incorporated by reference within the standard grant assurances. For the purposes of the AIP, this certification is made when signing the grant agreement.

b. The disclosure form that reports these activities by sponsors if lobbying or influencing Federal employees occurs using other than AIP funds must be provided by sponsors. Regions must forward the disclosure forms to APP-520 upon receipt. Standard Form-LLL, “Disclosure of Lobbying Activities,” is the applicable standard form, and instructions with it are contained in Title 49 CFR, Part 20.

c. If a region becomes aware of these regulated activities by a sponsor, the region must take action to ensure that the sponsor provides the disclosure forms.

32. LIMITATIONS ON REGIONAL AIRPORTS DIVISION AUTHORITY.

Order 1100.154, Delegations of Authority, places certain limitations on the authority of the regional Airports Division Managers applicable to implementation of the AIP. Modifications of that directive and Order 1100.5, FAA Organization - Field, have been approved in the interim by the Associate Administrator for Airports (ARP-1). The limitations address critical authority, and delegations under separate directives also remain in effect.

While internal controls are currently in place to prevent some of these actions, regional Airports Division Managers may not undertake the following without prior approval of APP-1:

a. Add a new item of development or planning effort to a programmed AIP project without APP-1 approval when Washington review indicates that concurrence is required (See Paragraph 1060);

b. Divert any AIP funds to an airport site other than that for which it was intended when the allocation was approved;

c. Terminate any Grant Agreement on planning or development for cause without the prior approval of APP-1 when concurrence is requested upon Washington review;

d. Increase an allocation when funding requires an increase in funds of another Federal agency until that other agency has agreed to the increase in its grant (See Paragraph 311k); and

e. Change or modify the standard terms or provisions of the form of Grant Agreement and Application for Federal Assistance (Standard Form 424).

33. THE AIP FUNDING PROCESS.

This process is covered in more detail in Order 5100.20, "Program Control and Reporting Procedures for Airport Grant Programs". However, the following description of funding terms and procedures will give the reader a broad overview of the process from funding authorization to grant payments and recoveries.

a. Authorizing Legislation. The Airport Improvement Program is authorized by Title 49 U.S.C., as amended.

b. Authorizations. The enabling legislation contains authorization in the form of "contract authority" in dollars.

c. Appropriations. In the absence of further Congressional action, the contract authority may be used to fund grants. However, Congress has always included language in annual appropriations acts that has the effect of limiting annual grant funds to either the authorized level or to any different level determined by Congress to be suitable for economic requirements. These limitations are known as obligation limitations. Short term appropriations legislation sometimes is enacted in the form of a "Continuing Resolution".

d. Apportionments. There are two actions referred to as apportionments:

(1) The Act requires an apportionment of funds to be made each October to sponsors and states based on formulas in the Act. This notifies sponsors and states that these funds are available for eligible work, but does not involve any transfer of funds. These apportionments are more commonly referred to as "entitlements." (See Paragraph 25, above.)

(2) The other type of apportionment is made by the Office of Management and Budget (OMB) and it allows the FAA to obligate congressionally authorized AIP funds. The OMB apportionment is formally requested by the FAA, which provides a financial plan for orderly use of the funds. The financial plan is based on regional submission of annual program plans as requested by the APP-1 annual airport grant programming guidelines issued each spring. The OMB apportionment may contain restrictions on the use of funds such as restrictions on the amount that may be used quarterly.

e. Entitlements. The term "entitlements" refers to the passenger, cargo service, and state apportionments (including nonprimary apportionments when applicable) available to sponsors and states based on formulas in the Act. See d(1) above.

f. Planning Figures. APP-1 will issue planning figures in the annual airport grant programming guidelines and via telephone throughout the year. The planning figures do not constitute a transfer of funds but anticipate and usually will be followed by corresponding allotments. Planning figures issued in advance of Congressional appropriations may have to be revised if obligation limitations are higher or lower than expected.

g. Allotments. After the FAA receives an OMB apportionment, APP-1 will request the budget office to make an allotment of funds to regions to support previously issued planning figures. Allotments and adjustments to allotments will be made throughout the year as required.

h. Allocations. After a project is fully processed and approved, regions notify sponsors of an allocation of funds for the project. This is merely a notification of intent to grant (obligate) funds and does not involve a transfer of funds. Total allocations by a region can never exceed funds made available by headquarters to a region in either planning figures or allotments. Allocations based only on planning figures issued in advance of obligation limitations and apportionments may have to be withdrawn if final congressionally approved program levels are lower than originally expected.

i. Obligations. The execution of a grant agreement with a sponsor constitutes an obligation of the U.S. Government to pay the amounts specified in the grant. Obligations of funds are processed through regional accounting offices in two steps: A "reservations of funds" is made before the grant is signed and an "obligation" is reported when the grant is signed. Total obligations in a region may never exceed the total of funds allotted to a region.

j. Payments. Payments to a sponsor are made either through processing of requests submitted by a sponsor to the FAA or via a Letter of Credit arrangement. (See Chapter 13.)

k. Recoveries. As adjustments are made based on actual payments, funds may be recovered (de-obligated) from existing obligations and under certain circumstances may be re-obligated for new projects or for upward adjustments to existing projects. For block grants, funds are not normally recovered. They may be used within the block grant for other eligible projects. See Paragraph 1094h about block grant recoveries. For further information, contact APP-520.

l. Carryover. Funds apportioned for large, medium and small hubs, or states and Alaskan airports, remain available for obligation during the fiscal year for which the amount was apportioned and the two fiscal years immediately after that year. Funds apportioned for any non-hub or non-primary airport remain available for obligation during the fiscal year for which the amount was apportioned and the three fiscal years immediately following that year. Apportioned funds that have been unused are protected and carryover for the airports through the three or four year periods. Cargo entitlement funds carryover based on the airport's other categories as described above. See Table 4.

34. PROJECT APPROVAL AND CONGRESSIONAL NOTIFICATION.

Upon final approval by the Associate Administrator for Airports, the project is forwarded to the Office of the Secretary (Office of Congressional Affairs). That office provides notice of the project details to the appropriate congressional delegations as a courtesy so that they may notify their constituents. The timing of these notices to Congress is determined by the Secretary and tends to involve unanticipated delays. When appropriate notifications have been completed, the Secretary notifies APP-520. Regional offices are then notified so that further grant award actions can begin. For further information, see Order 5100.20.

35. OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULAR A-102.

a. OMB Circular A-102 (Revised), Grants and Cooperative Agreements with State and Local Governments, is addressed solely to the federal agencies. It establishes consistency and uniformity among federal agencies in the management of grants as well as cooperative agreements with State, local, or federally recognized Indian tribal governments. The revised OMB Circular A-102 became effective on August 29, 1997.

b. OMB Circular A-102 is supplemented by a Government-wide regulation. It is directed to sponsors. The regulation applicable to the AIP is in Title 49, CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. Title 49 CFR, Part 18 became effective October 1, 1988, except certain provisions on equipment and procurement, and prior versions of OMB Circular A-102 apply to earlier grants unless otherwise authorized.

c. The principal standards in Title 49 CFR, Part 18 of the regulations, as they pertain to AIP, are summarized in Advisory Circular 150/5100-16A. Attachments to the previous version of OMB Circular A-102, which provided fiscal and administrative standards governing grants to sponsors, have been incorporated into Part 18 with few changes. In addition, detailed guidance on meeting these standards is found in appropriate places throughout this Order.

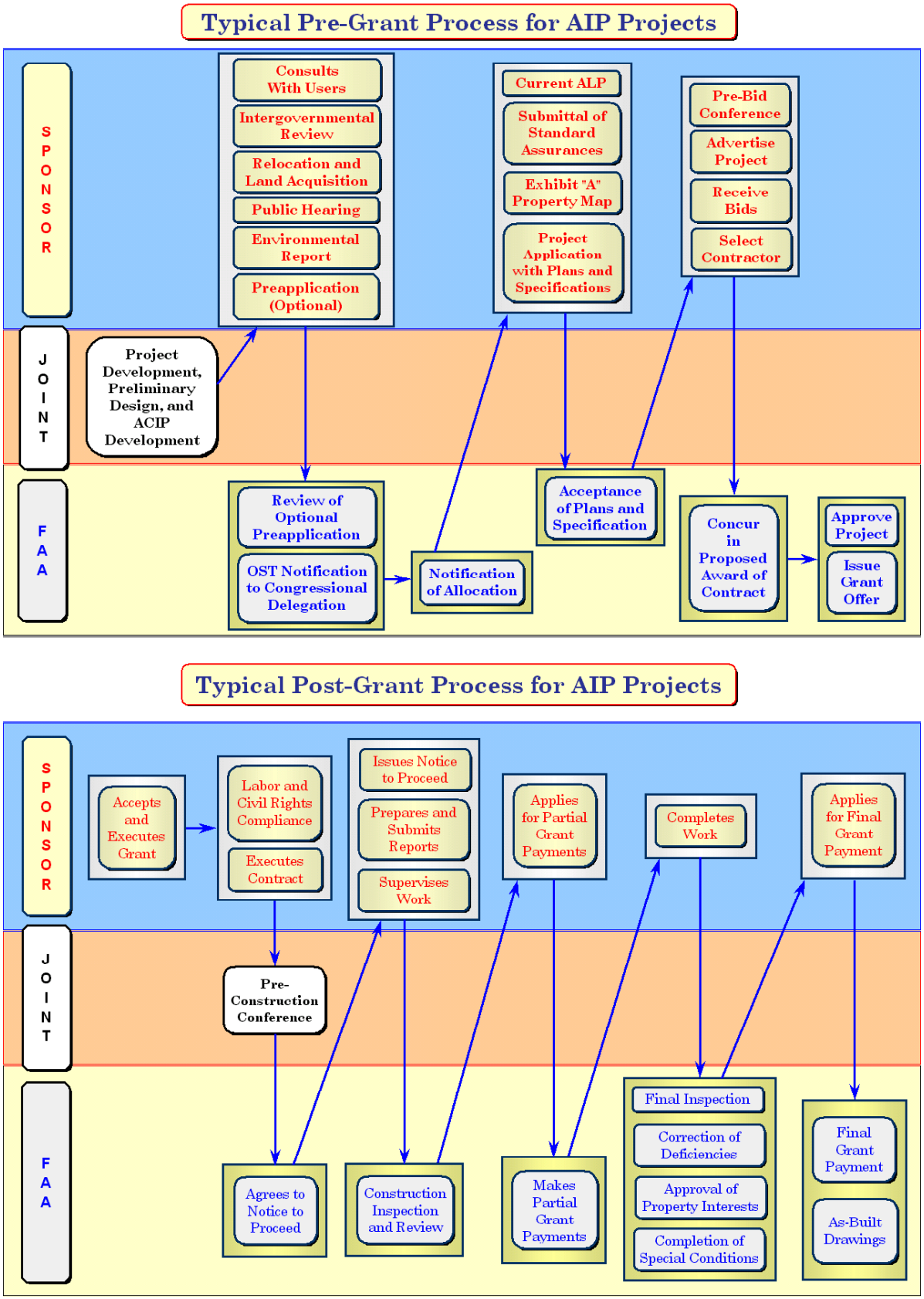

Figure 3 Typical AIP Grant Process

36. MANDATORY STANDARDS.

In complying with Assurance 34, a sponsor is required to comply with all appropriate technical guidelines incorporated into identified advisory circulars, and these standards become mandatory for the project being funded. The list of the advisory circulars is published electronically on the World Wide Web. Any guidance that needs to be specifically required for a project, other than that identified in the headquarters list of current advisory circulars, should be added to the project as a special condition. Standards in effect on the date of allocation of AIP funds to a project apply to that project. Standards that become effective after the date of allocation may be applied to the project by mutual agreement between the FAA and the sponsor. As allowed in Title 49 U.S.C., Section 47105(c), where states have established and the Secretary has approved airport development standards at nonprimary, public-use airports (other than standards for safety of approaches) the applicable State standards shall be used. Any modification to the technical standards of the advisory circulars identified must be processed in accordance with the procedures of FAA Order 5300.1, "Approval Level of Modification of Airport Design Standards".

37. USE OR TRANSFER OF ENTITLEMENT FUNDS.

Several arrangements allow use of entitlement funds at a different location than the entitled airport so unused amounts are not carried over each year for airports with no planned project. In addition, sponsors may have other reasons for using entitlements at a different airport that would be allowed under the law.

a. Use at Airports Owned by Primary Airport Sponsor. A sponsor may use primary entitlements for any airport owned by the sponsor that is in the NPIAS in accordance with 49 USC 47117(c)(1).

b. Transfer to Other Airports. A sponsor may enter into an agreement with the FAA to waive receipt of all or part of its entitlement funds provided the waived amounts are made available to the sponsor of another eligible airport in accordance with 49 USC 47117(c)(2).

(1) Funds included in a transfer should be primary, cargo service or nonprimary entitlements. State apportionments are not transferable. Each agreement should specify entitlements of only one airport. If nonprimary entitlements are proposed for transfer to a primary airport, contact APP-520.

(2) The receiving airport must be in the same State or geographic area as the airport of the sponsor making a waiver. In this paragraph, a "geographic area" means a multi-state area where the receiving airport is in the same or an adjacent Standard Metropolitan Area as the airport of the sponsor making a waiver.

(3) The waiver must be in writing using the form within Appendix 16 and include the following information:

(a) Name of sponsor (or other eligible entity such as a State) which is to receive the entitlement funds;

(b) Fiscal year of funds being transferred;

(c) Date by which transferred funds must be obligated if different than date such funds would be converted to the discretionary fund under provisions of the Act; and

(d) Sponsor attorney's certification that the waiver complies with all applicable laws and represents a legally binding commitment by the sponsor making the waiver.

(4) The sponsor waiving funds and the sponsor receiving funds may make separate agreements concerning the transfer that they feel are needed. For example, the sponsor waiving funds may specify the projects or that amounts be repaid in the future with the receiving airport's entitlements. However,

airports shall not transfer entitlements in return for a consideration or future obligation that is ineligible under the AIP. A copy of such a separate agreement should be included within the project file. The grant agreement with the receiving sponsor for a project including these transferred funds should include a special condition prohibiting unallowable consideration or future obligation as specified above.

(5) The transferred funds continue to be the entitlement funds of a transferee. Guidance on the use of such entitlement funds found in this Order is applicable.

38. STATE BLOCK GRANT PROGRAM.

Title 14 CFR, Part 156 sets forth regulations to implement the State Block Grant Pilot Program under Title 49 U.S.C., Section 47128, as amended. Policy and procedures for the program are individually arranged with the participating States. See Chapter 10 for specific block grant procedures.

39. LETTERS OF INTENT.

Processing an application for a letter of intent (LOI) is similar to the conventional grant application process. LOI approval is at the Washington headquarters level and immediately precedes the OST/Congressional notification. See Chapter 10, Section 8 for specific LOI procedures.

40. MILITARY AIRPORT PROGRAM.

Title 49 U.S.C., Section 47118 of the act states the Secretary can designate up to 15 current or former military airfields for inclusion in the Military Airport Program. These general aviation, commercial service, or reliever airports can receive grants for projects necessary to convert them to civilian use or to reduce congestion. Fuel farms, parking lots, hangars and certain other facilities are eligible for AIP funding participation under this program somewhat beyond that at other airports.

41. OTHER FEDERAL ASSISTANCE.

When airports need Federal financial assistance other than the AIP, regions might refer the airport to the Catalog of Federal Domestic Assistance at http://www.cfda.gov/ . This Web site provides information on individual Federal funding programs.

42. FINANCIAL STATEMENTS.

AIP funding is included in FAA financial statements annually. Financial statements are independently audited to validate the accuracy of the statements of the FAA and the results reported by OMB to Congress.

43. CHANGE IN THE AIP PROCESSES.

Certain airport innovations and non-conventional technologies may require changes to the policy or procedures in this order. Increased use of new capital improvement concepts reflecting evolution of the technology and aviation system structure may affect airport design, development or operation.

Impacts on airport safety and Federal requirements resulting from changes may need to be evaluated or tested before a change is made. An example of a shift in program emphasis that has occurred over many years is the project eligibility and procedures for approving certain projects traditionally funded under the Facilities and Equipment program. If a change requires waiver from procedures in this order, see paragraph 5 on the requirement for approval by APP-1. For changes involving airport planning, finance, or construction, see paragraphs 400 and 504. Regions are encouraged to consult with APP-520 on potential changes in the AIP processes at an early stage to allow maximum flexibility.

44. - 199. RESERVED

Chapter 2. SPONSOR ELIGIBILITY

200. GENERAL.

Eligibility to receive funds under the AIP is contingent upon the type of sponsor and the type of activity for which funds are sought. The different types of sponsors that are eligible to receive funds are:

a. Planning agencies;

b. Public agencies owning airports;

c. Certain public agencies not owning airports (as defined in Paragraph 207); and

d. Certain private airport owners/operators (as defined in Paragraph 208).

A state, whether it owns an airport or not, may sponsor development at airports within the state. If the state is not the owner of the airport, please refer to Paragraph 209 below regarding policies and conditions that apply.

201. LEGAL AND FINANCIAL RESPONSIBILITY.

Sponsors must:

a. Be legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required of sponsors which are contained in the AIP project application and grant agreement forms; and

b. Have the authority to act as a sponsor. An opinion of the sponsor's attorney as to its legal authority to act as a sponsor and carry out its responsibilities under the grant agreement will be required when deemed necessary or desirable.

202. CO-SPONSOR.

Any two or more public agencies desiring to participate in accomplishing a project may co-sponsor a project provided such public agencies jointly or severally meet the requirements of Paragraph 201a. above.

a. The terms and conditions of the grant agreement will jointly and severally bind cosponsors unless their respective rights and obligations with respect to an approved AIP project are otherwise set forth in a written agreement. A true copy of such agreement must be incorporated in or made a part of the project application submitted to the FAA office in whose jurisdiction the airport is located. The agreement shall, as a minimum, set forth:

(1) The responsibilities of each cosponsor to the other(s) with respect to the accomplishment of the proposed development, operation, and maintenance of the airport;

(2) The obligations which each will assume to the United States; and

(3) The names of the sponsor or sponsors who will accept receipt of and disburse grant payments.

b. A public agency that desires only to contribute funds to a sponsor need not become a sponsor or an agent of the sponsor. However, any funds contributed become funds of the sponsor(s) for purposes of the project.

c. Any other entity not meeting the requirements of Paragraph 201a may co-sponsor a development project only if an eligible sponsor co-signs the grant, and a written agreement must bind that sponsor to the terms and conditions of the grant.

203. AGENTS.

A public agency authorized by state or local law may act as an agent of the public agency that owns and operates the airport without participating financially in the project or becoming a sponsor. The terms and conditions of the agency and the agent's authority to act for the sponsor must be set forth in an agreement that is satisfactory to the Administrator, a true copy of which must be submitted for approval with the project application. Such agent may accept, on behalf of the sponsor, a grant only if that acceptance has been specifically authorized by resolution or ordinance of the sponsor's governing body and such authority is specifically spelled out in the agreement.

204. PLANNING AGENCIES.

A planning agency means an agency designated by the FAA Administrator that is authorized by laws of the State or states or political subdivisions concerned to engage in area-wide planning for the areas in which the grant assistance is to be used. For purposes of this paragraph, states include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, and Guam.

a. Typical State Planning Agencies. Typical state agencies that are authorized by state law to engage in state airport system planning normally include planning offices, aeronautics commissions, and departments of transportation. In some cases, state law may authorize a system planning effort to be undertaken directly by the office of the governor. A legal opinion, supplied by the state agency applying for the grant and showing that state law permits the applicant to undertake the Federally assisted project, is a sufficient basis for determining eligibility. If the suitability of the applicant to undertake the effort is in question, the Administrator's designation of the planning agency will be based on:

(1) Comments from the state Single Point of Contact (SPOC);

(2) Comments from the governor; and

(3) The capability of the applicant to undertake airport system planning in a comprehensive statewide planning framework.

b. Typical Metropolitan Planning Agencies. Typical planning agencies, which are authorized by state or local laws to engage in metropolitan area airport system planning, include Metropolitan Planning Organizations (MPOs), Councils of Government (COGs), Regional Planning Commissions, (RPCs) and other similarly organized agencies. In most cases, the planning agency will be in existence and have established boundaries. When it exists, the MPO designated by the governor shall be the sponsor or co-sponsor for metropolitan and/or system planning projects. If the MPO is not capable of engaging in area wide planning for the area in which the grant assistance is to be used, a co-sponsor agreement shall be worked out between a planning agency that has the capability to do area wide airport system planning and the MPO. This arrangement is needed to insure that airport planning is properly considered in the overall transportation planning process for the metropolitan area and vice versa.

205. DESIGNATION OF ELIGIBLE PLANNING AGENCIES.

Eligible planning agencies may receive grants for system planning.

a. Designation. All sponsors for system planning projects must be designated by the FAA Administrator. This designation authority is delegated to the Airports Division Manager and is implicitly accomplished when a grant request is approved.

b. Conflicting Applications. Where more than one agency applies for a grant for the same or similar planning project, and where identification of the appropriate agency empowered to do the planning is not clear, the FAA will designate the eligible applicant based on which one is most acceptable to do the planning. All parties should be requested to work through the FAA-designated grantees where they desire to conduct planning elements or activities.

206. PUBLIC AGENCIES OWNING AIRPORTS

a. A public agency means a state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, and Guam or any agency of them; a municipality or other political subdivisions; or a tax-supported organization; or an Indian tribe or pueblo:

b. Public agencies owning public-use airports are eligible to receive grants for:

(1) Airport master planning;

(2) Noise compatibility planning;

(3) Noise program implementation projects; and

(4) Airport development projects.

c. Under systems planning projects, states may assist to identify appropriate public agencies and airport sponsorship arrangements for airports within their jurisdictions (See Paragraph 405w).

207. PUBLIC AGENCIES NOT OWNING AIRPORTS

a. See 206a above for the meaning of public agency.

b. Public agencies not owning public-use airports are eligible to receive grants for:

(1) Airport master planning to obtain necessary agreements and FAA site approval to acquire existing airports or develop a new airport;

(2) Compatible land use planning in areas around a large or medium hub provided the airport has not submitted a Part 150 program to the FAA (or has not updated its approved airport noise compatibility program within the preceding 10 years);

(3) Noise program implementation where such projects are for educational/medical buildings within the noise impact area at a public airport (or are included within the airport's Part 150 program approved by the FAA) and the compatible land use projects resulting from (2) above. See Chapter 8 about noise compatibility projects; and

(4) Acquisition of existing airports or development of a new airport.

c. The designation of public agencies not owning a public-use airport as eligible to receive a grant may be reviewed in system plan projects. See paragraph 405w. Designation is implicitly accomplished when a grant request is approved, and therefore needs careful consideration before issuance of grants to ensure proposals meet Federal requirements.

208. PRIVATE AIRPORT OWNERS.

a. This may be an individual, a partnership, corporation, etc., that owns a public-use airport used or intended to be used for public purposes that is a reliever airport or an airport that has at least 2,500 passenger boardings each year and receives scheduled passenger aircraft service.

b. A privately owned airport sponsor, as defined in a. above, is eligible for funding for:

(1) Airport development projects;

(2) Airport master planning;

(3) Noise compatibility planning; and

(4) Noise program implementation projects.

209. STATE SPONSORSHIP OF AIRPORT PROJECTS.

a. Title 49 U.S.C., Section 47105(a)(1)(B) allows State sponsorship of development projects, including master planning, for one or more airports. This provision is subject to three statutory conditions:

(1) The sponsor of each airport shall consent in writing to State sponsorship;

(2) There shall be administrative merit and aeronautical benefit to the State sponsorship; and

(3) An agreement acceptable to FAA shall exist to assure compliance with appropriate grant conditions and assurances.

b. This provision could reduce FAA and State/sponsor workload by combining many grants into one and could provide economies of scale where appropriate through sole State sponsorship rather than numerous sponsorships. For instance, equipment could be acquired in quantity at potentially lower cost, several small and similar construction projects could be combined, or related airport master or layout plans could be prepared.

c. To simplify and promote national uniformity in the grant program, the FAA has developed a standard agreement (Appendix 26) to be signed by the sponsor of each airport included in a State sponsored grant. The signed agreement(s) should be provided by the State to FAA with the pre-application package. This will satisfy requirements in the statute that airport sponsors consent in writing to State sponsorship of work at their airports and assure compliance with grant conditions and assurances. Should the State wish to retain one or all obligations, sufficient details should be spelled out as an addendum to the standard agreement in the form prescribed by Paragraph 202 a.

d. Field offices should encourage State sponsorship if they determine there are administrative merit and/or aeronautical benefit in issuing a single grant for a number of related projects. This determination must be referenced in the project folder. When a project has mixed airport categories (types), each airport category and the associated discretionary and/or entitlement funds shall be reported to APP-520 when funds are reserved for the project.

e. Co-sponsorship of projects in accordance with Paragraph 202 remains an alternative to this procedure if all parties believe this to be more efficient.

f. State block grants, as described in Chapter 10, Section 9, are an alternative to State sponsorship of airport projects. The block grant projects are restricted to States having been selected for the program. A block grant requires more capability within the State aviation agency. The main difference between the block grant and State sponsorship of airport project requirements under Title 49 U.S.C., Section 47105(a)(1)(B) is responsibility for project selection. States select airport projects funded by the block grants. Under the State sponsorship provision, the FAA selects the projects. For the States that express interest in the block grant program prior to having been selected for such, regions should encourage its sponsorship of airport projects as a transition in the event that the State may be added to the program.

210. OTHER SPONSOR ELIGIBILITY.

For information on the status or eligibility of other project sponsor arrangements such as described in Paragraph 25, contact APP-520.

211. - 299. RESERVED.

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Chapter 3. PROJECT ELIGIBILITY, ALLOWABLE COSTS, PRIORITY, AND DONATIONS

Section 1. PROJECT ELIGIBILITY

300. GENERAL PROJECT ELIGIBILITY REQUIREMENTS

a. Chapters 3 through 7 provide guidance on the AIP eligibility of various items, including planning, airport development, land acquisition, and noise program implementation projects. No attempt has been made to identify every possible project as eligible or ineligible. Consequently, if the eligibility of an item is not specifically stated, it is incumbent upon the Airports field personnel to determine if the item meets the general guidelines of these chapters or to consult with the Airport Improvement Program Branch (APP-520) if the eligibility is uncertain. However, no project grant application may be approved unless the Secretary is satisfied that:

(1) The project sponsorship requirements have been met;

(2) The project is reasonably consistent with the plans of planning agencies for the development of the area in which the airport is located;

(3) Sufficient funds are available for that portion of the project not paid for by the United States;

(4) The project will be completed without undue delay;

(5) The airport location is included in the current version of the NPIAS; and

(6) The project involves more than $25,000 in AIP funds unless, in the judgment of the responsible Airports office, it would be in the best interest of the Government to award a grant of a lesser amount.

b. The Act allows the separate funding of projects for the preparation of plans and specifications, including field investigations incidental thereto. These will be funded only if they result in the complete preparation of plans and specifications for airport development work that has every expectation of beginning within two years. Projects involving only field investigations, such as pavement evaluation, will not be funded on a “stand alone” basis except in planning projects. Separate projects that involve construction design for completed work will not normally be allowed. Contact APP-520 if airports propose reimbursement for engineering costs exceeding a maximum increased United States obligation described in Paragraph 1142.

c. A current airport layout plan (ALP) that depicts the proposed project and which has FAA approval from the standpoint of safety, utility, and efficiency of the airport shall be required before a development project is approved. ALPs may be funded as part of master planning which is discussed in Paragraph 406g. ALPs may be funded retroactively upon grant approval as project formulation cost to add the work of the project onto the ALP and reflect actual conditions existing on the airport. If current design standards for the airport need to be reflected on the ALP, this work is eligible as project formulation cost. If an environmental assessment is needed for the project, the assessment is also eligible as project formulation cost. ALP approval requirements and conditions as well as FAA approval actions related to environmental impacts are discussed in Paragraph 428.

301. PROHIBITIONS

a. Legislative Determination. The Act specifically prohibits using AIP funds for decorative landscaping (See Paragraph 592), the provision or installation of sculpture or works of art, and for the construction, alteration, or repair of:

(1) Public parking facilities for passenger automobiles;

(2) A hangar except at nonprimary airports; or

(3) Any part of an airport building except components associated with eligible facilities and those buildings.

The prohibition against public parking facilities does not apply to non-revenue facilities at nonhub primary airports or at nonprimary airports as described in Paragraph 526. In addition, the prohibitions contained in subparagraphs a(1) and a(2) above do not apply to airports designated by the Secretary under the Military Airport Program (MAP). See Paragraph 606.

b. FAA Policy Determination. Headquarters will make a determination on the eligibility of unusual projects on a case-by-case basis and based on FAA's interpretation of the intent of Congress. Appendix 1 lists those projects or work items found ineligible for funding. To insure a consistent national program, field offices must follow this guidance.

302. ENVIRONMENTAL REQUIREMENTS

a. All AIP projects, including projects for plans and specifications, require environmental processing prior to FAA approval. Every project will fall within one of the following categories:

(1) Those requiring an environmental assessment or preparation of an environmental impact statement (EIS) or a finding of no significant impact (FONSI); or

(2) Those that are categorically excluded.

b. Detailed guidance on the environmental process is provided in Order 1050.1, “Policies and Procedures for Considering Environmental Impacts” and in Order 5050.4, “Airport Environmental Handbook”.

303. OFF AIRPORT WORK.

Work items must be located within the airport boundary to be eligible. The only exceptions to this requirement are:

a. Removal of obstructions;

b. Outfall drainage ditches. The correction of any damage resulting from construction of ditches is an eligible cost;

c. Relocation of roads and utilities constituting airport obstructions;

d. Relocation of roads and utilities to allow eligible airport development;

e. Installation or relocation of navigational aids (NAVAIDs), including markers;

f. Construction and installation of utilities;

g. Lighting and marking of obstructions;

h. Airport waste-water treatment plants;

i. Noise program implementation projects;

j. Environmental mitigation measures required as a condition of environmental approval (e.g., wetlands replacement); and

k. Aircraft Rescue and Fire Fighting Training Facility.

304. WORKS OF ART

a. General. It is FAA policy to support projects that contribute to the architectural and cultural heritage of local communities. In accordance with this policy, airport sponsors are encouraged in their early planning procedures to use design, art, and architecture to reflect local customs and history of the community or other cultural emphasis. This can be accomplished without impairing function, safety, and efficiency of the facility.

b. Definitions.

(1) Design. The process of arranging works of art, physical spaces, materials, and objects to perform specific airport functions.

(2) Art. Airport objects for aesthetic effect.

(3) Architecture. The design and construction of airport objects, including the character, structure, or site planning.

c. Art Eligibility and Limitations. Architectural treatment of the inside and outside of buildings to reflect local custom, style, or cultural attitudes is eligible. For example, the application of an adobe finish on the exterior and interior walls of a terminal in the Southwest would be eligible. Structural requirements that may be needed for works of art are also eligible. Examples of the ineligible costs in an airport development project include:

(1) Any art feature for areas not seen or used by the general public; and

(2) Art works for the sole purpose of aesthetic enhancement.

305. RELOCATION OR MODIFICATION OF FAA FACILITIES.

a. The relocation of an FAA radar facility or airport traffic control tower (ATCT), or modification in lieu of relocation is eligible when necessitated by an AIP or PFC development project on the airport. Other relocations or modifications are handled on a case-by-case basis. The sponsor is responsible for the cost of relocating or modifying these facilities under Order 6030.1,"FAA Policy on Facility Relocations Occasioned by Airport Improvements or Changes". The term "modification" as used in this paragraph is limited to those modifications that are required as a result of eligible airport development projects; for example, the installation of a directional localizer in lieu of relocating the localizer. Other modifications are chargeable to the Facilities and Equipment Program. The relocation of NAVAIDs and other public facilities for the convenience of the owner, or to increase their capability for use, is not eligible. If the FAA elects to install a new NAVAID in lieu of relocating the existing one, the sponsor's responsibility and, consequently, AIP participation is limited to the estimated relocation cost.

b. The acquisition and installation of interim NAVAIDs will be eligible when the regional office determines they are necessary to provide instrument capability during an extended period of time for construction.

c. For relocation of airport traffic control towers, if the ATCT is sponsor-owned, see Paragraph 593c; and where the facility may be owned by another non-Federal entity, see Paragraph 593a. If the ATCT is FAA-owned, see Paragraph 593b.

d. Consult APP-520 before approving relocation projects exceeding $500,000.

306. PAVEMENT EVALUATIONS.

a. Pavement Condition Surveys. Pavement condition surveys are eligible as project engineering, master planning, or system planning. A pavement condition survey is a procedure for visually inspecting pavement surfaces, both flexible and rigid, for signs of distress resulting from the influence of aircraft traffic and climatic conditions. The procedure is described in Advisory Circular 150/5380-6. The purposes of a pavement condition survey include:

(1) Determining present condition of the pavement in terms of apparent structural integrity and operational surface condition;

(2) Providing the sponsor with a pavement condition index (PCI) for comparing condition and performance of pavements at airport(s);

(3) Providing the sponsor with a rational basis to justify, prioritize, and program airport development projects; and

(4) Providing feedback on pavement performance for validation and improvement of current pavement design.

b. Pavement Management Programs. A pavement condition survey is only an indicator of pavement condition at a point in time, and it involves little evaluation or systematic management of pavements. To be more useful for identifying cost-effective maintenance and rehabilitation, the pavement condition survey may be used in conjunction with a systematic approach to inventory and to evaluate data. As described in Advisory Circulars 150/5320-17 and150/5380-7, pavement data may be evaluated at both the network and project levels.

(1) Network Level. The network level considers total pavements in a system or master planning context and examines general alternatives and time frames to maximize benefits. It is directed toward keeping acceptable performance while minimizing maintenance and rehabilitation costs. Network level evaluation may be for one or more airports.

(2) Project Level. Project level pavement evaluation usually focuses on one airport and results in detail appropriate to development project formulation, not planning projects. The objective is to assess causes of pavement deterioration, determine potential solutions, assess benefits of specific alternatives, carry out life cycle costing, and select the solution. At this level, sufficient information must be obtained to evaluate the pavement's structural capacity and determine the causes and extent of pavement deterioration.

(3) Eligible Work. Sponsors of planning studies desiring to establish a network pavement management program may properly request funding under that broad heading or some related title. The level of detail proposed should be reviewed to determine eligibility for system or master planning. More detailed studies at the project level are reserved for development projects.

(a) System and Master Planning. A pavement management program at the network level is eligible as systems or master planning. Work activities are limited to the following.

1. Network definition to divide pavement data into components for storage, retrieval, and evaluation;

2. Pavement condition survey to inspect pavement surfaces for signs of distress resulting from aircraft traffic or climatic conditions and development of a PCI;

3. Construction history including dates and pavement structure of new construction, overlays, and rehabilitation work. A determination should be made on an airport by airport basis that FAA pavement files are not current before funding this element;

4. Traffic inventory and load intensity for each pavement section;

5. Inspection scheduling based on minimum PCI levels and pavement deterioration rates;

6. Pavement condition projections based on rating network deterioration or improvement to determine the impact of deferring maintenance and rehabilitation;

7. Priority scheme and ranking of pavement sections by condition within various grouping options;

8. Maintenance and rehabilitation cost scheduling to develop average unit costs based on surface type, PCI ranges, and distress severity;

9. Budget planning to develop minimum target PCI levels for each pavement type in the network; and

10. Acquisition of available software dedicated to the study, e.g. Micro-PAVER, and the cost of computer time to store, process, and evaluate the data. Customizing of commercially available software is eligible only if reasonable in terms of the overall product needed.

(b) Master Planning Projects. Pavement testing is eligible primarily as an engineering cost in development projects. Master planning pavement tests may be approved by the region when costs of such testing are warranted based on a visual inspection.

(c) Development Projects. Activities at the project level of pavement evaluation are normally eligible under development projects as follows:

1. Friction surveying and friction measuring devices;

2. Nondestructive testing such as deflection testing, ground penetrating radar, and video logging;

3. Destructive testing such as soil borings, pavement cores, and soil strength tests;

4. Detailed evaluation of alternatives and development of engineering solutions; and

5. Engineering design work.

(4) Ineligible Work. The following pavement management activities are ineligible:

(a) Development and unnecessary customizing of software beyond that commercially available. This is research, not planning or design. The limit on customizing software is a judgment that depends upon use of the final product and overall value for the airport(s). For instance, the products of pavement management programs under system or master plan projects need to be individually compatible with other planning activities;

(b) Computer hardware and common use software, e.g. word processing;

(c) Pavement management programs at airports not in the National Plan of Integrated Airport Systems; and

(d) Day-to-day operational costs of running a pavement management program beyond periodic updating of the pavement management program.

c. Scope and Use of Pavement Evaluation under Planning Projects. Pavement condition surveys and pavement management programs under planning projects require special consideration:

(1) Normally, pavement evaluation should be accomplished through master planning at major airports, with the State system plan covering other airports the State wishes to cover;

(2) Pavement evaluation and updates for a particular airport should be accomplished in either the system plan or master planning. Duplication of pavement evaluation activities at a given time is ineligible;

(3) Once a pavement evaluation program is undertaken, the sponsor must commit to keeping the data current through an update of the entire program or any other reasonable approach. For instance, a phased approach with one-third done each year is reasonable; and

(4) Airport development identified through a pavement evaluation program should be reflected in the sponsor's capital improvement program.

d. Cost Guidance for Pavement Evaluation. The cost of pavement condition surveys and pavement management programs has varied widely. The methodology of each proposal should be reviewed carefully to determine that costs and employee-hours are necessary and reasonable. Questions about the cost of pavement evaluation should be addressed to AAS-200.

307. EQUIPMENT PROCUREMENT UNDER PLANNING GRANTS.

In general, the purchase of any equipment as part of a planning project is ineligible. This policy applies to the purchase of computer equipment as set forth in Paragraph 405u, office equipment, or any hardware even though its use is necessary to perform the planning work. Contact APP-520 for assistance on specialized instruments or hardware needed for planning projects.

308. - 309. RESERVED.

Section 2. ALLOWABLE/NONALLOWABLE COSTS

310. ALLOWABLE PROJECT COSTS.

OMB Circular A-87, Cost Principles for State and Local Governments, describes requirements on allowable project costs. The Single Audit Act of 1984, implemented by OMB Circular A-133, Audits of State, Local Governments, and Non Profit Organizations, establishes procedures to ensure uniformity in the process for making sponsor audits and allowable cost determinations by the Federal Government.

a. Direct and Indirect Costs. Subparagraph 310b provides indirect cost guidance and the remaining subparagraphs are on direct costs. For the purpose of computing the amount of an AIP grant, allowable project costs are a direct or indirect cost in accordance with OMB Circular A-87 paid or incurred under a planning project, an airport development project, or a noise program implementation project, which, in the opinion of the Administrator:

(1) Is necessary for the accomplishment of the project in conformity with the approved plans and specifications, approved program narrative, and terms and conditions of the grant agreement;

(2) Is reasonable in amount (or be subject to partial disallowance to the extent the FAA determines it is unreasonable). Review of a sponsor’s price or cost analysis as described in Paragraph 907 provides a basis for determining reasonableness of costs in airport development projects based on bids. The review of plans and specifications as described in Paragraph 1005 provides a basis for determining reasonableness of costs in airport development projects based on estimates. For other projects, a reasonableness of cost determination should be based on similar work within other recent grants, the land appraisals, and the region’s judgment about project negotiations or the scope of work;

(3) Is supported by satisfactory evidence; and

(4) Was incurred after the date of execution of a grant agreement; except that project cost incurred prior to execution of a grant agreement may be reimbursed in the following instances:

(a) Study design necessary for a planning project;

(b) Costs necessary to formulation of a development project, such as preparation of plans and specifications, preparation or revision of an ALP, environmental assessment, performance of a benefit-cost analysis and field surveys;

(c) Land acquisition;

(d) FAA-approved noise compatibility programs;

(e) Work accomplished after the issuance of letters of intent (see Paragraph 1070); or

(f) Costs incurred after September 1996 in the case of the funds apportioned to a sponsor as entitlements.

b. Indirect Costs. Indirect costs are allowable only if the sponsor has an approved cost allocation plan and, when required, an executed indirect cost rate agreement in accordance with OMB Circular A-87. Advisory Circular 150/5100-10, Accounting Records Guide for Airport Aid Program Sponsors, contains the basic instructions needed by the sponsor to prepare and submit the cost allocation plans and indirect cost rate proposals.

(2) A cognizant agency process is used whereby one Federal agency approves indirect cost allocation plans and rates on behalf of all other Federal agencies. This agency is generally the Federal agency that has the greatest dollar involvement with a given sponsor. Cognizant administrative responsibility within DOT is determined by the Office of Acquisition and Grant Management, M-60, in conjunction with the Office of Inspector General (OIG) and the operating administration involved.

(3) The FAA's responsibilities are included in Paragraph 1322. Responsibility for approving cost allocation plans and negotiating and executing the indirect cost rate agreement is delegated to the regional Airports Division Manager. The regional Airports Division should use Order DOT 4600.11, Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments. Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government, ASMB C-10, developed by the United States Department of Health and Human Services, dated April 8, 1997, also contains guidance for cost allocation plans as well as indirect cost rate agreements. Copies of ASMB C-10 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(4) Local governments are required to submit cost allocation plans and indirect cost rate proposals for review and approval. Regions should use Paragraph 1322 for additional guidance regarding audit responsibilities.

c. Project Administrative Costs. Necessary and reasonable direct administrative costs are allowable. No administrative costs can be allowed in connection with the accomplishment of a project unless supported by evidence that such costs were actually incurred by the sponsor and were necessary to the accomplishment of the project. When a sponsor intends to claim direct administrative costs, an Administrative Cost Plan may be required. This plan should be prepared to show the personnel, how the cost is specifically related to the project, and the type of documents or other evidence that will indicate the action is a direct involvement.

(1) Administrative costs incurred in connection with a project regardless of whether or not incurred by regular and continuing employees of the sponsor may be allowed only if they are properly supported and substantiated. Arbitrary or prorated administrative costs that are not or cannot be supported and substantiated, as having been incurred for the project shall not be considered as allowable project costs.

(2) Administrative services provided by contract are allowed if the contract meets the procurement standards of Title 49 CFR, Part 18.

(3) Project formulation costs incurred by a sponsor in the preparation of the pre-application and application and the necessary documentation including surveys, title examination, appraisals, relocation plan, preparation of environmental assessments, public hearing expenses, other necessary legal work, and administrative expenses are allowable.

(4) Sponsor attorney fees charged to a project must be reasonable. A breakdown of such fees must be submitted showing the portion of the total fee allotted to each class or type of service rendered and the appropriate amount of time devoted to each class or type of service. A determination is also needed that the legal expenses are attributable to State or local project issues rather than Federal requirements.

d. Study Design and Planning Costs. See Chapter 4.

e. Engineering, Construction Design and Project Formulation Costs.

The costs of engineering services needed in connection with an airport development or noise program implementation project are allowable provided they are reasonable. If not, only such amount as is determined to be reasonable shall be considered an allowable cost.

(1) Engineering costs can normally include the preparation of plans and specifications, initial field investigations, preliminary design, testing, cost estimating, preparation of bid documents, bid evaluation services, construction inspection, and technical consulting services to the sponsor.

(2) All contracts for engineering and planning services and force account (See Paragraph 1230 for a definition of force account) proposals must be submitted for FAA approval before execution of a new contract or extension of an existing contract or before performance of force account work. If appropriate, this may be accomplished by sponsor certification procedures as outlined in Chapter 10, Section 3. FAA should select contractors that prepare an environmental impact statement as described in Advisory Circular 150/5100-14.

(3) The costs of development of plans and specifications for items of eligible development included in a notice of allocation, but excluded from a grant offer, are allowable costs under the project. Federal participation in such costs, however, should be deferred until it is reasonably certain that the excluded development will be included in a grant agreement within two years. If such costs are included in the current grant agreement, procedures must be established to preclude duplication in a future grant for the development work itself.

f. Construction/Equipment Costs. The costs of construction or equipment necessary to complete the project according to the plans and specifications are allowable to the extent that they are reasonable.

(1) Force Account. Construction by sponsor's force account is considered construction done without the benefit of a contract or the services of a contractor. Sponsor's force account construction costs will not be allowed unless construction by that method has been approved in advance by the FAA. (See Chapter 12, Section 3.)

(2) Temporary Construction. If the FAA makes a determination that uninterrupted operation of the airport is necessary and that such operation could not be continued without temporary construction, costs of temporary construction are allowable even though a portion of the work cannot be salvaged. The cost of temporary measures needed to protect air and water quality is also allowable.

(3) Non-eligible Buildings or Facilities Removal and Relocation. The costs of removal and relocation of non-eligible buildings or facilities constituting airport hazards or which must be moved to carry out an AIP project are allowable up to the appraised value. See Paragraphs 582 and 593.

g. Legal Fees and Litigation Costs. Legal fees and related litigation costs determined to be necessary to the accomplishment of an AIP project and reasonable in amount are allowable. Legal fees expended by a sponsor defending a specification are not allowable. The Regional Airports Division Manager is responsible for determining what services are necessary for the accomplishment of a project and the reasonableness of legal fees and litigation costs under $l00,000. Legal fees and related court costs (including settlement amounts) of $l00,000 or more must be submitted to APP-1 for review and approval. In forwarding such matter for review, the region should include its analysis of the situation, its recommendation, and proposed method for payment. See Paragraph 310c(4).

h. Land and Relocation Assistance Costs. See Chapter 7.

i. Noise Compatibility Project Costs. See Chapter 8.

j. Audit Costs. See Chapter 13.

k. Special Situations. Where accomplishment of an airport development project cannot be carried out unless certain actions are taken, e.g. a court order or mitigation measure in an environmental program specifically stated as a prerequisite or a legal agreement between the airport sponsor and another party, the cost of taking such action may be eligible. If no precedent for these costs being eligible exists, APP-500 should be consulted on a case-by-case basis.

l. Program Administration Costs. Such costs are ineligible unless specifically allowed by a grant of exemption from the regulation. The program administration costs are those costs that are associated with administrative requirements of several individual AIP airport project grants. The program administrative costs described in this subparagraph are different than the project administrative costs within Paragraph 310c. For instance, the project administration costs are allowable under block grants, although the FAA does not normally allow a state's overall program administrative cost (such as preparation of airport grant information for sponsor's, reviewing the sponsor's grant application, or accounting for program expenditures).

311. NONALLOWABLE PROJECT COSTS.

The following costs are not allowed (See Appendix 1):

a. That part of the cost of acquiring an existing private airport that represents the cost of acquiring public parking facilities for passenger automobiles, hangars, and all other buildings not eligible as airport development. (The land on which these facilities are located is eligible if required for airport purposes.)

b. The cost of material and supplies owned by the sponsor or furnished by a source owned by the sponsor if the materials and supplies were used for airport development before the grant agreement was executed, or the cost of eligible material and supplies that is not supported by proper evidence of quality, quantity, and value.

c. The cost of non-expendable machinery, tools, or equipment owned by the sponsor and used under a project by the sponsor's force account, except the fair rental value of such machinery, tools, or equipment for the period it is used on the project.

d. Prorated share of otherwise eligible metropolitan area or statewide airport planning as an airport development project item.

e. Any costs incurred in connection with raising funds by the sponsor, including interest and premium charges and administrative expenses involved in conducting bond elections and in selling bonds. Such costs are ineligible unless specifically allowed by statute, regulation, or a similar provision.

f. The cost of preparation and adoption of an airport zoning ordinance except as part of an airport master plan or noise compatibility program.

g. Interest charges, except payment of interest directed by a court in a condemnation proceeding, which then becomes part of the condemnation award and allowable. However, where the amount deposited in court as fair market value was adequate and could have been withdrawn by the property owner without prejudice to his/her rights in the condemnation proceeding, such interest payment is not allowable. Participation in a mortgage (including lease-purchase or an installment land contract inherently involving the payment of interest) is ineligible except as allowed in Chapter 7. However, acquisition of life estate interests as described in Order 5100.37, Paragraph 3-10, is allowable. Negotiated agreements for deferred possession of real property assuring the payment of just compensation (e.g. sale/leaseback) may also be acceptable (Order 5100.37, Paragraph 1-45).

h. The cost of tuition, travel, and subsistence for a sponsor's planning personnel to attend airport planning courses, seminars, or conferences except conferences dealing exclusively with the approved work program. The grant program may not be directed toward training sponsor or contractor personnel. If the FAA is providing management or technical training, sponsor personnel may be allowed to attend on a space-available basis only after coordination with APP-1 or the Academy, although such costs are not allowable (in the same way as if the training had been undertaken by a non-FAA provider). However, if program administrative costs have been allowed under Paragraph 310k, training (as an element of such costs) may be eligible. See Chapter 5 for a discussion on the interactive training system.

i. The cost of obtaining liability insurance covering an airport sponsor (whether paid for by the sponsor or the contractor) is not an eligible cost under the AIP. This applies both to cases in which the insurance requirement is listed as a separate cost item in an invitation for bid (IFB) and in which the sponsor requires such coverage as a factor in bidder qualification. In either case, the inclusion in an IFB of the requirement for liability insurance coverage of a sponsor by a contractor is a shift of operating expenses into a grant project and must be either removed from the IFB or be bid as a separate cost item and disallowed. The costs for coverage to protect the contractor against losses related to the project, such as property and casualty insurance and additional liability coverage, insofar as they are reasonable components of overhead, are eligible for reimbursement under the AIP.

j. Costs incurred prior to a future grant agreement unless allowed by Paragraph 310a(4). The rule is that work cannot be accomplished prior to a grant agreement unless allowed in Paragraph 310a(4). Regions should also exercise care to ensure AIP funds are not approved for previously completed phased development or ineligible work.

k. Costs of other Federal programs. While joint Federal planning and decision-making should be encouraged, combining Federal project funding is illegal without specific authority to do so. Each of the Federal programs is supported by appropriations, and the legislated funding is a limitation on that activity. Certain exceptions to this provision have been made and are described within Paragraphs 514 and 557. In determining certain FAA reimbursement and accounting arrangements, such as in the use of these exceptions, general administrative overhead costs that represent the cost to the agency of indirect expenses should be waived for AIP planning and development projects. Contact APP-520 for guidance on planning or development projects proposed for AIP funding that are normally carried out and funded by another Federal entity (or for procedures required to obtain waiver of administrative overhead). Such project costs may represent improper Federal budget augmentation.

l. Activities associated with the lobbying for a project or influencing Federal employees as described in Paragraph 31. While the regulations on lobbying or influencing Federal employees do not restrict technical negotiations involving AIP projects, costs are unallowable except as provided within Paragraph 310. See Paragraphs 405n, 405o, 406n, 406o, and 922d.

312. - 319. RESERVED.

Section 3. PRIORITY SYSTEM

320. NATIONAL PRIORITY SYSTEM

A priority system for funds distributed at the discretion of the Secretary has been established to provide uniform criteria so that the funding is used more efficiently. The priority system is also available for considering use of entitlement funds and block grants. Projects are favored that best carry out the purpose of the Act, with highest priority given to safety, security, reconstruction, standards, and capacity, in that order. See 49 USC 47120 and 47128(d). The priority system does not consider all factors that states, local governments, or private sponsors use within their priorities. However, so that the objectives of non-federal entities are considered in project selection, the application of the national priority system is flexible as allowed under Order 5100.39, Airport Capital Improvement Plan.

321. - 349. RESERVED.

Section 4. DONATIONS, CONTRIBUTIONS, AND LOANS

350. GENERAL.

The value of land, labor, materials, and equipment donated or loaned to a sponsor may be credited toward the sponsor's share provided the donation is necessary to accomplish the project (except land as noted in Paragraph 351, below) and is one for which the sponsor otherwise would have paid. Proposed donations on which grant payments will be requested must be identified and a valuation agreed upon between the regional field office and the sponsor. This agreed upon valuation shall be set forth in the grant application. The project file must contain information used in arriving at this agreement.

Donated land implies a gift to the airport owner by another party for use by the airport for aeronautical purposes. The value of donated land is based on an appraisal by a competent appraiser and is the fair market value of the land at the time of conveyance to the sponsor.

Property currently owned and originally purchased by the sponsor cannot be treated as donated land. By definition, the sponsor cannot donate purchased land to himself or to the FAA. This transaction, involving previously purchased land, is considered as a project credit. Handling the valuation of the credit varies by type of airport sponsor and is covered in detail in Paragraph 722.

351. LAND DONATED TO SPONSORS.

Although determination of value of donated land involves some latitude, this discretion is limited to how much land can be included in the grant if it is not needed for the current grant. The FAA also must be confident that it is an "arm's length" transaction in which the donor receives no exclusive benefit or consideration as a result of the transaction. If there is or was any direct consideration flowing to the donor, the transaction is unallowable as a donation.

a. For land donations only, the regional field office may at its discretion agree to allow credit of donated land not associated specifically with the proposed grant project if it is AIP eligible land that the regional field office supports as needed for the airport and the FAA would have otherwise been willing to participate in its acquisition. If the established value of the donated land exceeds the local share of the project to which it is to be credited, the regional field office, at its option, may agree to carry over for future credit against another eligible project the unused portion of the value of the donated land.

b. The value of the donated land that FAA will allow to be credited towards the sponsor's share of a project will be determined using a conservative approach. The maximum value allowable for donated land is the market value of the land at the time of conveyance to the sponsor. The market value is established by an independent qualified appraiser selected by the sponsor and approved by the FAA. The FAA should carefully review the appraisal before agreeing to the recommended value to ensure it appropriately reflects the value at the time of conveyance to the sponsor. A final determination of both the validity and value of the donation will normally be based on the following information, as applicable:

(1) Validity of the Donation.

(a) All documents pertaining to the transaction, including:

1. Whether the donation has been consummated or is prospective;

2. The identity of the donor;

3. Financial condition of the donor;

4. How the land was acquired by the donor;

5. The actual relationship between the donor and the sponsor, whether personal, contractual, or otherwise; and

6. Identification of any benefit or consideration flowing to the donor as a result of the transaction.

(b) After the necessary information has been collected, the following must be considered in determining the validity of the donation:

1. If the donor is or was, in fact, acting as agent or otherwise for the sponsor in obtaining and conveying the land to the sponsor, the transaction is not a donation, and no part of the claimed value will be allowed;

2. Any provision for reversion of the donated land to the donor will make the transaction unallowable as a donation except where the reversion is only to be effective if and when the donated land is no longer used for airport purposes. In this event, the impact of the reversion provision should be reflected in the value established for the donation;

3. If there is or was any direct consideration flowing to the donor (excluding tax benefits or future appreciation to other land owned by the donor in the vicinity of the airport), the transaction is unallowable as a donation. If the donor conveys an airport or the site to a public agency without monetary consideration, but restricts the use of the land for airport purposes and reserves to himself the right to exclusive use of a certain portion for the conduct of a fixed base operation together with the right of use of the landing area and other public use facilities in the conduct of his business, the transaction will not be considered a donation; and

4. The reservation of only a right of use of the public use facilities of the airport, in common with others, is not objectionable because that is a right of the donor, as a member of the public.

(c) Value of the Donation.

1. Copy of the deed conveying the land to the sponsor;

2. Copy of any agreement between the donor and the sponsor relating to the conveyance or to any rights reserved by or granted to the donor in connection with the future use of the land or the airport;

3. Date of acquisition by donor and price paid by donor, or if property was acquired by the donor through inheritance or gift, the value affixed to such property for tax purposes at the time of acquisition;

4. Whether the land has been improved since acquisition by the donor, and if so, the nature and cost of the improvements and when and by whom made; and

5. Other available pertinent information relating to the value of the land at the time of conveyance to the sponsor and the circumstances surrounding the transaction.

352. LABOR, MATERIAL, EQUIPMENT, AND SERVICES DONATED TO SPONSORS.

Similar to donated land, the validity and value of the donation should be determined using a conservative approach. The evaluation should be based on the following:

a. Validity of the Donation.

(1) Where the donor receives a reciprocal benefit from the airport as a result of the donation, the donation cannot be considered valid. An example of this is the dumping of excess material on an airport site by a party who is doing so for the primary purpose of clearing or excavating and is, in fact, abandoning such material. In such a case, the excess material is not an item for which the contributor would have made a charge. As another example: Where a utility company removes a utility line from a location where it conflicts with airport development or operations, and such removal is undertaken by the utility company to serve its own purpose rather than at the request of the airport owner, the removal shall not be considered a donation; and

(2) If the donor is or was, in fact, acting as agent or otherwise for the sponsor in obtaining the equipment, labor, services, or material, the transaction is not a donation, and no part of the claimed value will be allowed.

b. Value of Donation.

(1) The value of the donation should be determined in the same manner as sponsor force account work, as outlined in Paragraph 1233, except for personnel costs.

(2) The current prevailing wage rate for the various classes of labor in the particular locality should be paid for donated labor, except in those cases where it is determined that a lower wage scale is proper in view of the lack of skill and experience of the donors of the labor.

(3) The same principle is applicable to other types of donated personal services such as engineering services, legal services, etc., in that the applicable prevailing fee for each type of service may be considered the fair value of the service rendered.

(4) Donated material, equipment, and supplies shall be valued at current market value at the time they are donated to the project.

353. TREATMENT OF DONATION CREDITS IN THE GRANT AGREEMENT.

The project description should clearly reflect the phrase "credit as the complete (or partial, if appropriate) local share the donation of …" with a specific description of the land, labor, material, services, or equipment donated. The description for donated items should not read "acquire or reimburse" since neither is appropriate. The amount to be credited, where the sponsor's complete local

match is to be covered by the credit, must reflect a value that covers the additional local match required for the donated item. As an example, assume a project consists of construction of a runway extension and the sponsor proposes to use donated runway protection zone land as its local match. If the location receives 90 percent Federal participation and the value of the land is $50,000, the maximum value of the project (runway extension and land) would be $500,000 and the AIP grant would be $450,000. If the runway extension itself cost $500,000, then the minimum value of the donated land would have to be 10 percent of the combined value of the land plus runway extension or $55,555. This value can be determined by dividing 10 percent of the value of the runway extension project cost by 90 percent. On page 2 of FAA Form 5100-37, Conditions, the maximum obligation shall be restricted to the resultant Federal share of the project; and the breakout in Condition 1 shall reflect the airport development item and not the donated item to be credited as the local share. In general, except as noted above, the project application rather than the grant agreement will be the vehicle to clearly identify the pertinent facts associated with the credited item. In the case of donated land to be credited, the Exhibit “A” should clearly identify the portion of land credited and the AIP project to which it applies. This allows record keeping if unused land is approved in the future in accordance with Paragraph 351.

354. - 399. RESERVED.

Chapter 4. PLANNING PROJECTS

Section 1. PLANNING PROJECT SCOPE AND ELIGIBILITY

400. THE PLANNING PROCESS.

Airport planning should lead to the effective use of airport resources in developing an efficient network of airports for current and forecast needs. The planning process should produce a plan of action to develop airports consistent with local, State, and national goals. The planning process precedes development and will include analysis of the interrelationship of some or all of the project elements described in Paragraphs 405 and 406 to achieve plan implementation. To ensure the effective outcome of the planning process, the major airport issues that concern the FAA, the sponsors, airport users, and the community shall be clearly identified prior to the initiation of planning projects.

a. Airport Planning. The AIP process focuses on the area-wide system plan and individual airport master plans to accomplish rigorous analysis of proposed development. Airport planning is frequently a complex endeavor that involves a wide array of decision makers at various levels in the public and private sectors. For instance, coordination with the Operational Evolution Plan process for the airports having significant demand-capacity issues will harmonize activities and foster agreement on a collective course of action within the aviation community.

b. Problem Solving. The central concern of airport planning should be the issues identified by government and industry leadership. Each of the AIP planning projects should provide plans or other products linked with existing programs to solve the identified problems or satisfy airport needs. The basis for initiating a planning project should be an assessment that the current airport plan is inadequate. While there are common components to most plans, the scope, scale, timing, analytical techniques, and organization of study participants should relate to the specific set of problems the study must resolve. The intent is to ensure airport preparedness on specified objectives for the future.

c. Intergovernmental Coordination. The planning process should be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of airport or transportation problems. See Title 49 U.S.C., Section 47101(g)(1) about this “3-C” planning process that is also used for surface transportation programs. Plans must be coordinated with state aviation agencies, airport management, Title 49 CFR, Part 1542 regulatory agents and FAR 139 inspectors, as well as appropriate technical analysis involving each component of the airport transportation system.

d. Satellite Navigation. Problem solving in airport studies should address transition to satellite navigation and be consistent with the current version of the National Airspace System Architecture. Policies, procedures, budgets, authorization, and organizational arrangements may be expected to change during the transition to the global positioning system. Regions must continue planning with these changes and use of applicable current requirements, such as the designation of instrument runways as described in Order 7400.2 on handling airspace matters.

e. Intermodal Planning. Intermodal planning activities to achieve the policy of efficiently connecting different forms of transportation are described in Title 49 U.S.C., Section 47101(g)(2) and the Clean Air Act amendments of 1990. Funds administered by the Federal Highway Administration are directed through the metropolitan planning organization (MPO). Airports are encouraged to become involved in MPO system planning. Federally funded airport access projects should be coordinated by the MPO and listed in its transportation improvement program under 23 CFR Part 450 to promote a seamless airport intermodal transfer. Airports are encouraged to complete planning projects that are consistent with system forecasts, ground access and air quality studies, land use planning, as well as other MPO information, procedures, plans, or policies.

401. ELIGIBLE PLANNING PROJECTS.

Eligible planning projects include integrated system plans for a network of airports within States or metropolitan areas, and master plans for an existing or new individual airport. Specific study elements of system and master planning projects, such as an airport capital improvement plan (ACIP) or a noise compatibility program, are eligible as a supplemental project. System and master planning projects may be based on short-, intermediate-, and long-range forecasts of aviation demand, usually 5, 10, and 20 years. This relates the various projects in phased master plans, plan updates, and continuous planning. However, supplemental projects for specific study elements may rely on any of the above forecast periods or may be developed without reference to timing.

a. General. No specific amount is set aside for planning, although approximately 2 percent of funds made available annually for airport grants since 1970 have been used for those projects. Notwithstanding other statutory provisions limiting State apportionment funds to nonprimary airports, system plan projects may be funded from that category even if they involve one or more primary locations in accordance with Title 49 U.S.C., Section 47114(d)(6).

b. State Airport Systems Planning. An integrated State airport system plan is the representation of aviation facilities required to meet immediate and future needs as well as achieve overall goals of the State. It recommends the general role, location, and characteristics of new airports or the nature of expansion for existing ones. It shows the timing and estimated cost of development, provides a mechanism to prepare ACIP as well as NPIAS data, and can relate to objectives of the State. (NPIAS data includes based aircraft, passengers, service level, annual service volume, development projects, and project costs.) Where the State contains areas for which metropolitan airport system plans are to be prepared, it is necessary that those be integral components of the State's plan. State system plans provide a basis for the preparation of detailed airport master plans. Guidance for the airport system planning process is contained in Advisory Circular 150/5070-7.

c. Metropolitan Airport Systems Planning. A metropolitan airport system plan usually covers one or more metropolitan statistical areas defined by the Office of Management and Budget, a State planning region, or other areas. A metropolitan system plan should become a part of a State system plan as indicated in Paragraph 401b. Metropolitan agencies may request separate financial assistance from the FAA to supplement State planning if airport problems require a higher level of effort in the local area than would be provided as a part of State-wide analysis. Metropolitan areas with a hub airport that annually has 0.25 percent or more of United States enplanements (medium and large hubs) are routinely eligible for system planning grants. Exceptions to this hub airport criterion may be considered on a case-by-case basis and shall be coordinated with APP-400. Guidance for the preparation of metropolitan airport system plans is described in Paragraph 401b.

d. Continuous Systems Planning. Routine activities conducted on an ongoing basis, in addition to infrequent major updates, can qualify as system planning. Continuing surveillance and coordination, periodic plan reevaluation, special studies, and interim or formal updates may be included.

(1) Annual Planning Products. When continuous planning is approved, it shall be structured to produce specified end products to document the planning process. As a minimum, annual ACIP and NPIAS data will be required. Public participation should be recommended.

(2) Planning Cycle. Each system planning project should generally be limited to work which is to be completed within one year. The annual projects are accomplished on a continuing basis with a complete cycle of elements and updates typically requiring three to five years.

e. Airport Master Planning. An airport master plan represents the sponsor-approved actions to be accomplished for phased development of the airport. It presents the research as well as logic from which the plan evolved and displays the plan in a graphic and written report. Master plans address the modernization or expansion of existing airports and site selection as well as planning for new airport

locations. Elements included in master plan projects must be linked to whatever system planning perspective has been established, especially for visible issues such as airport surface access and military base reuse. Master plans should include preparation of ACIP and NPIAS data. Guidance for the preparation of airport master plans is contained in Advisory Circular 150/5070-6.

(1) Planning Sponsorship. Airports are normally the sponsors of master planning projects. State or MPO sponsorship of detailed master planning as described in Paragraph 405z is an eligible system plan project subject to written agreements with airport sponsors. The agreements should establish concurrence on the scope of work, responsibilities of the participants, and uses of plans. However, the agreements do not need to be in the form specified in Paragraph 209. Master planning for an airport should be limited to work that is not available or current in existing plans.

(2) Master Planning Updates. Periodic updates of master plan elements are typically needed on a five-year cycle for active airports, although timing may vary. For airports with relatively stable aeronautical activity, a ten-year cycle may be adequate. However, unusual aeronautical activity changes, and a change in design standards, may signal the need for a special planning study in less than five years.

f. Airport Noise Compatibility Planning. Noise compatibility planning for an airport generally includes the preparation of noise exposure maps and a noise compatibility program in accordance with FAR Part 150. Airport noise compatibility planning may be accomplished as part of airport master plan projects or as a separate project, although it must consider the master plan. A noise compatibility program needs to be a stand-alone document if submitted to FAA for approval in accordance with Part 150.

402. THE AIRPORT CAPITAL IMPROVEMENT PLAN (ACIP).

A capital improvement program is the compilation of planned projects for the next three to five years including the priority, costs, and expected funding sources for each project. Capital improvement programming may be accomplished as a part of airport system or master planning projects and in a supplemental project.

a. Required ACIP Activities. The individual airport and/or State capital improvement programs are used as a basis for the FAA's annual ACIP. The FAA should work closely with sponsors and require the use of ACIP procedures as described within Order 5100.39 to establish an overall financial plan for airports that is realistic. Regions should normally approve any planning project application for capital improvement planning/programming unless the proposed work is ineligible, untimely, or unwarranted (See Paragraph 428f).

b. Justified Airport Development. The NPIAS contains the airports eligible to receive Federal funds and identifies the warranted facility development for a ten-year period. The sponsor's capital improvement program should focus on identifying funding sources for all types of airport development rather than relying exclusively on the AIP. The ACIP should selectively include the work forecast to be justified over a three to five-year period (See Paragraph 428a). Projects that are ineligible or currently insufficiently justified by local demand and forecasts should not be included in the ACIP. Since airport development project approval is dependent upon established aeronautical demand, planning projects should clarify timing and sizing of facilities so sponsors understand when AIP funding may be justified. The FAA should normally request business planners for airport tenants to provide written input at the planning stage to identify their requirements rather than simply using the sponsor's interpretation of them.

403. PLANNING WORK SCOPE REQUIREMENTS.

No airport planning project activity shall be approved unless it meets the following requirements, which ensure each product will be appropriate for FAA approval actions described in Paragraph 428.

a. Study Design and Structure. The structure and work scope of a planning study should be tailored according to the individual requirements for the airport or system of airports being studied. For most simple projects, this involves identification of issues and selection of appropriate work elements relying heavily on Paragraphs 405 and 406. FAA should concur on the proposed cost of the study design prior to preparation of the study design.

(1) Complex Projects. A more extensive study design is recommended in complex projects to specifically identify project goals, the level of effort for each activity, and participants based on the community decision-making structure. The study design and goal setting should normally be accomplished by a combined consultant-sponsor effort.

(2) Selection of Work Elements and Activities. Paragraphs 405 and 406 describe the elements that should be considered for a study. The enumerated elements generally involve sub-elements or activities. However, the work scope need not include all the elements listed, or the elements may be very abbreviated. (For example, rather than develop new forecasts or capacity analyses in a master plan for a small airport, it may be desirable to obtain these from system planning and other current sources. Consequently, the work scope would not contain a detailed forecast or capacity element.) Each item in the work scope should contribute to defining and resolving specific problems. Items in the planning advisory circulars that are not relevant to a study should be omitted. Elements not listed in Paragraphs 405 and 406 are ineligible unless approved by APP-520.

(3) Supplemental Projects. Study elements (such as an ACIP or noise compatibility plan) may be funded as supplemental projects if they are required to satisfy a specific airport need (See Paragraph 300b). Supplemental projects shall be designed to supplement a basic system or master plan (as defined in Paragraphs 405 and 406) that FAA has determined to be current in other respects.

(4) Relation to Airport Development. The system/master planning should affect the official recommendations for establishing or revising the planned airport role and/or development and facilitate informed decision-making on such plans. The tasks required only for the sponsor's administrative, management, or operational purposes are not eligible.

b. Planning Phases and Products. The work scope for system and master planning projects must show that complete, cohesive, as well as usable plans or other products will be produced. The form of the products expected must be well-defined, e.g. technical analysis, drawings, reports, or approval by appropriate agencies.

(1) Project Phasing. A planning project should normally be separated into several phases if it involves uncommitted airline service, site selection, intensive environmental assessment, system plans, or unusual resources. Each phase may be a separate grant. This will facilitate review of plans or elements, such as site selection studies and environmental assessments, to ensure progress is made before new funds are committed. Generally, no more than three planning projects under the same sponsorship for a location or area should be open at one time. When multiple planning projects are undertaken, each shall specifically recognize the relationship between products of previous and ongoing studies so they can be clearly separated in the grant agreements.

(2) Approval at Key Points. Tentative approval of products by the sponsor and FAA may be required by the region at key decision points or milestones before proceeding with a study. Changes in the structure of the study may be required. FAA review should ensure that products in the study will be usable, timely, and complete.

c. Force Account Work. Force account may be requested for some work to establish and maintain a local or State aviation planning capability. If force account is proposed, there should be a clear understanding with the sponsor prior to the grant that FAA will fund only work associated with planning for airport development. The scope of planning shall be consistent with guidelines described in Paragraph 310c on administrative costs.

d. Coordination and Jurisdiction. The sponsor should coordinate the draft work scope with FAA and other interested parties to establish the availability of existing data or to delete activities better accomplished by other agencies. This will help ensure the products are mutually useful for each local, MPO, State, or Federal program and that airport development funding sources are identified. The work scope for planning by more than one agency for the same airport/area needs special coordination during study design. This may occur whenever State and metropolitan system plan projects coexist, and when sponsors propose transportation or land use planning outside the airport boundaries. Planning grants are frequently the first AIP projects approved for a sponsor. Therefore, the FAA review should determine that the proposed sponsor has appropriate jurisdiction to carry out or influence the planning recommendations and is capable of implementing the plan (See Paragraph 201).

e. Study Area. The basic organization, work scope, and approach of system or master planning shall focus on a study area that will be useful in solving airport problems. (For instance, planning a new airport in a metropolitan area may involve geographic areas beyond the jurisdiction of any single governmental entity.) Cooperation in the form of interagency agreements with adjacent local jurisdictions and/or States should be required by the FAA whenever airport site requirements go beyond the sponsor's jurisdiction. Where specific study areas are unknown, the sponsor should establish a policy for achieving coordination with other jurisdictions.

f. Action Plan. The work scope should include an action-oriented plan and/or program that will lead to implementation where the FAA and sponsor agree such a plan would be beneficial in carrying out recommendations. The action plan should identify activities and responsibilities at a level of detail appropriate to the nature and timing of the recommendations. (For example, an action plan should always be included with pavement management studies.)

g. NPIAS Airports. For master plan projects, an airport must be included in the National Plan of Integrated Airport Systems. However, alternative site evaluations for replacement or supplemental airports may be funded without a new airport being added to the NPIAS pending a determination that the new location is justified and/or feasible. For system plan projects, non-NPIAS airports may be included where the cost of a work activity is nominal, e.g. general inventories, forecasting, or facility requirements. System planning activities involving significant cost, such as pavement or obstruction surveys, are ineligible at airports not in the NPIAS.

h. Standards and Priorities. Measures of airport standards, activity, condition, and performance, or indicators for goal achievement, should be evaluated to ensure safe and efficient operations, add capacity, and minimize environmental impact. The national priority system described in Section 3, Chapter 3, or the procedures and criteria in it, should be the basis for evaluating airport development projects. State standards and priorities, which have received endorsement by the FAA, may be included within a work scope. Standards or priority systems other than those approved by the FAA may also be identified within the work scope. Use of several sets of standards and priorities in a planning project may be necessary in such cases to evaluate the plans.

i. Military Base Closures. Work scopes must include consideration of former military bases where that may be appropriate. Former military airfields that may not appear to have immediate aeronautical use should be considered under State or metropolitan system planning effort to determine alternative uses.

404. ELIGIBLE STUDY ELEMENTS AND ACTIVITIES.

The elements that are eligible for funding as part of airport system and master planning projects are described in Paragraphs 405 and 406. Although many system and master planning elements are similar in name, they differ in scope or detail. System planning is area-wide in nature and intended to set the framework for master plans. Master planning elements contain far greater detail than system plans and serve as the basis for design as well as engineering (See Paragraph 1002). Planning to meet requirements for airport development may be a project formulation cost. Except for study design or

FAA-approved noise compatibility programs, the cost of work performed on planning projects will not be allowed unless incurred after the date of the grant agreement. Contact APP-520 if a sponsor proposes the use of their entitlement funds for cost reimbursement of planning projects under Title 49, U.S.C., Section 47110(b)(2)(C).

405. SYSTEM PLANNING ELEMENTS.

A basic airport system plan normally includes items described in Paragraphs 405a through 405q, and special studies may cover the remaining elements as needed. However, projects should include only those of the following elements or activities required to produce a plan that meets the sponsor's needs:

a. Study designs to identify the framework, parties involved, organizational arrangements, major airport problems to be resolved, specific objectives, scope of work, time schedules, and cost breakdowns for projects;

b. General site inspections, inventories, and surveys, including goals, airports, user preferences, and secondary socioeconomic data. This is limited to collection of data to be used for analysis in planning projects;

c. Forecasting for justification of proposed airport development in terms of existing or forecast aviation activity levels and aircraft mix. Forecasting is limited to simple methods and assumptions that establish the components or dynamics of demand for aircraft operations, based aircraft, passengers, cargo, and/or ground access. A high and low range of forecasts in addition to the preferred forecast is eligible to identify consequences of uncertainties such as decisions on economic developments or new airline service. Application of complex statistical forecasting techniques or market research is eligible only to the extent that costs do not exceed those of simple methods above (See Paragraph 428a);

d. Capacity analysis of airport systems based on airfield, terminal area, and surface access to provide for determination of capacity values, identify causes of delay, analyze alternatives, or develop input to a capacity enhancement plan;

e. Capacity analysis of airspace based on air navigation aids, communication facilities and natural or man-made obstructions that affect the use of airspace. This is limited to that needed to support airport system development. Contact the regional Air Traffic Division and the Director of Operations Planning Performance Analysis (ASC-1) for assistance on airspace policy, airport capacity, or en-route issues;

f. Facility requirements determination including analysis of the suitability, expansion possibilities, and safety deficiencies of existing airports; the general location and need for land bank programs or new airports; and analysis of the compatibility of airports with surface access plans and comprehensive planning. This includes evaluation of satellite navigation opportunities, airport or terminal navigation aids, and airport traffic control facilities;

g. Analysis of a reasonable number of alternative airport systems including feasibility and sensitivity analysis, contingency plans, as well as evaluation of safety, efficiency, environmental impacts, energy considerations, or cost;

h. Preparation and adoption by the sponsor of the airport system plan for forecast periods (as defined in Paragraph 401) including airport role assignment, design type, major facilities, and cost estimates;

i. General land use, noise, air quality, and other environmental studies to consider the impact of airport development on the environment and the protection of airports from neighboring areas. This is limited to work for area-wide application or specific classes of airports, except in site selection or master plan studies;

j. Schedules of plan implementation describing the staging of airport land acquisition and development based on aviation demand forecasts;

k. Projection of funding required from public agencies as well as the financial community or other private sources to implement the plan and revenue generated from improvements. This includes a financial plan linking AIP, Passenger Facility Charge program, Facilities and Equipment program, contract airport traffic control tower program, or other such Federal, State, local, and private sector funding;

l. Capital improvement programs (See Paragraphs 402 and 428f);

m. Preparation of NPIAS documentation for airports meeting entry criteria (See Paragraph 428f);

n. For areas with a hub airport that has 0.25 percent of enplanements (medium and large hubs), regular meetings of local, MPO, and State agencies, sponsors and other participants. The meetings may be required to discuss capacity problems, facilitate the progress of official planning or other actions, and make informed decisions. This is appropriate only when representatives of local, MPO, and State agencies agree to participate. Any task with the primary intent to influence people or lobby for a project is ineligible;

o. Study coordination and reports. For small hub or smaller areas, a limited number of meetings will be allowed for a single advisory committee to exchange information or negotiate between elected decision makers, other officials, and/or representative technical advisors. Public hearings and community involvement sessions that facilitate informed decisions are eligible as is the printing of a reasonable number of reports and graphics. The number of copies of technical documents should be limited through wide distribution of summary reports. Videotape or similar audio/visual presentations are eligible only to the extent they are used to replace or supplement printed material that would have been prepared in conjunction with public information briefings, executive summaries, or similar briefing activities of the study (See Paragraph 412d(3)(c)). Any task with the primary intent to influence people or lobby for a project is ineligible;

p. Continuous planning activities that relate to elements of ongoing or existing system plans (See Paragraph 401d);

q. Action plans (See Paragraph 403f);

r. Airport surface access programs and plans that indicate the proposed routing to central business districts or arteries. The work should be based on other airport access studies that take into account traffic demand, existing and potential access problems, surface transportation facilities, heliports, and remote terminal facilities. Airport coordination and the analysis of procedures for transfer of passengers or baggage to bus, van, taxicab, rental car, automobile parking as well as innovative access facilities are eligible. Proposals for surface origin-destination surveys, corridor studies, ground traffic management, and similar work not directly related to airport coordination or intermodal transfer facilities should be forwarded to APP-520 (See Paragraph 400e).

s. Preparation of State standards for development at nonprimary airports. This is limited to State system plan projects;

t. Site selection and feasibility studies of the general area (excluding the specific airport configuration) for new, replacement, supplemental, or joint-use airports. This is limited to cases where existing public airport sponsors agree to participate or an area-wide agency has been required or authorized by State or local law to do the planning (See Paragraph 428b);

u. Acquisition, licensing, and use of commercially available computer software including simulation models and other applications dedicated to the study when warranted to accomplish an approved

planning purpose. For instance, an information management system may be eligible if directly related to eligible airport planning elements. Customizing of commercially available software is eligible. Software development, including customizing, paid for, in part, with grant funds shall be in the public domain and shall be made available to any user without cost beyond handling costs. The purchase of computer equipment is not eligible for planning projects, nor is the cost of ongoing computer operations or software for general clerical, administrative, or airport management purposes;

v. Economic studies to measure the impact of airport activity and benefit of interrelated developments in the network of airports. This is limited to methods such as those developed by the FAA. Contact APP-400 for assistance on economic study methods. Video presentations or printed materials on the economic impact of airports are not eligible unless it is necessary for the public's understanding needed during the decision process. Studies for the promotional or competitive marketing of an airport are not eligible. Vertiport studies for tilt-rotor aircraft are eligible pending development of the technology. However, vertiport applications other than a nominal part of another planning project should be forwarded to APP-520;

w. Identification of appropriate airport sponsorship arrangements such as for a new airport, airports that have inappropriate ownership, or where interagency agreements are needed;

x. Policy analysis for specific airport development proposals, such as that for State aviation taxes or land use. This must be coordinated with APP-520;

y. Establishing performance indicators or priority systems for pavement management and capital improvement programs; and

z. Participating in or conducting master plan projects at airports provided the airport sponsors agree in writing to the scope of work (See Paragraph 401e). This includes any of the elements and activities described in Paragraph 406 or the review of airport sponsor master plans to ensure system requirements have been met.

406. MASTER PLANNING ELEMENTS.

A basic airport master plan normally includes items described in Paragraphs 406a through 406p, and special studies may cover the remaining elements as needed. However, projects should include only those of the following elements or activities required to produce a plan that meets the sponsor's needs:

a. Study designs as described in Paragraph 405a;

b. Site inspections, inventories, and surveys including goals, policies, historic information, user preferences, meteorological data, obstructions, environmentally sensitive features, or information on area-wide planning. This is limited to collection of data to be used for analysis in planning projects;

c. Forecasting as described in Paragraph 405c;

d. Demand/capacity analysis for airspace, airfield use, terminal area, airway facilities, and surface access facilities to provide for determination of capacity values, identify causes of airport delay, analyze alternatives, or develop a capacity enhancement plan. Contact the regional Air Traffic Division and the Director of Operations Planning Performance Analysis (ASC-1) for assistance on airspace policy or airport capacity;

e. Facility requirements determination to establish a list of needs for the size and number of runways, taxiways, gates, aprons, lights, terminal buildings, cargo buildings, utilities, air traffic control facilities, navigation aids, parking spaces, airport surface access, and other eligible development. This includes studies on limited subjects, such as coordination with the FAA Runway Incursion Action Team

to identify infrastructure required for reducing runway incursions. Airport surface movement guidance and control system plans are eligible;

f. Analysis of a reasonable number of airport development alternatives including feasibility and sensitivity analysis, contingency plans, and evaluation of safety, security, efficiency, public protection, environmental impacts, safety area determinations, modification of standards, cost of the alternate airport designs, and energy considerations;

g. Preparation and adoption by the sponsor of airport role assignment as well as layout plans. These should establish dimensioned layouts for existing and future runways, safety areas, taxiways, aprons, terminal building areas, roads, utilities, fences, property and relocation of persons, airport airspace, runway protection zones, air navigation facilities, and non-aeronautical use areas (See Paragraph 428d);

h. Noise contours for existing conditions and reasonable forecast periods (See Paragraph 428e and 813);

i. Land use plans or reuse studies for areas within the boundaries of the airport and for areas outside the boundaries that are environmentally impacted by airport operations. Participation in commercial or industrial park studies is normally limited to delineating and inventorying areas available on the airport for non-aeronautical use. However, urban land use studies of areas acquired for noise compatibility are eligible (See Paragraph 815c). Studies of compatible land use zoning or other similar controls are also eligible for the entire airport site, the impacted airport vicinity, and terminal airspace. Aerial photography for land use studies is eligible only if the information is not otherwise available in an adequate form;

j. Schedules of plan implementation as described in Paragraph 405j;

k. Estimates of development cost proposed in the master plan;

l. Preparation of financial statements or business plans for the long-term development and operation of the airport. This includes financial plans for airport operational revenue, general obligation bonds, revenue bonds, taxation, government assistance (such as the AIP, PFC, F&E, or the contract airport traffic control tower programs), other donations, and realistic combinations thereof. The preparation of a disadvantaged business enterprise plan under Title 49 CFR, Part 26 is eligible;

m. Capital improvement programs and preparation of NPIAS documentation for the airport (See Paragraphs 402 and 428f);

n. Regular meetings as described in Paragraph 405n;

o. Study coordination and reports as described in Paragraph 405o;

p. Action plans (See Paragraph 403f);

q. Former military airfield concept studies. AIP planning projects may be used to initiate cooperative planning on joint use airports, surplus Federal property, and restricted airspace. Proposals for the conversion of former military airfields, or dual use of such current airports, should be coordinated early during the discussion stages with APP-420. Orders 5150.2 and 5170.1 describe U.S. Government surplus property for public airport purposes or the transfer of other Federal lands.

r. Site selection studies for new airport locations including the study of airspace, environmental factors, community growth, surface access, availability of utilities, land appraisals, and development considerations that affect site costs (See Paragraph 428b);

s. Environmental assessment for consideration of the effects of proposed airport development in order to provide a basis for the preparation of environmental impact statements or findings of no significant impact (See Paragraphs 310d(2) and 428c). The assessment may identify environmental consequences of ultimate airport development, mitigation policies, categorically excluded projects, and permits required. Wildlife hazard assessments and wildlife management plans required under FAR Part 139 are eligible whenever airport development actions may result. Cultural resources surveys, required to meet archeological, historical, architectural and similar requirements are eligible. Air or water quality planning for sponsor compliance with the Clean Air Act of 1970, as amended, and Federal Water Pollution Control Act of 1972 (FWPCA), as amended, are also eligible. This includes preparation of the water quality permit applications required under the FWPCA, hydraulic modeling, facility design, and water quality studies, testing, or inspection related to pollution prevention plans. Air quality studies or plans must be coordinated with the MPO and APP-520. (See Paragraph 400e.);

t. Building area plans for the overall terminal-apron complex and components within that complex such as terminal building, cargo building, gates, hangars, shops, service roads, service buildings, motels, aircraft rescue and fire fighting buildings, automobile parking, entrance roads, and intermodal connections. The plans are limited to conceptual analysis and drawings that include dimensioning of overall plans, building restriction lines, height limitations, shadow studies, and schematic drawings of profiles necessary to picture concepts and ensure that safety and operational factors are considered. The review of individual lease arrangements within the terminal or building areas from the standpoint of grant assurances and preparation of airline competition plans are eligible. Studies for specific facilities such as locating an airport traffic control tower are eligible. If the FAA is to perform the work, a reimbursable agreement with the airport may be desirable. (See Paragraphs 311k, 553 and 563.) Air traffic control services are ineligible;

u. Airport surface access plans that indicate the proposed routing to central business districts and to existing or planned arteries. The plan should be based on other airport access studies that take into account traffic demand, existing and potential access problems, surface transportation facilities, heliports, and central business district terminal facilities. MPO coordination and analysis of procedures for transfer of airport passengers or baggage to pedestrian, bicycle, rail, bus, van, taxicab, rental car, as well as parking facilities are eligible. Proposed surface origin-destination surveys, corridor studies, ground traffic management, and similar work not directly related to coordination with the MPO or multimodal facilities should be forwarded to APP-520 (See Paragraph 400e). Orders 1110.86 and 5000.3 describe intermodal transportation planning and coordination with the Federal Highway Administration. Preparation of airport emergency response studies to provide analysis of airport facility requirements (roads, safety area grading, or other access issues) for aircraft rescue and fire fighting vehicles is eligible;

v. Computer applications as described in Paragraph 405u;

w. Pavement management programs to evaluate pavements and establish annual priorities (See Paragraph 306);

x. Preliminary feasibility studies for the designation of instrument runways (See Order 7400.2 on procedures for handling airspace matters) and establishment of navigation aids. This includes evaluation of satellite navigation opportunities and preparation of preliminary instrument approach procedures directly related to airport development that is shown on the airport layout plan. Field surveys, e.g. determination of runway coordinates and elevation, are eligible if they have not been scheduled to be completed by the FAA. Contact APP-520 for a current schedule of FAA geodetic surveys. A flight check of a preliminary approach procedure to a non-Federal navigation aid is eligible under a reimbursable agreement with the Flight Procedures Office. Re-testing is not allowable in the event that the system fails the flight check or alternate procedures need to be considered;

y. Airport noise compatibility planning involved in developing noise exposure maps and a noise compatibility program. These activities are described in FAR Part 150 (See Paragraph 428e). Planning

for noise demonstration programs is not eligible as a master plan project. Contact APP-600 for assistance on noise policy, Part 150 planning, and Part 161 studies;

z. Economic analysis to measure the impact of airport activity and benefit or present worth of airport investments. This is limited to methods such as those developed by the FAA. Contact APP-400 for assistance on economic study methods. The evaluation of risk associated with airport plans and economic decision analysis for alternatives is eligible. Benefit-cost analysis (BCA) is eligible when it is appropriate to conduct these studies. Guidance about how to perform a BCA is contained in a Federal Register notice dated December 15, 1999 on page 70107 (See Paragraph 428f). Operational studies or planning, such as an airport certification manual or airport emergency plan update, are ineligible unless required under FAR Part 139 and airport development actions may result. Use of a formal value engineering task team is ineligible except on major new airports or for unusually complex projects of greater than average costs (See Paragraph 1009). Sophisticated video presentations or printed material on economic impact of an airport, which are basically competitive marketing material for a sponsor, are not eligible unless needed for the decision process. Operations research is not eligible; and

aa. Airport security programs under Title 49 CFR, Part 1542 for the protection of passengers, baggage, and aircraft within civil aviation. The eligible security planning includes accommodation of pre-board passenger and baggage screening, fencing/access arrangements for airport areas, threat evaluation, blast analysis, updates of the plan, as well as the other requirements of the regulation. The coordination of requests with the Transportation Security Administration may be needed if questions arise on whether airports are covered by Title 49 CFR, Part 1542. For the airports not covered under Title 49 CFR, Part 1542, security planning is eligible if it would be incidental to other master planning. Prior to the public involvement in a request or study on security, regions should coordinate with the Transportation Security Administration to identify material that must be protected under Title 49 CFR, Part 1520, which governs release of such information.

407. - 409. RESERVED.

Section 2. PLANNING PROJECT APPLICATION

410. GENERAL.

The application process for planning projects includes an optional conference between the sponsor and the FAA, preparation and review of the application, and issuance of a grant offer by the FAA. Sponsors may use Standard Form 424 or any written format they choose for information to be provided in applications. A planning project request may be included with a sponsor's pre-application for other development. However, the sponsor normally will submit a separate application. A draft scope of work and breakdown of project costs may be required.

411. PRE-PLANNING CONFERENCE.

Depending on project complexity, an airport inspection and conference to discuss the study can be arranged between the sponsor, State, MPO, consultant, and FAA before final preparation of the application. The conference may be used to discuss and/or negotiate the following and facilitate decision making before starting work on the project:

a. For first time sponsors, the grant assurances and procedures for airport development;

b. Specific objectives, such as navigable airspace or airport design issues;

c. Relationship of the project to local, MPO, State, and national airport planning and development;

d. Planning process and organizational arrangements;

e. Intergovernmental project review (See Paragraph 1006);

f. Civil rights requirements (See Advisory Circular 150/5100-15);

g. Scope of work, FAA expectations, and time schedules;

h. Project costs and eligibility;

i. Force account work; and

j. Special grant conditions and compliance with grant assurances.

412. PREPARATION OF APPLICATION.

The sponsor may elect to submit selected information within Standard Form 424 and FAA Form 5100-101, Parts II, III and IV, contained in Appendices 3 and 5. The information is to be completed in accordance with instructions on the back of the forms. For sponsors not using the Standard Form 424, comparable information to that described in this paragraph must be provided.

a. Standard Form 424 Application for Federal Assistance. This form and/or appropriate agreements should be completed and duly signed by each sponsor (See Paragraphs 202, 203, and 209).

b. FAA Form 5100-101, Project Approval Information (Part II). Only items 4 and 5 need be completed. The "yes" will be marked within item 4 when requested assistance requires approval under State or local laws authorizing a public or planning agency to act as agent for sponsors. The terms and conditions of the agency's authority to act for the sponsor should be submitted as an attachment together with any endorsement required.

c. FAA Form 5100-101, Budget Information (Part III). This part requires budget information, and particular attention should be directed to the sections of the form below.

(1) Section B, Budget Categories. The total cost of consultant contracts should be aggregated and listed in line f of Section B.

(2) Section F, Other Budget Information. Section F is to be an attachment and should include a separate breakdown for costs by the specific elements and work activities in the study. This breakdown should be prepared on an employee-hour and a cost per employee-hour basis, taking into account categories of employment to be used for each element or activity. Force account and work that will be accomplished under third-party contracts should be listed separately in the breakdown.

d. FAA Form 5100-101, Program Narrative (Part IV). A program narrative outlining the structure of the study is to be submitted as an enclosure and should contain the items below.

(1) Objectives. This is an itemized list of major problems, issues, and objectives in applying for the grant.

(2) Benefits Anticipated. A statement of benefits anticipated from the planning effort should include a summary of significant areas to be addressed and the previous planning updated as the result of the new effort.

(3) Approach. This item should include detailed information for each element or work activity to be performed in the planning project.

(a) Scope of Work. The proposed scope of work should reflect the study elements identified in the system or master planning advisory circulars.

(b) Schedule for Accomplishment. The time schedule proposed for each element should be included.

(c) Study Coordination and Evaluation. Coordination of study drafts with the public, community organizations, airport sponsors, users, the financial community, local and State agencies, Federal program offices, and other interested parties is required. Names and affiliations of proposed advisory committee members should also be identified in the work program. For instance, the sponsor shall coordinate with the Air Transport Association (ATA) and/or Regional Airline Association (RAA) in airport system and master planning at airports that have ATA/RAA member carriers. Likewise, coordination with Aircraft Owners and Pilots Association may be desired at sites having general aviation activity where a regional representative is available and agrees to participate. Other special interest groups, such as National Air Transportation Association (at the airports with significant air taxi activity), may be appropriate to participate depending on the specific location.

(d) Organizational Responsibilities. A list of organizations, consultants, and key personnel anticipated to work on the project with their respective responsibilities should be itemized.

(4) Geographic Location. A brief delineation is to be provided of the area served by the airport. For a system plan project, the boundaries of the planning area should be identified.

(5) Additional Information. If the sponsor proposes to accomplish the project with its own forces or those of another public or planning agency, this fact shall be so stated in the application. The qualifications of key personnel shall be included and costs for force account as well as related overhead should be identified.

(6) Sponsor's Representative. This item should identify the name, title, address, and telephone number of the person representing the sponsor in the planning study.

e. Sponsor Assurances. The appropriate set of grant assurances shall be attached to the application (See http://www.faa.gov/arp/financial/aip/assurances.cfm?ARPnav=aip). The airport sponsor assurances are used for master planning projects. Use of planning agency sponsor assurances is limited to system planning projects.

413. REVIEW AND APPROVAL OF APPLICATION.

The responsibility for review and initiating the approval or disapproval of the planning grant application rests with the region. The sponsor's consultant contract should be reviewed and approved, if appropriate, at this time (See Paragraph 422). Sponsor use of force account should also be approved, if appropriate, based on the information made available as described in Paragraph 412d.

a. Review of Application. FAA personnel should ensure the application is complete and a project evaluation report shall be prepared (See Paragraph 1031). FAA review should determine whether the project was adequately structured, elements are eligible, time schedule is realistic, and the work scope will be commensurate with costs. The review should identify special conditions, if required, for the grant based on project issues.

b. Revision of Application. If the FAA determines that the application needs revision, the sponsor should be advised of required corrective actions.

c. Project Approval and Grant Offer. The region is responsible for approving planning project applications. Upon notice of regional approval, APP-500 will coordinate with the Office of the Secretary and inform the region upon completion of Congressional notice. A grant offer to the sponsor may be issued after this notification. Each project file will contain the following or equivalent documents:

(1) AIP Grant Status Report**,** FAA Form 5100-107 (See Appendix 28);

(2) Project Evaluation Report and Development Analysis, FAA Form 5100-109 and

(3) Application for Federal Assistance, Standard Form 424, as well as FAA Form 5100-101 (See Appendices 3 and 5).

d. Disapproval of Application. If the FAA determines that the application should be disapproved, it shall be returned to the sponsor along with an explanation of the disapproval. Contact APP-520 for assistance with disapproval of applications.

414. - 419. RESERVED.

Section 3. PLANNING PROJECT ACCOMPLISHMENT

420. CONSULTANT CONTRACTS.

The firm fixed price contract is the preferable method for contracting with consultants. Other contractual methods, such as a cost-plus-a-fixed-fee contract, may be used but should be discouraged unless there are substantial reasons for their use. Any of these methods shall be carried out in accordance with procedures in Chapter 9 of this order, Title 49 CFR, Part 18.36, and Advisory Circular 5100-14.

421. FAA ROLE IN CONSULTANT SELECTION.

Since some sponsors are unfamiliar with consulting firms that have capability in aviation planning, they may seek the advice of FAA personnel. The role of FAA personnel in this respect is:

a. Aid the sponsor in developing the general scope of services, division of responsibilities, and guidance on expected costs as outlined in Advisory Circular 150/5100-14;

b. For planning to be accomplished in stages, ensure the initial advertisement includes subsequent projects that are expected within five years, if desired;

c. Depending on the size of the project, advise the sponsor to avoid over-solicitation and to use the competitive procurement process for contracts over $100,000 as outlined in Chapter 9;

d. If appropriate, suggest that the sponsor establish a consultant selection panel to interview the consultants and/or evaluate their qualifications or proposals (the FAA will not recommend consultants or participate in the interview and decision, although records of the consultant selection process may be requested by the region);

e. Advise the sponsor that the FAA reserves the right to disapprove employment of consultants and subcontractors or the scope and cost of professional services (See Paragraph 310d(2)); and

f. For planning projects, regions should forward a copy of formal complaints about the consultant selection process described in Advisory Circular 150/5100-14 to AAS-100.

422. CONTRACT REVIEW AND APPROVAL.

FAA offices administering planning projects may require sponsors to submit proposed consultant contracts for approval as necessary to carry out the FAA's responsibilities described in Paragraph 421.

423. PROCUREMENT DEFICIENCIES.

Sponsors may use their own procurement regulations reflecting applicable state and local law, rules, and regulations provided they also meet the requirements of Title 49 CFR, Part 18. If, at any time, the FAA becomes aware of deficiencies based on these requirements (as a result of contract reviews,

audits, or special reviews), the sponsor shall be notified in writing and changes needed to achieve compliance should be specified.

424. PURCHASE OF EQUIPMENT.

The purchase of recording anemometers, activity counters, noise monitors, computers, or other equipment shall not generally be included in a planning grant. However, under certain circumstances, specialized equipment that is not a permanent installation may be approved. See Paragraphs 307, 571, 813, and 900.

425. PROJECT MONITORING, COORDINATION, AND REPORTS.

FAA should maintain ongoing involvement with the sponsor during accomplishment of the study and ensure each activity will lead to plans that can be approved or actions specified in the work scope. Responsibilities of the sponsor and FAA may need to be shared during project monitoring as well as coordination activities to a substantial degree.

a. Sponsor Responsibility. The sponsor has the responsibility for continuous monitoring of the project. The sponsor shall ensure the time schedules are being met, work activities and coordination are accomplished satisfactorily, expenditures are reasonable as well as justified, and other performance goals are achieved.

(1) Interim Project Reports. Interim project reports or products identified in the scope of work should be sent to the FAA, State, MPO, and other study participants for review.

(2) Quarterly Performance Reports. The sponsor may be required to provide quarterly performance reports for the FAA as described in Paragraph 1221c.

b. FAA Responsibility. The FAA should review sponsor performance and project reports to ensure that activities or elements of work contained in the grant agreement are treated adequately. FAA involvement in key planning meetings is necessary to provide national perspective for decision-makers, facilitate clear communication of agency requirements, and avoid unrealistic expectations.

(1) Coordination. The FAA should ensure that the sponsor and its consultant adequately coordinate the study as described in Paragraph 412d. The scope of work and products of the study should be coordinated with the FAA regional divisions by the field office as appropriate. Order 1110.117 describes regional committees and inter-division working group arrangements.

(2) Reporting Requirements. The FAA should inform the sponsor about reporting requirements including any that are beyond those identified in the work scope and the type of information needed.

(3) Plan Review. On initial completion of project elements, the sponsor will submit copies of the planning reports and graphics in draft to the FAA for review and coordination. To avoid unreasonably delaying the sponsor and consultant during the project, the FAA site inspections and review of reports should be completed expeditiously on a schedule satisfactory to all concerned. Sponsors should be held accountable for each draft product identified in the scope of work. Sponsors shall be provided an explanation in writing of deficiencies in the project, preferably at one time during the review of each draft product. For instance, regions should notify the sponsor when letters from airport users are needed to justify an airport development project.

(4) Disclaimer Statement. The consultant, or sponsor in the case of force account work, shall be notified to include a disclaimer and the project number within the front pages of each report. The following statement shall be used:

"The preparation of this document may have been supported, in part, through the Airport Improvement Program financial assistance from the Federal Aviation Administration (Project Number ___) as provided under Title 49 U.S.C., Section 47104. The contents do not necessarily reflect the official views or policy of the FAA. Acceptance of this report by the FAA does not in any way constitute a commitment on the part of the United States to participate in any development depicted therein nor does it indicate that the proposed development is environmentally acceptable or would have justification in accordance with appropriate public laws."

426. SUSPENSION AND TERMINATION.

See Chapter 11, Section 6, for suspension and termination of grants.

427. FINAL PLANNING REPORTS.

The sponsor's final planning reports or other products shall be reviewed and coordinated within FAA as necessary to ensure previous comments have been addressed adequately.

a. Completion of Project Elements. On completion of a planning project, phase, or element, the sponsor will submit copies of the final reports and graphics to the FAA. Sponsors should be held accountable for each final product identified in the scope of work.

b. FAA Distribution of Plans. Each completed product shall be distributed within FAA for use as appropriate. In addition, a copy of final summary documents for system plan projects and final master planning reports with the ALP for hub airports that have 0.25 percent of enplanements (medium and large hubs) shall be transmitted to APP-400.

c. Incomplete Planning. Sponsors should be notified of incomplete planning in the project at the time of FAA approval actions described in Paragraph 428.

428. FAA APPROVAL ACTIONS.

FAA approval of project elements is an opportunity to properly establish the national implications of State, MPO, and local airport decisions. The FAA should limit its formal approvals to elements of a study that may require FAA action. FAA review and approval of sponsor submissions should consider whether the report content and format are adequate. Sponsor and FAA approvals may be required by the field office at key decision points during the planning process to facilitate plan implementation.

a. Aviation Forecasting. Sponsor-approved aviation forecasts establish the justification for approval of the airport layout plan and development projects. FAA should review sponsor forecasts to ensure they are appropriate and provide an adequate justification for the airport planning and development. The study should include data supporting the forecasts, including information that can be used as a basis to update the Terminal Area Forecast (TAF). When the forecast is different from the TAF (5-year differences of 10 percent and more, or 10-year differences of 15 percent and more, or any difference that affects timing and/or cost of development in the NPIAS/ALP), differences must be resolved. If the variance does not result in such change, then the FAA may accept the forecast without further coordination.

(1) Required Documentation. Legitimate policy differences exist between local, MPO, State, and national or private organizations that will result in different aviation forecasts. To resolve a significant difference, planning forecasts may be forwarded to APP-400 for review. Resolution of the differences may result in changes in the TAF, the planning study, or both.

(a) Letters of support should be requested from airport users whenever a proposal is beyond that justified by a lease or commitment to use the project. Users should be asked to describe their plans or anticipated activity by the most demanding airplane, or "critical aircraft." More than one critical aircraft may control the design of any specific airport's different facility features, such as runway length, strength

of paved areas or lateral separations in airfield layout. A critical design aircraft is that airplane using (or is highly likely to use) the airport on a regular basis. A regular basis is at least 500 annual itinerant operations. See critical aircraft approach speed, wingspan, and weight in Chapter 1, AC 150/5300-13.

(b) In the absence of appropriate documentation, sponsors should be notified about the forecast differences and information required to receive FAA endorsement for a project.

(2) Endorsement of Forecasts. Forecasts adopted by a sponsor should receive some form of FAA concurrence (or non-concurrence) before subsequent elements of the study are initiated to facilitate the follow-on planning work (See Paragraph 403b). The degree of FAA endorsement of project justification will determine NPIAS entry, changes in airport role, approving development on the ALP, and work included in the current year ACIP. The activity levels used for accepting the NPIAS roles apply to forecast endorsement, and Order 5090.3 describes procedures for field formulation of the NPIAS. If appropriate coordination of forecasts is not completed, the inaction may cause problems with later airport development projects. The lack of FAA acceptance of forecasts may delay any further planning or capital improvements depending on them.

b. Site Selection. Planning projects that include site selection as an element in a full master plan study normally require a tentative approval of the site before proceeding with subsequent elements.

(1) Site Approval Process. Site approval should be made by the sponsor and FAA after considering the airspace determination, field inspection, site utility, preliminary environmental findings, public testimony, and other pertinent factors (See Paragraph 403b). Completion of the tentative FAA site approval process is necessary before permitting the sponsor to proceed with subsequent master planning. It may also be appropriate to use multi-grant procedures, such as focusing on aeronautical aspects initially and completing detailed environmental assessment when alternatives have been narrowed. Once a tentative or final site approval is made, the sponsor should be notified in writing. If approval is conditional for environmental or other reasons, this fact should be clearly stated.

(2) Prior Federal Involvement. Many airport sites are identified within the NPIAS and other FAA documents as “new” locations because the approval has not been made. However, site approval may be determined to be unnecessary for sites with substantial federally approved development or prior involvement. For instance, a former military airport would need a base conversion study rather than the sponsor’s site approval process.

c. Environmental Assessment. An environmental assessment (EA) is normally prepared for proposed airport development when it appears likely that a project requiring the EA will occur within five years. When such a report is submitted as part of a planning project, it should be completed and processed in accordance with Orders 1050.1 and 5050.4 on policies as well as procedures for considering environmental impacts. FAA may elect to delay the processing of an EA. In such a case, the sponsor should be informed of reasons for the delay. Reevaluation of the EA is necessary in accordance with the time limitations prescribed in Order 1050.1.

d. Airport Layout Plan. A current ALP that has sponsor and FAA approval from the standpoint of the safety, utility, and efficiency of the airport is required by Title 49 U.S.C., Section 47107(a)(16). ALPs are the key documents for coordinating between off-airport parties, private users, the financial community, airports, local or State agencies, and Federal program offices. The ALP is needed by many Federal offices including Flight Standards, Flight Procedures, Airway Facilities, NAS Implementation, Air Traffic, Runway Safety, Logistics, Civil Aviation Security, and the Transportation Security Administration (TSA). The Airports Division is responsible for inter-division coordination of airport layout planning. Adequate review and coordination of airport plans prior to FAA approval establishes the basis for use of the ALP.

(1) ALP Preparation. The sponsor’s ALP should incorporate an airport airspace plan (See Advisory Circular 150/5300-13), runway protection zone plan, and a property inventory map (See Order

5190.6 on airport compliance requirements). ALPs are normally current for a five-year period unless major changes at the airport have been made or are planned. ALPs may be determined to be current beyond that period without revisions if no changes have occurred or are planned and if the ALP meets current design standards.

(2) Review and Coordination. FAA review and coordination of the ALP will cover Federal interests and must consider any required coordination that was not completed at the local or state level. FAA may request additional information from sponsors, preferably at one time within the review period, to add detail needed for ALP approval. Airport sponsors should be alerted to the delay or disapproval of agency action when requested information is not provided.

(3) Timing of Approval. Due to the length of time involved for Federal ALP approval actions, several forms of letters or notices to the sponsor approving airport development on layout plans may be used (See Paragraph 403b).

(a) Conceptual Approval. Conceptual approval may be made, if necessary, to avoid unreasonably delaying the sponsor in the absence of detailed planning.

(b) First-Time Approval. First-time approval actions may be taken for those airports where an ALP has not been previously approved. First-time approval is normally the culmination of a major study process, including interagency review and discussion between the interested parties.

(c) Informal Revisions. The informal revisions of a minor nature should be noted on the ALP by pen and ink based on supporting documentation referenced on the drawing rather than frequently re-approving as-built conditions. The supporting documentation should identify sponsor and FAA documents that approve the revision, and any safety implications of the change must be described. Regions may require revisions of drawings at any time to provide working tools that would not be approved. For instance, an ALP drawing with a small building that is not identified within the approved plan could be sent before or after the FAA's conduct of airspace studies and determination for it. Likewise, a similar sheet could be provided with minor new airport engineering or geodetic surveying data that needs to be noted on the approved ALP by pen and ink as well as reflected within the FAA's airport master record.

(d) Formal Revisions. Formal revisions shall be approved periodically for major changes to the airport and the existing ALP. Several years may lapse between each formal revision since it normally involves the substantial degree of study, review, and discussion as first-time ALP approval.

(4) Approval Conditions. Conditions of ALP approval will be explained in writing to the sponsor and clearly indicated on the plan. Approval of an ALP must be in accordance with environmental criteria in Order 5050.4 (the airport environmental handbook) and current regulations and design standards unless modified as prescribed in Order 5300.1 (approval level for modification of agency airport design and construction standards). The approval letter must include the disclaimer statement regarding Federal financial participation in Paragraph 425b. Statements should be added concerning sponsor action required on land use planning for the airport vicinity and the need for airport layout planning to be compatible with Federal facilities (See standard grant assurances). A statement should also identify proposed development that is not sufficiently justified.

(5) Use of ALP. ALPs are the graphic representation of policies on current and future airport development as formally adopted by the sponsor and approved by FAA. Planning, budgeting, and implementation for FAA activities on airports will be based on the sponsor's ALP. Before the Federal action on new development depicted on the ALP, appropriate conditions of ALP approval must be satisfied. FAA plans and programming must be changed to reflect each newly approved ALP as appropriate.

e. Noise Planning. Guidance on noise control planning is contained in Order 1050.11. Noise exposure maps and noise compatibility programs that result from FAA-funded projects should be completed by the sponsor and provided to the FAA. This does not necessarily constitute a formal submission to FAA for determinations under FAR Part 150. Submission of noise exposure maps and noise compatibility programs for determinations under Part 150 are not required by the grant. However, if the sponsor decides upon completion of the noise planning to make a submission under Part 150, a letter so stating should be provided.

f. NPIAS and ACIP Data. Airport data, such as development requirements and schedules, shall be verified by the FAA prior to inclusion in the NPIAS and ACIP. Sponsors, MPOs, and States should be provided an explanation in writing concerning data considered unacceptable. Benefit-cost analysis, when required, is to be prepared by airport sponsors, transmitted to regions for a completeness review, and sent to APP-520 where that office, in consultation with APO-200, will review the BCA analysis. Regions will verify consistency with the approved aviation forecasts, FAA guidance on BCA methodology, the master plan, the ALP, the critical aircraft justification, and life cycle cost considerations. Regions will ensure the costs, benefits, and schedules are reasonable. The region must coordinate with APP-520 if a project would have special circumstances in calculating the BCA that is inconsistent with current guidance. (See Paragraph 550b for navigation aid projects.)

429. FAA ACCEPTANCE OF PROJECTS.

See Chapter 13, Section 2, for project acceptance and grant closeout procedures.

430. AUDITS.

See Chapter 13, Section 3, for audits.

431. - 499. RESERVED.

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Chapter 5. AIRFIELD CONSTRUCTION AND EQUIPMENT PROJECTS

Section 1. GENERAL ELIGIBILITY AND PROJECT REQUIREMENTS

500. PROJECT ELIGIBILITY.

No airfield construction or equipment acquisition project can be approved unless it meets requirements of Paragraph 300 and conforms with standards established by the Administrator, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches. FAA determination on eligibility of safety and security facilities as well as other airport development items is based on a policy that airport standards, if fully met by a sponsor, provide for adequate facilities and equipment to meet public needs. Any development beyond those standards or requirements would not be eligible for Federal funding. This policy is reflected in the general ineligibility of aircraft rescue and fire fighting equipment beyond that required by Part 139 and the funding limits on construction of pavement longer, wider, or stronger than specified in advisory circulars. Furthermore, no airport development project may be approved unless the following conditions have been met:

a. Good Title and Property Inventory Map (Exhibit A). The sponsor, a public agency, or the Government must hold good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or good title will be acquired. A good title is a marketable title, free and clear of all liens and encumbrances (except those specified and usually agreed to by the government in advance). If the airport is acquiring land in the project, a property inventory map (Exhibit A) should be updated unless it is part of the approved airport layout plan.

b. Airport Layout Plan (ALP). The project must be consistent with a current ALP, which is approved by the FAA, and the interests of the community located near the project should be given fair consideration.

c. Airfield Lighting and Marking. The project must provide land required for installing approach light systems, touch-down zone and centerline runway lighting, or high intensity runway lighting, that the Secretary decides are necessary under Title 49 U.S.C., Section 47106(b)(3) for safe and efficient use of the airport by aircraft, considering the airport category and the kind and volume of traffic. The project must provide airfield marking if existing markings are obliterated by the construction or construction equipment.

d. Useable Unit of Work. A safe, useful, and usable unit of work must result from the project. In the case of development to be accomplished in stages, a safe, useful, and usable unit must be provided at least upon completion of the final stage.

e. Reducing Incursions. The project must provide airfield paving, lighting, and/or surface movement items where determined by the FAA Runway Incursion Action Team or formal inspection to be required for reducing runway incursions and aircraft accidents if the work involves runways/taxiways. The specific requirements of this initiative are identified within Sections 3 and 4 of this Chapter.

501. RECONSTRUCTION VERSUS MAINTENANCE.

The reconstruction, rehabilitation, pavement overlays, or major repairs of facilities and equipment are defined as eligible capital costs generally considered permanent with a 20-year life expectancy. The maintenance activities needed on a continuing basis to preserve the airfield in good condition, work involving regular cleaning operations, as well as minor repairs of facilities and equipment are defined as ineligible costs. For example, while the complete rehabilitation of power sweepers may be eligible, regular maintenance of it or sweeping operations for pavement areas are ineligible. However, routine pavement maintenance at nonprimary airports is eligible based on the requirements described in

Paragraph 520. This nonprimary airport maintenance is the major exception allowing the use of AIP funding for operations and maintenance costs as defined in this paragraph. In addition, when life-cycle costs are considered in procurement as described in paragraphs 508 and 911, certain operation or maintenance costs may be funded.

502. NATIONAL AIRSPACE SYSTEM REQUIREMENTS.

The FAA must constantly sustain and modernize the National Airspace System (NAS). AIP construction and equipment projects shall be consistent with the NAS Architecture, which details operational concepts, mandatory schedules, system requirements, human and physical resources, and regulatory policies essential for maintaining the safety as well as capacity of the NAS. AIP projects in the NAS include, but are not limited to, navigation, runways, lighting, weather equipment, and security. These components are defined in the current version of the NAS Architecture document. The NAS Architecture document is a dynamic document that is updated on an as-needed basis. A more thorough discussion on the NAS Architecture can be found at http://www.faa.gov/nasarchitecture.

a. National Plan of Integrated Airport Systems. Airfield construction and equipment included within the NPIAS are AIP eligible. NPIAS airports are considered major service providers and essential to the NAS. They must meet applicable standards to ensure the safe and efficient use of airspace by aircraft anywhere within the NAS. Other airports are occasionally treated as NAS components for various purposes, although those smaller airfields remain ineligible under the AIP.

b. Related Funding Sources. AIP grants are one among many related financing programs for airport improvements. Joint planning and decision making with other NAS funding sources is frequently critical to project implementation. The regions should ensure that the appropriate Airport Capital Improvement Plan includes a notation about the financing required to complete projects. For instance, when the FAA's Facilities and Equipment (F&E) program is needed to provide an airport traffic control tower as part of commissioning a new runway, the status of the F&E work must be carried with the AIP project information throughout the life of the airfield project. This applies to funding from the PFC program, other Federal programs, States, local governments, airport revenue, project borrowing, and contributions by private entities.

c. Reformed Acquisition Management System. The installation of certain NAS air traffic control, communications, navigation, surveillance, and weather facilities are usually the responsibility of the FAA rather than airports. The FAA's reformed Acquisition Management System (AMS) acquires NAS facilities in five steps: mission analysis, investment decisions, solution implementation, in-service management, and service life extension. Without further authorization about shifting FAA costs to airports, this is accomplished mainly through the F&E program. Under some limited circumstances, the traditional F&E equipment may also be AIP funded, and requirements for these projects are identified below. When projects can be accomplished through both programs, the AIP and F&E program requirements are the same, which means an airport should not view a grant as a means of accomplishing a project that is otherwise unqualified for F&E funding.

d. Facilities and Equipment Program Budgets. Any project included in an approved F&E program budget is ineligible for an AIP grant, and the FAA cannot use AIP funds to augment the F&E budget without specific statutory authority. (See Paragraph 311k.) Regions should check questionable equipment projects with the Airway Facilities division to ensure that duplication of project funding is avoided. The FAA should approve few traditionally F&E or National Airspace System Implementation Program (ANI) funded projects under grants, except instrument landing systems (ILSs) and associated lighting as described in Paragraphs 555 and 556. The AIP grants may involve site preparation required to meet airport standards separate from the F&E projects when the work is ancillary to such a project. Projects traditionally funded under the F&E program are facilities and equipment for navigation, weather reporting, communications, surveillance, and air traffic control. Contact APP-520 for assistance on eligibility of work primarily related to an approved F&E project.

e. Off-Airport Projects. Off-airport construction and equipment projects are eligible only to the extent that they accomplish the exceptions described in Paragraph 303. Such projects need to be clearly justified as airfield related on the FAA approved airport layout plan.

503. TRANSITION TO SATELLITE NAVIGATION.

The emphasis of many airfield construction and equipment projects is the FAA transition from the existing ground-based navigational aids to the satellite navigation (SATNAV) technology for airport instrument approach service in the NAS.

a. Augmentation and Revision of Standards. The FAA expects to meet the future airport approach and landing system requirements with the global positioning system (GPS), which will be augmented by the Wide Area Augmentation System (WAAS) and the Local Area Augmentation System (LAAS). Due to many differences between the GPS-based procedures and the traditional instrument landing system (ILS), airport standards are undergoing revision. Many airfield construction and equipment projects should be designed based on SATNAV requirements even though some advisory circulars retain dated material. (See Paragraph 506.)

b. Instrument Landing System and Backup Systems. After sufficient time has passed to allow for installation of SATNAV avionics in aircraft as well as experience with WAAS and LAAS, a phase-down in ground-based navigation aids will begin. In the interim, the ILS and other backup systems will continue to be deployed based on reduced life-cycle benefits. Airfield construction and equipment projects must be evaluated in light of the continuing cost for ground-based systems with these reduced benefits.

c. SATNAV Airport Facility Enhancement Team. During the transition to SATNAV, a focus group has been established within the Airports program to provide additional assistance that may be necessary. The SATNAV Airport Facility Enhancement Team (SAFET) has representation from the aircraft, avionics, and navigation systems integrated product team (AND-700) and each headquarters division within Airports. Contact AAS-100 for assistance from SAFET.

504. INNOVATIVE TECHNOLOGY AND FINANCE.

Airports should employ innovative technologies in accordance with Title 49, U.S.C., Section 47101(a)(11), or concepts that will promote safety, capacity, and efficiency improvements. However, implementation of AIP airfield construction and equipment projects must use demonstrated materials, procedures, and standards, except as noted above. Innovative financing mechanisms for airport development may also be considered within the context of overall aviation funding and demonstration projects authorized for that purpose.

a. Project Approval Levels. Regions may authorize any innovative technology implementation project that does not require approval of a modification of standards at a level above the region. Contact AAS-100 for other questions on approving projects using new pavement or equipment technology.

b. Demonstration Projects. Demonstration projects are occasionally authorized within legislation on new construction, management, or financing arrangements for airport planning and development. The AIP does not include significant numbers of such demonstrations because prior evaluations have concluded that the program is already flexible enough to accommodate many innovations. However, regions needing further information on a demonstration project should contact Airports Financial Assistance Division, Airport Improvement Program Branch (APP-520).

c. Research, Engineering, and Development Budgets. Any project included in an approved Research, Engineering and Development (RE&D) program budget would be ineligible under the AIP. The FAA cannot use AIP funds to augment the RE&D budget without specific statutory authority. (See Paragraph 311k.) Work may be proposed in the developmental or demonstration stage of innovation, which would be more appropriate as RE&D projects. Where the limited deployment of innovations is

anticipated, a project should be considered a candidate for research that includes a follow-up report. Regions may contact APP-520 for assistance on eligibility of work primarily related to an approved RE&D project.

505. AIRFIELD PROJECT JUSTIFICATION.

The facility size, strength of pavement, and other determinants of project cost must be adequately documented to allow an independent assessment that the amount of work is realistically justified. See Paragraph 320.

a. Aviation User Requirements. The general eligibility of work is not the same as justification based on current airport user needs. Letters of support should be requested from airport users whenever a proposal is beyond that justified by a lease or other firm commitment to use the project. Airport users should be asked to describe their plans and the anticipated public use activity level by a specific aircraft, including the approach category as well as airplane design group. In some cases, there may be more than one critical aircraft. For instance, pavement strength and layout are frequently dependent upon different aircraft. Except as otherwise noted, the activity levels used for accepting NPIAS airport roles apply to project justification, and Order 5090.3 describes procedures for field formulation of the NPIAS.

b. Documented Aeronautical Need. The simple endorsement of a project by the airport sponsor or a forecast of activity is not adequate by itself to establish justification for the work. Forecasts should be realistic and supported by the information and documentation provided by the sponsor. Formal justification by aviation users may have been previously documented in an airport planning report. When reviewing a proposal, the region should evaluate the work required upon completion of the project and forecast to occur at some future time. The sponsor's forecasts should be compared to the existing Terminal Area Forecast (TAF) and any substantial differences should be resolved. The FAA's TAF is to be used in accordance with Paragraph 428a. Economies of scale may be obtained by allowing a project to be expanded for the five-year forecast if, in the judgment of the FAA, the airport is growing sufficiently to necessitate that. However, no project should be approved for funding without analysis of the specific requirements for development and documentation of aeronautical demand used to justify the work.

506. PROJECT STANDARDS AND DESIGN.

If FAA Advisory Circular 00-2.15, Advisory Circular Checklist, identifies an Airports standard for the work proposed, a project must be carried out in accordance with the applicable FAA standards and designs in order to be eligible, except as described within this paragraph. See Paragraph 311. Grant assurance 34 normally limits applicable requirements based on a list of current advisory circulars for AIP eligible projects. This current list, which has fewer documents than the FAA advisory circular checklist, is available on our web site. If, in the view of the region, a proposal requires recently issued standards or requirements other than on the current list to make the project eligible, the additional requirement can be included as a special condition.

a. Development Exceeding Design Standards. New facilities exceeding FAA design standards are not eligible except as noted in Paragraph 505b, although AIP work may be combined with an ineligible project provided the airport pays the extra costs. See Paragraph 613. In addition, a project for rehabilitation of existing airfield facilities (or repairing equipment) that exceed FAA design standards may be eligible for AIP participation if it meets the other applicable requirements and the following:

(1) The project is otherwise eligible;

(2) The cost in excess of that required to achieve facilities/equipment that meet FAA design standards is justifiable in the view of the region for preserving or enhancing the existing capability; and

(3) Operational experience has established a continuing need for the existing facility or equipment to accommodate occasional airport users requiring it.

b. State Standards. FAA approval of State standards may have been accomplished for certain projects at nonprimary airports, although such a standard cannot be approved with respect to safety of approaches. If a sponsor proposes to apply a State's standards that have not been approved, the region may encourage the State to prepare standards under an AIP system plan project. However, use of the State standards is generally not permitted until they have FAA approval. Additionally, State highway specifications are permitted for airfield pavement construction using funds made available under Section 47114 of the Act at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight if the Secretary determines that (i) safety will not be negatively affected; and (ii) the life of the pavement will not be shorter than it would be if constructed using FAA standards. However, there is one limitation. An airport may not seek funds under this provision for runway rehabilitation or reconstruction of any such airfield pavement constructed using state highway specifications for a period of 10 years after construction is completed unless the FAA determines that the rehabilitation or reconstruction is required for safety reasons.

c. Projects without Standards. Some eligible projects, such as power sweepers for debris control, have no corresponding FAA scope of work, requirements, procedures, policy, plans, standards, and/or specification. Contact APP-520 for assistance on project eligibility. Contact AAS-100//300 for evaluation of project design.

507. COMMISSIONING AND DECOMMISSIONING AIRFIELD FACILITY.

The regional Airports divisions are the FAA lead organization responsible for commissioning and decommissioning AIP airfield facility construction or equipment projects. The work scope must include updating aeronautical publications to reflect all alterations to an airport's infrastructure both during and after the project.

a. Coordination of Airport Alterations. Project coordination is required to close runways and reopen them, for instance, so that the public can be made aware of the changes. The sponsor is required to coordinate with the airport traffic control tower and contractors. The sponsor is also required to obtain a non-objectionable determination from the FAA region. Timeliness is important due to safety and liability issues. To maintain the required level of safety and security during construction, the airport must comply with guidelines in Advisory Circular 150/5370-2.

b. Designating Temporary Runways. Operational safety on the airfield during construction, including airport ground vehicle/aircraft movement coordination, is important for many AIP projects. Designation of taxiways as temporary runways in accordance with FAA Order 7110.19, and other temporary features, must be included in the project. (See Paragraph 525c on converting runways to taxiways.)

c. Notice to Airmen. Regions are responsible for determining that airport operators provide accurate information for notices to airmen (NOTAM) in accordance with Advisory Circular 150/5200-28.

508. LIFE-CYCLE AIRPORT COSTS.

Life-cycle costs shall be considered in AIP procurement where specified in bidding documents. This is a requirement of Title 49, Code of Federal Regulations, Part 18. Life-cycle costs are defined to encompass the entire period facilities or equipment progress through a budget, including the stages for the airport planning, construction, commissioning, operating, management, maintenance, repair, improvements, and activities on decommissioning the project. Regional personnel should exercise care to treat life-cycle airport costs fairly for sponsors without requiring unreasonable initial capital expenditures. For additional information on the features or applications of life cycle cost analysis, see Paragraphs 501 and Section 6 of this chapter. See also Paragraphs 591 and 911.

509. RESERVED.

Section 2. SITE PREPARATION

510. GENERAL.

Work necessary to prepare the site for eligible airport development or to meet applicable design standards is eligible. Site preparation may include clearing, grading, grubbing, and installing drainage facilities or utilities. In the case of seaplane facilities, dredging of the seaplane anchorage and channel is eligible.

511. EXISTING FACILITY IMPROVEMENTS.

Any site preparation to bring an existing airfield facility into conformance with applicable airport design standards is eligible. These improvements may be required at existing nonstandard airports or due to a change in standards since the airport was constructed. See Paragraph 512 on major runway or extension projects.

512. NEW AIRPORT, MAJOR RUNWAY PROJECTS, AND MILITARY AIRPORT CONVERSIONS.

Major new airport improvements involve the need for more elaborate coordination between FAA organizations, states, the airport, and other parties than do less significant projects at existing facilities. A coordination process should be well underway to establish the site selection agreement or airport layout plan and to determine project eligibility before approval of a project for site preparation work. The use of the Operational Evolution Plan (OEP) process for projects involving significant demand-capacity issues will harmonize the activities and foster agreement on a collective course of action within the aviation community. New improvements at smaller airports may be outside the OEP. For these projects, the region should consider undertaking similar coordination on a reduced scale.

a. New Airports. An inter-division working committee (IWC) in accordance with Order 1110.117 or similar team, including possibly a separate office, should be established and used by regions for building major new airports to ensure initial site preparation eligibility issues are consistent with FAA policy. The IWC or other coordination process may continue throughout the development project phases.

b. Runways and Extensions. Major runway and extension projects should involve a similar IWC or other coordination mechanism as used for a new airport prior to site preparation. Redesign of facilities, revision of air traffic procedures, and related changes require formal coordination to ensure the airport is modernized consistent with FAA policy.

c. Military Airports. The conversion or joint use of former military airport areas is frequently as significant as building new airports. Therefore, a similar IWC should be established and used for former military airports as part of the project to ensure site preparation eligibility issues are consistent with FAA policy.

513. SAFETY AREAS.

Safety areas are a substantial site preparation requirement for airport development projects. Safety area or shoulder requirements are eligible. However, the standards for runway and taxiway safety areas may not relate directly to the risk of accidents for purposes of justifying improvements. A feasibility determination is needed by the FAA if costs are excessive. Refer to Order 5200.8, Appendix 2 for considerations in evaluating alternatives.

a. Runway Safety Area Program. The runway safety area program described in Order 5200.8 applies to AIP projects that involve construction of new runways and lengthening, widening, strengthening, or leveling of an existing runway. For work related to Facilities and Equipment projects, see Paragraphs 514 and 593.

b. Engineered Materials Arresting Systems. Engineered materials arresting systems (EMAS) described in Advisory Circular 150/5220-22 are not equivalent to a runway safety area, although the installation or repair of EMAS should be considered in the analysis of the improvements.

(1) Primary Airports. The analysis should consider the role of the airport, characteristics of unpaved surface areas surrounding the runways, airport activity, future plans for instrument approach procedures, and alternative operational requirements. EMAS is eligible where nonstandard situations exist for primary airport runway safety areas and it may be part of a determination by the FAA. Contact AAS-100 for assistance with EMAS.

(2) Nonprimary Airports. Where the standard safety area for a nonprimary airport is not practical, the project should be documented using the factors described above for primary airports. Regions should exercise additional care for airports with only smaller and lower speed aircraft pending more experience with EMAS at these locations.

c. Taxiway Safety Areas. Safety areas for parallel, bypass, or connecting taxiways and turnarounds as well as holding bays are eligible. The evaluation of taxiway safety areas may need to consider airport planning and alternatives in a similar way as described above for the runway safety area.

514. SITE PREPARATION FOR F&E INSTALLATIONS.

Site preparation for navigation aids may involve large areas on an airport. The site for an F&E installation may be prepared in connection with an eligible airport development project provided the grant agreement specifies that this work will be funded entirely by the F&E program. Except as specifically identified below, site preparation for F&E installations is ineligible.

a. Clearing, Grading, and Grubbing. Clearing, grading, grubbing, or related work for eligible airport development items may result in the site preparation of an F&E project. For example, clearing of the safety area and runway protection zone will prepare the site for an airport approach lighting system. This type of site preparation is eligible provided that:

(1) The work must be included as part of the site preparation for eligible airport development. Grants should not be issued for clearing of existing or future F&E sites exclusively (for instance, an item to remove existing non-frangible approach lighting equipment or procure and install frangible systems) outside a related airport development project. See Paragraphs 513 and 593;

(2) The cost of preparing a slightly larger area so NAVAID installations can be located outside safety areas must be determined as incidental to eligible site preparation costs for airport development in which the F&E equipment is included. See Paragraph 516; and

(3) The site preparation must meet airport design standards that would be applicable without the NAVAID.

b. Installation of Ducts. Installation of ducts or utilities to support an F&E project is not normally eligible for funding under the AIP. In cases where it is documented that ducts and utilities for F&E facilities can be more economically installed incidental to an AIP construction or equipment project, the installation may be funded if requested by the sponsor. An example is the placement and marking of sufficient conduits for planned requirements under runways and taxiways before initial paving to avoid the need for repeatedly cutting new trenches at a later time.

515. UTILITIES AND FUEL FARMS.

The installation, improvement, reconstruction, or repair of water, gas, electric utilities, drainage and wastewater treatment facilities will be eligible to the extent they are needed to serve areas eligible for AIP assistance. The allowable cost of any utility installation serving both eligible and ineligible areas or

facilities will be a prorated share of the total cost, the method to be determined by the FAA Airports Office as in Paragraph 613. Aircraft fueling facilities at an apron surface or below are incidental to the pavement project and eligible. See Paragraphs 538, 541, 586, 591, and 594.

a. Fuel Farms and Other Aeronautical Support Facilities. The installation of new fuel farms may be eligible at nonprimary airports using entitlements. Regions should ensure the sponsor has made adequate provisions for financing higher priority airfield projects that are currently required before this revenue-producing work. Contact APP-520 about proposals for the construction, alteration and repair of revenue-producing aeronautical support facilities other than any project clearly allowed in paragraph 526 or a new fuel farm at nonprimary airports. See 49 USC 47110(h).

b. Military Airport Program. Separate rules apply to the utilities or the fueling facilities for certain joint use and former military airports. An airport currently participating in Military Airport Program (MAP) has been given additional eligibility not to be confused with that at other military or joint use airports. For MAP, eligible work includes construction, improvement, or repair of all existing airport utilities even if that would not otherwise be allowable. This includes upgrading electric utilities or such systems in hangars and terminal buildings to meet electrical codes. This also includes fuel farms for non-exclusive use by the flying public. Projects cannot exceed certain funding levels at each airport for fuel farms, utilities and various related projects as described in Paragraph 606.

c. Ineligible Utilities. Installation or rehabilitation of utilities for areas not eligible are ineligible unless the work is specifically eligible under the Military Airport Program. Ineligible work includes installation or rehabilitation of fueling fixtures above the surface of an apron and fuel farms at primary airports.

516. PRORATION OF SITE PREPARATION WORK.

In some cases, a sponsor may determine that it is beneficial to undertake site preparation for both eligible and ineligible development through one construction contract. In these cases, the costs shall be prorated between the eligible and ineligible development items unless the cost of the unallowable work is incidental to the eligible development items. The determination of whether or not to prorate the costs must be made on a case-by-case evaluation.

a. Prorated Work. A sponsor may propose, for example, to include in a building five additional bays and substantial local government administrative space beyond that needed to house snow removal equipment. The cost of the site preparation for the ineligible space might be greater than 10 percent when compared to the overall eligible part of the building. It would not be an incidental part of the eligible development items. A prorated share for the allowable project cost should be calculated using methods similar to that in Paragraph 613.

b. Incidental Work. In another example, site preparation for an eligible apron requires fill. The sponsor proposes to obtain an equal amount of the fill by grading (and thereby preparing the site for) an adjacent area designated on the approved airport layout plan for aircraft hangars. Site preparation of the hangar area may be considered incidental to the work on the apron if the region determines it represents an effective and logical source for the fill. See a similar example in Paragraph 514a(2).

517. - 519. RESERVED.

Section 3. MANAGEMENT OF AIRFIELD PAVING PROJECTS

520. GENERAL.

Management of airfield paving projects has expanded beyond the determination of eligibility for the original project itself to include consideration of the life-cycle operation and maintenance issues. See Paragraph 306 on pavement evaluations as well as Advisory Circulars 150/5380-6 and 150/5380-7.

Paving for reducing runway incursions may need coordination with the FAA Runway Incursion Action Team.

a. Airfield Paving. Eligible work items under airfield paving include construction, reconstruction, or rehabilitation of runways, taxiways, and apron areas. This may include aggregate-turf pavement or other than the FAA standard for specifying construction at airports, as with the FAA-approved State standards. Specific programming criteria on the individual work items are provided in the subsequent paragraphs. Under Title 49 U.S.C., Section 47105e, the sponsor must assure the airport has implemented procedures for a pavement maintenance management program for any project to replace or reconstruct pavement. A special condition for pavement quality control is contained in Appendix 7. The basic requirements for the pavement maintenance management program are defined in Advisory Circular 150/5380-6.

b. Pavement Strengthening. The airport owner has a commitment to prevent overstressing of airfield pavements. If the owner is not prepared to strengthen the pavement, then its use must be limited to aircraft operations that will preclude such overstressing. The FAA does not consider such a limitation to be a noise restriction within the meaning of Title 49 U.S.C., Section 47524. Should pavement failure occur because the sponsor failed to take timely corrective action after being advised by the FAA of problems, any subsequent AIP project will be limited to the cost of such work as would have been required for strengthening had failure not occurred. Independently conducted pavement evaluations by the State as well as FAA, or those contained in airport master plan projects, may be used for advising sponsors and in making these determinations. See Paragraph 505 for justification of pavement design.

c. Seal Coats. The application of asphalt seal coats or resealing of joints in concrete pavements is a capital cost eligible for Federal participation under certain conditions. The region must analyze the need for seal coats and be satisfied that the sponsor has complied with assurances on regular maintenance. The following guidance will apply:

(1) The preparation of the pavement surface, including cleaning and filling of cracks, is eligible with a seal coat project.

(2) Eligible types of seal coats include those using aggregate, sand, emulsified asphalt slurry, coal tar pitch emulsion, rubberized material, or some combination of the these methods. See the advisory circulars and engineering briefs, or contact AAS-100 for advice on other applications.

d. Friction Surface Treatment. Friction surface treatments, such as grooving, aggregate seal coats or porous friction courses, to minimize hydroplaning and improve skid resistance are eligible capital costs. In accordance with Title 49 U.S.C., Section 47101(f)(2), surface treatment for primary and secondary runways at commercial service airports serving turbojet aircraft is high priority, and documentation for the project files should include an explanation when it is not accomplished. Portions of taxiway systems and apron areas are eligible for friction surface treatments where the increased skid resistance is needed to enhance safety.

e. Shoulders and Blast Pads. The treatment of areas adjacent to eligible pavement is eligible in accordance with applicable airport design standards to support the weight of aircraft or other surface vehicles. Shoulders and blast pads are eligible to prevent soil erosion from thrust effects of turbojet-powered aircraft or to improve the existing conditions such that regular maintenance will be facilitated.

f. Nonhub and Nonprimary Airport Pavement Maintenance. Nonhub and nonprimary airports have separate eligibility rules related to airfield pavement maintenance.

(1) Under Title 49, U.S.C., Section 47102(3)(H), the nonhub and nonprimary airports are eligible for certain cost effective routine pavement maintenance projects. Notwithstanding grant assurances, sponsors must be unable to fund maintenance using their own resources, which include transfer of funds to the airport from other sponsor accounts. The sponsor or State must implement a pavement

maintenance management program based on Advisory Circular 150/5380-6. Routine maintenance is defined as cleaning, filling, and/or sealing of longitudinal and transverse cracks, grading pavement edges, maintaining drainage systems, pavement patching, seal coats, and remarking paved areas.

(2) Routine maintenance projects are ineligible for any airport category where the region determines a capital improvement project is required when pavement condition has deteriorated to such a point that a maintenance project would not be considered cost effective. See Paragraph 501. The costs of routine maintenance are, likewise, ineligible for what may be frequent operations to remove mud, dirt, sand, aggregate, debris, foreign objects, water, snow, ice, loose contaminants, and rubber deposits, or the mowing of turf areas.

521. RUNWAYS.

Runways are eligible for development consistent with FAA design and engineering standards. Typical runway development includes construction of new runways and lengthening, widening, strengthening or leveling of existing runways. In accordance with 49 USC 47116(d), under certain conditions priority consideration should be given to the use of certain small airport funds for runway extensions that support turbine powered aircraft and to multi-year projects for new capacity runways. AIP participation may be limited to a single runway at an airport based on the criteria below.

a. Airspace Review of Landing Areas. Order 7400.2 on procedures for handling airspace matters contains the coordination and review that is required to designate an instrument runway as a change to the airport layout plan. The designation of an existing or proposed runway as an instrument runway makes it eligible to receive project grant funds under the AIP.

b. Parallel and Crosswind Runways. Additional runways are eligible if the volume of airport operations would justify the development (in accordance with Advisory Circular 150/5060-5 on capacity and delay) and the proposed airfield layout will expedite traffic. If the primary runway is subject to weather conditions that exceed airport design standards in Advisory Circular 150/5300-13, the minimum required crosswind runways to achieve adequate wind coverage are eligible.

c. Other Runways. AIP participation in runway development will be limited to a single instrument runway at an airport unless additional runways can be justified. A visual runway having airspace coordination and review will be eligible if in the judgment of the region an instrument runway is not required within the foreseeable future. An additional runway may be necessary to accommodate operational demands, minimize adverse wind conditions, or mitigate impacts identified in an approved environmental finding. Use criteria contained in the latest issue of AC 150/5300-13, Airport Design, to determine if the additional runway is justified. Any development (such as marking or lighting) related to or on an ineligible runway is also not eligible.

522. HELICOPTER AND TILT-ROTOR FACILITIES.

The paving to accommodate helicopters is eligible provided the facilities are located at eligible heliports or airports. Projects for development of tilt-rotor facilities must be coordinated with APP-520.

523. ULTRALIGHT FACILITIES.

Construction for ultra-light operations at an existing airfield is eligible if necessary for safety or capacity purposes and the airport would be eligible for grant funding. Contact AAS-400 for information about establishing airport areas for blimps, balloons, parachutes, and model airplanes.

524. SEAPLANE BASES.

Ramps and other paving are eligible facilities at eligible seaplane bases or airports with a seaplane ramp. Advisory Circular 150/5395-1 provides guidance on constructing seaplane bases.

525. TAXIWAYS.

Taxiways to expedite the flow of traffic between runways and aircraft parking areas available for public use are eligible. See Paragraph 526. Typical taxiway development includes the construction of new taxiways and lengthening, widening, strengthening or leveling of existing taxiways to meet FAA design/engineering standards for the critical aircraft.

a. Parallel, Bypass, and Connecting Taxiways. A full-length parallel taxiway connected to each end of an eligible runway is eligible. A partial parallel taxiway may be considered at general aviation airports where cost to construct the full length is excessive and the benefits do not warrant it.

b. Turnarounds and Holding Bays. Turnarounds and holding bays are eligible. Holding bay design standards can be found in AC 150/5300-13, Airport Design, Paragraph 409.

c. Converting Runways to Taxiways. Development related to the conversion of an ineligible runway to a taxiway will be eligible only if it can be justified on the basis of the costs involved and continuing use is assured. Such projects must be identified on the airport layout plan and taxiway marking should be included with the project. (See Paragraph 507b on designating temporary runways.)

526. APRON AREAS AND RELATED FACILITIES.

The construction, alteration, and reconstruction of public use apron areas are eligible. If the sponsor elects to establish aircraft parking facilities or areas in locations other than approved by the region as reasonable and economical, only a portion of the pavement for such area would be eligible. For example, the distance of a proposed parking area from the existing taxiway should be reasonable based on the standards and approved airport layout plan rather than factors related to non-aeronautical uses. Apron areas for the exclusive and near exclusive use of an air carrier, fixed base operator, or other tenant are not eligible. (For purposes of this paragraph, the definition of near exclusive use is that the airport has no procedures for the management and operation of the apron to ensure prompt access by each potential user.) Exclusive use of apron areas, and any determination that such is ineligible, in turn involves eligibility of associated terminal buildings. (See Chapter 6.) Additionally, the apron and related taxiway areas for use of a tenant not furnishing service to the general public are ineligible.

a. Parking Area Taxiways and Taxi-Lanes. Taxiways on, or connecting to, aprons available for use by the general public are eligible. If available for use by the public, this may include taxiways to aircraft storage, hangar, and service areas. Taxiways or taxi-lanes connecting the individual T-hangars to the public taxi-lane are eligible at nonprimary airports subject to determinations in d(1) below. (See Paragraph 525.)

b. Aircraft Ground Deicing Areas. A paved aircraft parking area for ground deicing or anti-icing activities is eligible if the improvements are to be owned by the airport and will become available on a non-exclusive use basis. Storage areas on AIP-funded pavement and foundations for ineligible deicing buildings are not eligible. See Paragraphs 544, 547, and 631.

c. Cargo Aprons. Special consideration may be given to low activity aprons used by cargo-only operators since they contribute to the Airport and Airway Trust Fund. Only one such carrier may serve the airport, although the apron for freight activity would be eligible provided the entire area or not all hours of operation are leased to that operator. The opportunity for another carrier to serve the airport in the future at fairly competitive terms must be provided.

d. Hangars and Other Support Facilities. The construction of certain support facilities or structures to house aircraft may be eligible at nonprimary airports using entitlements. Separate conditions apply to various projects as described below.

(1) Construction of new revenue-producing hangar projects at nonprimary airports may be eligible under 49 USC 47110(h) using entitlements. The region should ensure that the sponsor has

made adequate provisions for financing airfield projects that are currently required before revenue-producing work. Alteration and repair of existing facilities depends upon potential environmental issues and whether such facilities have an adequate remaining useful life. If the proposal is for acquisition, alteration or repair of existing hangars, contact APP-520.

(2) Certain other revenue-producing aeronautical support facilities at nonprimary airports may be allowable using entitlements. Contact APP-520 about such proposals other than the new fuel farms described in paragraph 515 and new hangars.

(3) Non-revenue-producing automobile parking lots associated with a passenger terminal building or hangar at nonprimary airports may be allowable under 49 USC 47119(b)(5). The airport must certify any needed airport development project affecting safety, security or capacity will not be deferred due to the project. See paragraph 604 for additional eligibility criteria for nonprimary and other airports.

527. AIRFIELD SERVICE ROADS.

Internal service roads located within the airfield area may be eligible if the road meets design standards and has resulted from a formal inter-division coordination. Also, see Chapter 6 about terminal area access roads and surface vehicle parking facilities.

a. Service Roads. Service roads in airfield locations identified on the airport layout plan are eligible to separate airplanes and ground vehicles where desirable due to traffic volume, occasional mixing of surface vehicle with aircraft activity, or other safety considerations. Service roads may also be necessary for:

(1) Aircraft rescue and fire fighting as determined by the airport certification safety inspection or an airport emergency response study;

(2) Security in accordance with an FAA approved Title 49 CFR, Part 1542 plan;

(3) Operation and maintenance of the airport;

(4) Access to AIP-funded safety, security, and related facilities, including navigation aids approved under the AIP; and

(5) Temporary access to the airfield for construction equipment; and

(6) Necessary to improve runway safety and reduce the possibility of runway incursions.

b. Roads Ineligible for Funding. Airfield roads along the airport fence, perimeter area, or not required for the functions described in Paragraph 527a, are ineligible unless the ineligible access is incidental to an approved AIP project. Other examples of ineligible roads include:

(1) Access to F&E-funded facilities or equipment exclusively for operating and maintaining FAA projects; and

(2) Roads exclusively serving non-aeronautical properties, areas, or facilities.

528. - 529. RESERVED.

Section 4. AIRFIELD LIGHTING AND SURFACE MOVEMENT

530. GENERAL.

Eligibility of airfield lighting equipment and other surface movement projects is dependent upon the visibility conditions under which the airport operates. Sponsors may choose to install retro-reflective

signs and edge markers if traffic is such that they provide sufficient and safe guidance to aircraft operators. Part 139 certificate holders that have an approved airport certification manual are required to install the minimum level of equipment approved in that document. More guidance on this is covered in the advisory circulars listed in Table 5, which outlines current types of AIP funded airfield lighting and surface movement equipment, the principal standard requirements, as well as routing of the office of primary interest (OPI). This equipment has traditionally been considered an airport responsibility associated with construction of new pavements and lengthening, widening, strengthening or leveling existing pavement. Certain items of this equipment have been funded under the F&E program only to the extent that it would be used as a part of other FAA projects.

The inter-relationship of these projects requires that they be coordinated to ensure consistency of the work with airfield operational requirements. Scheduled air carrier operations when visibility is less than 1,200 feet runway visual range (RVR) requires a Flight Standards Division approved surface movement guidance and control system (SMGCS) plan. The SMGCS plan contains operational requirements and the identification of physical airport systems required for those operations. The inclusion of work within a SMGCS plan assures eligibility provided the other layout planning and coordination are complete, such as with the FAA Runway Incursion Action Team. In those cases without a SMGCS plan (or where the plan does not include a particular system) eligibility should be determined in accordance with Paragraphs 531-535. Please see AC No. 120-57, Surface Movement Guidance and Control System, and Paragraph 536 for additional information.

531. AIRFIELD MARKING AND REMARKING.

The initial marking of the eligible runways, heliports, taxiways, and apron areas is eligible. The markings must comply with Advisory Circular 150/5340-1 or the other applicable design standards for marking the airport and the terminal apron complex.

a. General. Under Title 49 U.S.C., Section 47101(f), runway edge marking for primary and secondary runways at each commercial service airport shall be given a high priority for programming.

b. Holding Position and ILS Critical Area Marking. Special holding position and ILS critical area markings for taxiways or apron areas are eligible in accordance with operational requirements.

c. Service Roads. The initial marking of service roads is eligible on aprons or in other airfield areas. During the construction phase of an AIP project, marking temporary service roads for routing equipment on paved areas is also eligible.

d. Remarking. Since the airport is required to remark the paved areas based on compliance and certification obligations, routine remarking is normally an ineligible maintenance item, except as described within Paragraph 520f. However, the remarking of the eligible paved areas will be eligible if required by the airport certification safety inspector, a restoration of markings has been determined to reduce the probability of runway incursions, or new operational requirements are established in accordance with the airport layout plan. Other examples of eligible remarking include:

(1) The present markings are obsolete or incomplete under the current FAA standards; and

Table 5 AIP-Funded Airfield Lighting and Surface Movement Equipment

EQUIPMENT	PRINCIPAL STANDARD	OPI ROUTING
Runway Edge Lights	Title 49 U.S.C., §47101(f), AC 150/5340-24	AAS-100
Runway Touchdown Zone Lights	Title 49 U.S.C., §47106(b)(3), AC 150/5340-4	AAS-100
Runway Centerline Lights	Title 49 U.S.C., §47106(b)(3), AC 150/5340-4	AAS-100
Land And Hold Short Lighting	AC 150/5340-29	AAS-100
Taxiway Centerline Lights	AC 150/5340-28	AAS-100
Runway Guard Lights	AC 150/5340-28	AAS-100
Stop Bars	AC 150/5340-28	AAS-100
Clearance Bars	AC 150/5340-28	AAS-100
Tilt-Rotor Facility Lighting	AC 150/5390-3	AAS-100
Heliport Lighting	AC 150/5390-2	AAS-100
Taxiway Edge Lights	Title 49 U.S.C., §47101f, AC 150/5340-24	AAS-100
Apron Edge Lights	AC 150/5340-24	AAS-100
Apron Area Lighting	AC 150/5300-14, AC 150/5360-13	AAS-100
Construction Area Lighting	AC 150/5370-2	AAS-300
Segmented Circles	AC 150/5340-5	AAS-100
Airfield Signage	Title 49 U.S.C., §47101f, AC 150/5340-18	AAS-300
Electrical Power Sources	AC 150/5340-17	AAS-100
Electrical Power Support	Contact OPI	AAS-100
Airfield Marking	AC 150/5340-1	AAS-300
Retro-Reflective Centerline Markers	AC 150/5345-39	AAS-100

(2) The present marking is obliterated by construction, alteration, or similar work included in an approved AIP development project.

e. Retro-Reflective Edge Markers. Retro-reflective markings in lieu of pavement edge lights or runway threshold lighting are eligible if traffic is such that it provides sufficient and safe guidance. Contact AAS-300 for assistance on marking and retro-reflective edge markers.

f. Retro-reflective Centerline Markers. Retro-reflective runway and taxiway centerline markers are eligible if traffic is such that it provides sufficient and safe guidance. Contact AAS-100/300 for assistance with marking and retro-reflective centerline markers.

532. AIRFIELD SIGNAGE.

Reflective airfield signage that is mandatory, or signs necessary to provide information or guidance to pilots, will be eligible when designed in accordance with Advisory Circular 150/5340-18, Standards for Airport Sign Systems. See Paragraphs 534 - 537 for additional information on lighted signs. Contact AAS-300 for assistance with the standards for airfield signage.

a. Runway Signage. Runway signage, including intersection and runway distance remaining signs, is eligible at all airports. Runway distance remaining sign eligibility is limited to only those primary and secondary runways used by turbo-jet aircraft.

b. Taxiway Guidance Sign System. Taxiway or taxi-lane signage, intersection, and destination signs, are eligible at all airports.

c. Service Road Signs. Signing for ground vehicles on eligible airfield service roads is eligible.

533. INSTALLATION AND ALTERATION OF AIRFIELD LIGHTING.

The installation, alteration, and rehabilitation of airfield lighting equipment and related electrical work is eligible in accordance with Paragraphs 500, 530, 532 and 534-538, provided they conform to FAA design and engineering standards.

a. Lighting Equipment Controls. Electronic equipment allowing the airport to remotely control the functioning of airfield lighting is eligible. See Paragraphs 536 and 538.

b. Non-mandatory Lighting. Although airfield lighting is considered part of the fundamental airport configuration, its inclusion in a project is not mandatory unless required under Paragraph 500c.

534. RUNWAY, HELIPORT, AND VERTIPORT LIGHTING.

Under Title 49 U.S.C., Section 47101(f), edge lighting and distance remaining signs for primary and secondary runways at each commercial service airport shall be given a high priority for programming. Any runway or helicopter landing area eligible for paving is also eligible for lighting in accordance with the criteria below. See Paragraph 521.

a. Runway Edge Lighting. Runway edge lighting projects are eligible and must be closely coordinated with operational requirements of the airport. The runway edge lighting system must be designed in accordance with Advisory Circular 150/5340-24, Runway and Taxiway Edge Lighting System, or the other design standards that may apply. Designated instrument runways meeting the F&E criteria for the installation of a navigation aid for a specific approach procedure within 5 years should be coordinated with the Flight Procedures Office to determine lighting intensity requirements.

b. Touchdown Zone Lights. Touchdown zone lighting systems are eligible on runways designated for landing operations below 2,400 feet runway visual range (RVR) and when designed in accordance with Advisory Circular 150/5340-4, Installation Details for Runway Centerline Touchdown Zone Lighting Systems, or the other applicable design standards.

c. Runway Centerline Lights. Runway centerline lighting systems are eligible when designed in accordance with Advisory Circular 150/5340-4, Installation Details for Runway Centerline Touchdown Zone Lighting Systems, on runways meeting the following requirements:

(1) Landing operations below 2,400 feet runway visual range;

(2) Use by aircraft with approach speeds exceeding 140 knots or if the runway has a width greater than 170 feet; or

(3) Takeoff operations below 1,600 feet RVR.

d. Land and Hold Short Lighting. Land and hold short lighting systems are eligible when designed in accordance with Advisory Circular 150/5340-29, Installation Details for Land and Hold Short Lighting Systems, for airports conducting land and hold short operations under Order 7110.118.

e. Tilt-rotor Facilities. Lighting projects for tilt-rotor facilities should be forwarded to APP-520 unless the costs of the proposal are incidental relative to the total project cost.

f. Heliports. Heliport lighting will be eligible provided the heliport/airport is eligible and the lighting system meets FAA standards.

535. TAXIWAY AND APRON LIGHTING.

As described further in this paragraph, the eligibility of lighting for the taxiways or aprons that are eligible to be paved is dependent upon an associated eligible runway being lighted. See Paragraphs 525, 526, and 536.

a. Taxiway Edge Lighting. The taxiway edge lighting system is eligible when designed in accordance with Advisory Circular 150/5340-24, Runway and Taxiway Edge Lighting Systems. Taxiway lights at commercial service airports shall be given a high priority for programming.

b. Taxiway and Apron Sign Lighting. Lighted taxiway guidance signs are eligible. (See Paragraph 532.) Under Title 49 U.S.C., Section 47101(f), the taxiway sign system at each commercial service airport shall be given a high priority for programming. ILS critical area taxiway and apron signs are also eligible based on operational requirements.

c. Taxiway Centerline Lighting. The taxiway centerline lighting system is eligible when designed in accordance with Advisory Circular 150/5340-28, Low Visibility Taxiway Lighting Systems, and under the following conditions:

(1) The taxiway connects to a Category II/III runway or a runway used under Category II/III conditions;

(2) A taxiway guidance problem exists during poor visibility conditions;

(3) Other lighting causes confusion;

(4) New or existing taxiways that will be associated with Category I runways, if the field office determines the runway will likely have Category II or Category III minimums within 5 years; or

(5) In additional instances where a taxiway guidance problem is documented. For example, a unique taxiway layout may cause pilot disorientation.

d. Clearance or Stop Bars and Runway Guard Lights. Clearance or stop bars and runway guard lights are eligible if designed in accordance with Advisory Circular 150/5340-28, Low Visibility Taxiway Lighting Systems, and where determined as necessary to prevent runway incursions. See Paragraph 536.

e. Taxi-Lane and Apron Lighting. Apron or taxi-lane lights are eligible for eligible areas when designed in accordance with Advisory Circulars 150/5340-24 and 150/5340-28. Apron area lighting needed for airport security or to identify the perimeter of aprons, and terminal gate position lead-in lights, are ineligible unless coordinated with AAS-100 ensuring the project will not cause confusion for aircraft operations.

536. SURFACE MOVEMENT GUIDANCE AND CONTROL SYSTEM.

SMGCS establishes eligibility of airport lighting and related systems for low visibility conditions when scheduled air carriers are authorized to conduct operations.

a. SMGCS Plans. To ensure aircraft and ground vehicle traffic safety, SMGCS plans are required for airport movement areas when visibility is less than 1,200 feet runway visual range (RVR) in accordance with Advisory Circular 120/57. If the SMGCS plan has not been approved, individual components below should be programmed only when they are required for another reason in the judgment of the region. Low visibility taxiway lighting systems are described in Advisory Circular 150/5340-28.

b. Approval of Taxi Routes. If a SMGCS plan has not been approved, tentative FAA approval of taxi routes, including coordination with the Flight Standards division, is necessary for AIP stop bar projects.

c. Approval of Individual SMGCS Components. At airports implementing a SMGCS plan, approval of individual visual aid components, which are described in detail within the paragraphs above, may include:

(1) Taxiway lighting and reflectors;

(2) Stop bars or runway guard lights at access points to active runways;

(3) Clearance bars and holding position markings on the taxiways;

(4) Taxi guidance signage and marking;

(5) Instrument landing system critical area signage and marking; and

(6) Equipment to monitor the SMGCS components in the airport traffic control tower.

537. OTHER AIRFIELD LIGHTING AND MARKING.

Other airfield lighting and marking may be eligible. For instance, the eligibility of lighted signs serving ground vehicles on service roads that are eligible to be paved is dependent upon an associated eligible runway being lighted. See Paragraph 527. Certain airport navigation aid equipment may also be eligible on a temporary basis during construction projects. See Paragraph 555. Miscellaneous airfield lighting and marking includes:

a. Segmented Circles. The segmented circle airport marker system that provides basic airfield information for pilots is eligible when designed in accordance with Advisory Circular 150/5340-5.

b. Wind Indicators. Lighted wind indicators are eligible when necessary for the operation of the airfield at night and designed in accordance with Advisory Circulars 150/5340-21 on miscellaneous lighting visual aids and 150/5340-23 for the supplemental wind cone. See Paragraphs 570 and 571.

c. Airport Hazards. Marking and lighting of an obstruction or hazard is eligible when designed in accordance with Advisory Circular 70/7460-1 if located within navigable airspace for a civil airport and required under FAR Part 77 or for an approach procedure needed at the airfield. See Paragraph 582.

d. Runway Closure Marking. Portable equipment to light and mark a runway closure on a temporary basis during maintenance or construction is eligible. See Paragraph 580.

e. Emergency and Construction Lighting. Mobile lighting, such as that used for emergency or unusual circumstances in airfield areas and associated with aircraft rescue and fire-fighting vehicles, is

eligible. See Paragraphs 540 and 541. Lighting equipment may be required in construction areas for night work. The sponsor or its contractor is responsible for coordinating with the airport traffic control tower. The sponsor is also responsible for ensuring notices to airmen and a regional non-objectionable airspace determination for use of construction lighting equipment.

538. ELECTRICAL POWER.

The installation, alteration, and rehabilitation of airfield electrical work are eligible provided it conforms to FAA standards. See Paragraph 515 on participation in electric utilities and separate rules that apply to the airports designated in the Military Airport Program. The criteria below include requirements for certain landside development projects as described in Chapter 6. Power services and sources related to the airfield lighting or navigation aids owned by the airport are the airport's responsibility. The FAA may own other facilities at the same location and is responsible for providing electrical requirements related to them. Where provision of power to any facilities is incidental to a current AIP project, it may be funded if requested by the airport.

a. Redundant Electrical Power Supply Policy. The interconnection of redundant power supplies may be determined to be necessary by the region at any airport eligible for airfield and/or terminal building lighting where there is a history of cable cuts, extraordinary meteorological conditions, maintenance of remote facilities, or a record of commercial utility interruptions. Orders 6030.20 and 6950.2 describe the electrical power policy implementation at certain facilities within the NAS. See these directives for identification of the requirements for alternate prime sources of power related to specific facilities. Under the policy, a single source of power may be appropriate when the prolonged loss of electric service would impose a minor impact with no derogation of safety or significant delays to airport users. In those cases, only a single power source for the airfield or terminal building is eligible.

b. Emergency Power Sources. The installation of standby engine generators with the necessary capacity are eligible as specified in the above electric policy directives to provide redundant external supplies. Standby power requirements for eligible airport lighting systems not owned by the FAA are identified in Advisory Circular 150/5340-17.

c. Continuous Power Airports. For any Continuous Power Airport designated in Order 6030.20, power must be automatically transferred within 15 seconds after failure of the prime source from the emergency source to the airport equipment. Continuous Power Airports and designated continuous power runways are required to have airway facilities and runway/taxiway lights operating for the safe landing of aircraft in the event of an area-wide power failure. In addition to the facilities required to be covered within Order 6950.2, uninterrupted emergency or alternate power meeting the 15 second requirement is eligible for the following:

(1) Runway touchdown-zone, centerline, and edge lights on runways designated for continuous operations;

(2) Taxiway edge lights, as well as SMGCS equipment, for taxiways serving continuous power runways; and

(3) Lighting of eligible areas within the terminal building and on the apron. See Chapter 6.

d. Category II/III Operations. For runways with Category II/III operations, including those on a Continuous Power Airport, power must be transferred in not more than one second from the emergency electrical plant to the airport equipment in accordance with the above directives. In addition to the facilities required to be covered within Order 6950.2, uninterrupted emergency or alternate power meeting the one second requirement is eligible for the following:

(1) Runway touchdown-zone, centerline, and edge lights on runways designated for Category II/III operations;

(2) Land and hold short lighting related to Category II/III runways;

(3) Taxiway edge lighting for taxiways serving Category II/III runways;

(4) SMGCS equipment; and

(5) Lighting of eligible areas within the terminal building and on the apron.

e. Electrical Power Support. Items such as electrical panels and transformer vaults necessary to support operation of eligible lighting are eligible. This includes equipment necessary for the operation of radio activated lighting systems. Contact AAS-100 for assistance with electrical power support equipment.

f. Deviation from Power Requirements. The revised standard power configurations in Order 6950.2 were effective with updating of the directive on 10/1/98. The new standard may differ from existing systems, and there is no requirement to change configurations that are already in operation. Standard configurations will be required for the proposed facilities covered in this paragraph unless waived by APP-500/AOS-100.

539. RESERVED.

Section 5. SAFETY, SECURITY, AND RELATED PROJECTS

540. FEDERAL AVIATION REGULATION PART 139 AND TITLE 49 CFR, PART 1542.

This section provides guidance on the eligibility of safety and security capital improvements that have been determined as necessary to support the operation of airports. Typical items include security equipment required by Title 49 CFR, Part 1542, safety equipment required by FAR Part 139, buildings to house the equipment, and other related projects. Under Title 49 U.S.C., Section 47102(3)(B)(ii), expanded safety and security equipment may be eligible. Airports not regulated under Part 139 or Title 49 CFR, Part 1542 may be eligible under the limited conditions described within Title 49 U.S.C., Section 47102(B)(ii) for safety, security and other related equipment. The continuing provisions of the Aviation and Transportation Security Act, and the required project coordination with the Transportation Security Administration (TSA), are described in Paragraphs 542 and 547. Table 6 outlines current types of federally funded safety, security, and related equipment, the principal standard requirements for that equipment, as well as identification (routing) of the office of primary interest.

541. SAFETY EQUIPMENT.

Acquisition of safety equipment to meet the requirements within FAR Part 139 is eligible. Items customarily involved with the procurement specifications, such as that to test vehicles and assure initial operational readiness, are eligible when purchased as components of the equipment. However, equipment in excess of that necessary to achieve the protection and level of safety required by Part 139 is not eligible except as provided in this paragraph. (See Paragraph 547 about the safety facilities.)

a. Aircraft Rescue and Fire Fighting (ARFF) Vehicles. Part 139 sets forth minimum extinguishing agents and water required for ARFF vehicles. However, airports may acquire ARFF vehicles as well as extinguishing agent and water supply systems that meet levels specified in Advisory Circulars 150/5210-6 and 150/5220-4 and it will be fully funded under the AIP (even if levels are higher than in the regulation). The number of eligible vehicles is based on the airport index in accordance with the criteria specified in Part 139 for conditions forecast within five years. This is an exception to the policy as stated in Paragraph 500.

(1) Acquisition of ARFF vehicles and water supply systems required for airport certification under Part 139 is eligible.

(2) ARFF vehicles are ineligible at locations with no airport operating certificate under Part 139 except as provided within Paragraph 546.

b. Other Rescue or Fire Fighting Vehicles. Mobile command vehicles are only eligible if an element of an approved Part 139 emergency plan. Water rescue equipment, such as boats, air cushion vehicles, and helicopters, is eligible to meet the requirements of Part 139 in accordance with Advisory Circular 150/5210-13. Structural fire fighting vehicles are eligible for buildings at airports with a Part 139 airport operating certificate if the response time for off airport units is expected to exceed 10 minutes. Contact AAS-300 for assistance with this equipment.

c. Driver's Enhanced Vision Systems. The driver's enhanced vision system (DEVS) in ARFF vehicles is eligible for airports with a Part 139 certificate that have operations below 1200 feet runway visual range. However, eligibility is limited at this time to two vehicles per qualifying airport for the full DEVS in accordance with Advisory Circular 150/5210-19, except as provided in Paragraph 541d. This will provide DEVS equipment within ARFF/command vehicles plus one additional vehicle. In addition, one more vehicle is eligible for each fire station beyond the first. For instance, this means an airport with two fire stations is eligible for three DEVS. The ineligible items include non-ARFF command and various operations vehicles, extended warranties, or other components (including displays- that can possibly be requested by the airport traffic control tower as described within material on DEVS).

d. Forward-Looking Infrared Systems. The forward-looking infrared system (FLIRS) is a component of DEVS. A stand-alone FLIRS is eligible for AIP eligible ARFF vehicles in accordance with Advisory Circular 150/5210-19.

e. Forcible Entry Tools. One set of forcible aircraft entry tools used on ARFF vehicles is eligible for each eligible vehicle. For assistance on this equipment, contact AAS-300.

f. Protective Clothing. The purchase of airport fire/rescue personnel protective clothing and apparatus in accordance with Advisory Circular 150/5210-14 is an eligible item based on the following criteria:

(1) One suit for each fire fighter employed full-time to fight aircraft fires; and

(2) One suit for each position less than full-time subject to the limitation that the total number of suits does not exceed two for lightweight vehicles and five in large type vehicles. These limitations may be exceeded if field personnel believe it to be justified.

The replacement of protective clothing is eligible as described within Paragraph 591c if required as a result of a Part 139 compliance inspection.

g. Power Sweepers. Power sweepers for the control of debris on airports are eligible. Eligibility is limited to one vehicle unless the area requiring maintenance is greater than 500,000 square yards or the annual airport traffic exceeds 40,000 aircraft operations. See Paragraph 543 on similar equipment for snow removal. (Contact AAS-100 for assistance with standards.)

h. Expanded Safety Equipment Eligibility. Other equipment may be eligible. For instance, ARFF vehicles may be equipped with specialized equipment. The basic criteria for eligibility of equipment will be that it is needed to meet a safety requirement at a particular airport. The sponsor's justification or reasoning to acquire the equipment with documentation of the features and costs, as well as the field office recommendation, should be sent to APP-520. Decisions on funding of safety equipment contributing significantly to the safety of persons and property at an airport will be referred on a case-by-case basis to AAS-300.

i. Ineligible Items. Aircraft removal equipment is ineligible. Expendable items, e.g. extinguishing agents (except for one test charge and one refill), are ineligible. Training of rescue and fire fighting personnel is not eligible except as provided in Paragraph 546.

Table 6 AIP-Funded Safety, Security, and Related Equipment

EQUIPMENT	PRINCIPAL STANDARD	OPI ROUTING
Aircraft Rescue and Fire Fighting (ARFF) Vehicle	14 CFR 139, AC 150/5220-4	AAS-300
Water Rescue Equipment	14 CFR 139, AC 150/5210-13	AAS-300
Structural Fire Fighting Vehicle	Contact OPI	AAS-300
Driver's Enhanced Vision System (DEVS)	AC 150/5210-19	AAS-300
Forward Looking Infrared System (FLIRS)	AC 150/5210-19	AAS-300
Protective Clothing	AC 150/5210-14	AAS-100
Forcible Entry Tool	Contact OPI	AAS-300
Emergency Lighting	Contact OPI	AAS-300
Training System	AC 150/5210-18	AAS-100
Security System	Title 49 CFR, Part 1542, Contact OPI	TSA
Power Sweeper	Contact OPI	AAS-100
Snow and Ice Control Vehicle	AC 150/5220-20, AC 150/5200-30	AAS-100
Runway Surface Condition Sensor	AC 150/5220-13	AAS-100
Aircraft Ground Deicing System	AC 150/5300-14	AAS-100
Aircraft Ground Anti-icing System	Contact OPI	AAS-100
Friction Measuring Device	AC 150/5200-30, AC 150/5320-12	AAS-100

542. SECURITY PROJECTS.

Security equipment projects should be examined closely to ensure sufficient Federal resources are available to meet basic security needs at all airports. This includes reliance on master plans to develop alternatives, phasing opportunities, and cost effectiveness of various options for accomplishing the required level of security. The acquisition of equipment under the AIP for requirements within Title 49 CFR, Part 1542, in the air operations area or other sterile areas, is eligible subject to the conditions below. (See Paragraph 547 about the security facilities and Chapter 6 regarding security equipment in terminal building areas.)

a. Title 49 CFR, Part 1542 Security Requirements. The proposed security project or specific piece of security equipment must be identified in the TSA approved airport security program as being a component or integral part of the overall security system for the airport. TSA approved security programs may include equipment and facilities not required under Title 49 CFR, Part 1542 standards.

Therefore, the TSA, or its designee, must assist in identifying a project as containing only equipment/facilities to meet requirements in Title 49 CFR, Part 1542, and a written determination shall be included within the project file. Equipment specifically identified within the airport security program approved by the TSA is eligible. A determination may also be made that equipment is a supporting element of the airport security program. The approved airport security program, for example, may indicate in only simple terms that an airport perimeter will be secured at a property line. In such a case, specific projects for perimeter fence, associated closed circuit television at key points, and similar elements may be considered.

(1) Approved Security Program. The projects justified as an access control requirement at a Title 49 CFR, Part 1542 airport (category X and I-IV) and contained in the approved security program, Federal security directive, or emergency amendments to rules, are eligible. While work may have been previously reviewed for the security program, these projects need concurrence from the TSA at the time of project formulation. Examples include door controls, lighting of fencing/gates, one-time replacement of key locks and cores, vehicle checkpoints, or explosive detection devices. An explosives transport vehicle or disposal equipment is eligible. With appropriate analysis, barriers to deflect bomb blasts and protective window film would also be eligible.

(2) Projects Requiring Additional Justification. A project not required in an approved program by the regulation where an airport believes it will significantly enhance security needs additional, convincing justification, e.g. perimeter fence higher than 7 feet (plus three strands of barbed wire on top of the fence). Justification for fuel farm security might be if it is near where ignition or explosion may create imminent danger to passengers, baggage, or aircraft. Completion of project coordination will provide the justification in some cases, e.g. when design of equipment requires an initial determination about how the TSA expects to operate at the airport.

(3) Projects Exceeding Requirements. The portion of a project exceeding Title 49 CFR, Part 1542 requirements may be unrelated to movement or protection of passengers, baggage, and aircraft. Projects that support a local law enforcement function, such as patrolling for purposes of protection against theft and vandalism or detection of traffic/parking violations, must not be confused with the need for air transportation security and are ineligible. A determination of the number of police vehicles required under Title 49 CFR, Part 1542 for patrols to secure the airport perimeter would identify eligible vehicles. A redundancy such as computerized access control combined with guard booths also requires scrutiny. Prorating this equipment based on discussions between an airport and TSA can define eligible work on national airport system security requirements (as well as Federal crimes) in contrast to ineligible projects for enforcing State, local, or airport laws/regulations.

b. Expanded Security Equipment Eligibility. Other security equipment may be eligible. For instance, there have been changes over time in the explosive detection devices and universal access systems that are proposed by sponsors for airport use only. The basic criteria for eligibility of equipment will be that it is needed to meet a security requirement at a particular airport. The sponsor's justification or reasoning to acquire the equipment with documentation of the features and costs, as well as the field office recommendation, may be sent to APP-520. Decisions on funding of security equipment contributing significantly to the security of individuals and property at an airport will be referred on a case-by-case basis to the Washington headquarters of TSA.

c. Biological Explosives Detection Systems (BEDS). AIP funds may also be used on a limited basis to support the explosive detection canine teams for airport participants in Explosive Detection Canine Team Program of the TSA. Requests must be reviewed within regions of that agency. These projects will be forwarded to their Washington headquarters for approval. Procurement and training of BEDS is eligible to the extent it was not otherwise funded by the Federal Government and to the extent that applicable certification requirements and Federal standards are met. The storage of retrieved explosives and security systems or vehicles to support canine operations are also eligible.
See Title 49 CFR, Part 1542.

d. Fingerprinting Equipment. Electronic equipment to submit fingerprints for criminal history checks on airport employees that have unescorted access to the Security Identification Display Area is a Federal requirement. The type of equipment and quantity to permit processing of 3 employees per hour is eligible provided the airport has that turnover rate. Equipment certified by the Federal Bureau of Investigation is listed at http://www.fbi.gov/hq/cjisd/iafis/cert.htm.

e. Airports Not Covered by Title 49 CFR, Part 1542. Early coordination of requests with TSA may be required where questions arise on whether the airfield is covered under Title 49 CFR, Part 1542. A security project at airports not covered by Title 49 CFR, Part 1542 is normally ineligible unless it would be incidental to other approved work.

f. Ineligible Items. Except as provided in this paragraph, any security equipment beyond that required by Title 49 CFR, Part 1542 is ineligible. Airfield operations and maintenance costs, or expendable items, are ineligible. Training for security personnel is not eligible except as specified in Paragraph 546.

g. Public Release of Security Planning. Before public involvement in a request or study on airport security, regions should coordinate with a TSA official to identify planning and material that must be protected under Title 49 CFR, Part 1520, which governs the release of such information.

543. SNOW AND ICE CONTROL EQUIPMENT.

Equipment required for clearing snow and ice from the runways, principal taxiways, aprons, and airport roads is eligible in accordance with Advisory Circular 150/5200-30. Eligibility is limited to the minimum requirements recommended by the FAA advisory circulars unless the volume of traffic requires additional equipment. (See Paragraph 547 about the snow and ice control facilities.)

a. General. The region may decide on a case-by-case basis the validity of the justification to fund equipment for snow and ice control on paved areas. Assistance can be obtained from AAS-100.

b. Runway Surface Condition Sensors. Runway surface condition sensors, which transmit airfield conditions used to determine the timing of chemical application for treatment, are eligible. Local conditions determine the need for this equipment and the number of sensors required. Normally, three or four sensors should be sufficient for a runway in accordance with specifications and guidance within Advisory Circular 150/5220-13 on surface condition sensor projects.

c. Ineligible Items. Expendable items such as sand, chemicals, fluids, and other types of deicing materials are ineligible.

544. AIRCRAFT GROUND DEICING AND ANTI-ICING EQUIPMENT.

Vehicles, gantries, or other equipment for aircraft deicing and anti-icing on the ground are eligible at any NPIAS airport. The equipment must be owned by the airport and be available on a non-exclusive use basis for any aircraft owner. Under Title 49 U.S.C., Section 47102(3)(B)(v), the aircraft deicing fluids and storage facilities for the equipment or fluids are ineligible. See Paragraphs 526, 547, 586, and 631. Contact AAS-100 for assistance on aircraft deicing equipment.

545. FRICTION MEASURING DEVICES.

Friction measuring devices are eligible when designed to meet the specifications in Advisory Circulars 150/5200-30 and 150/5320-12 on measurement, construction, and maintenance of skid resistant airport pavement surfaces.

a. Eligible Sponsors. Commercial service airports and those holding a Part 139 Airport Operating Certificate with scheduled turbojet operations are eligible to acquire a friction measurement device in accordance with the advisory circulars mentioned above. Regions should coordinate with neighboring

airports about purchasing the device for more than one airport since this equipment can effectively be used at several locations. State aviation agencies may be encouraged to sponsor such projects.

b. Type of Device. A self-contained friction measuring device, a towed device, or such equipment along with an adequate tow vehicle are eligible. This may include space in a building to house and protect a grant-funded friction-measuring device if that is incidental to an approved AIP project. If a towed device is funded alone, the sponsor must provide assurance that it has or will have available a tow vehicle that meets the specifications of the towed device manufacturer.

c. Special Condition. The special condition for friction measuring devices in Appendix 7 will be included in the grant agreement.

546. TRAINING SYSTEMS.

While training is normally an ineligible administrative cost, the capital projects for safety, security, and certain related training systems below are eligible. See Paragraph 310.

a. Interactive Training Systems. The acquisition of equipment as well as software for interactive training of airport personnel in accordance with Advisory Circular 150/5210-18 is eligible if they are to be used for federally mandated safety and security requirements. Interactive training systems related to the Americans with Disabilities Act and the Clean Air Act are also eligible. Personnel costs or rental of systems is ineligible.

b. Mobile ARFF Training Equipment. Mobile training equipment meeting Part 139 requirements is eligible for acquisition by airports required by the rule to comply with Index A and B ARFF standards if the airport is more than 100 miles from the nearest area-wide training facility. Mobile training equipment is also eligible for acquisition by States if it will benefit more than one airport. Contact AAS-100 regarding this equipment.

c. Area-Wide ARFF Training Facilities. An area-wide ARFF training facility is eligible when designed in accordance with standards for either flammable liquid hydrocarbon or propane fuel as described in Advisory Circular 150/5220-17. Projects may include land, the burn area, maneuvering areas, a control center, a dual-agent ARFF vehicle with capacity not to exceed 1500 gallons for foam production, the vehicle bay(s), utilities, maintenance facilities, environmental protection, fencing, the access road, as well as a building for classrooms, showers, and lockers. One additional ARFF vehicle may be eligible if justified in the view of the region based on the mix of area airport indices. Proposals for such an area-wide training facility should be coordinated with near by facilities to ensure inappropriate duplication is avoided. Not all states need such a facility, but if the region determines several area-wide training facilities in a State are required due to the area served, contact APP-500 for additional assistance.

547. SAFETY, SECURITY, AND RELATED FACILITIES.

The construction of safety and security facilities is eligible if required to house or maintain eligible equipment. Certain related facilities are eligible subject to the conditions within this paragraph. (See Paragraphs 541-545 on safety and security equipment.)

a. General. Buildings should be designed on a functional, safe, and efficient basis but in a manner that is consistent with the policy on design and architecture stated in Paragraph 304. Only provisions for basic utilities, such as heat, water, and electricity necessary for maintaining the equipment in an operational state of readiness or carrying out the activities related to the safety of persons/property on the airport is eligible. (See Paragraph 607 for energy assessments.) If a proposed building will include space in excess of that eligible for Federal participation, the cost of the building should be prorated in accordance with Paragraph 613.

b. ARFF Equipment Buildings. At airports without a Part 139 certificate, a minimal structure to house and protect the grant funded ARFF vehicle is eligible. At airports with a Part 139 certificate, the following criteria apply:

(1) The number of bays eligible shall be limited to that necessary for housing ARFF equipment required by regulation or forecast to be needed within 5 years. Space for a structural fire truck is eligible when such a truck is assigned to the unit to provide backup support for ARFF trucks and protection of airport buildings.

(2) The type of fire fighting requirements at the specific airport should determine eligible administrative space and personnel facilities.

(3) Bays for fire trucks that are stationed on the airport, but primarily provide protection to buildings outside the airport boundaries, are ineligible.

c. Snow and Ice Control Equipment Buildings. Funding snow and ice control buildings is limited to facilities necessary for eligible equipment in Paragraph 543 as well as storing abrasive or chemicals used in treatment of paved areas. At the time the building is programmed, the eligible equipment must be owned, on order, or budgeted by the airport. Regions should ensure that the snow and ice control abrasive or chemicals are to be used for airport pavement rather than aircraft in accordance with Paragraph 547d.

d. Aircraft Ground Deicing and Anti-icing Facilities. At commercial service airports, construction or reconstruction of aircraft deicing, anti-icing, and ice inspection facilities on the ground, including pavement, drainage, fluid collection, and environmental mitigation to reduce storm water discharge contamination, is eligible when designed in accordance with Advisory Circular 150/5300-14. See Paragraphs 526, 586, and 631. Eligible facilities include infrared ground deicing systems that obtain approval of the Flight Standards District Office.

(1) Structures on Obligated Paved Areas. An airport may construct a locally funded deicing or anti-icing structure on a Federal agreement taxi-lane or apron provided it is on an approved ALP, subject to a reasonable fee schedule, and not operated on an exclusive use or near-exclusive use basis.

(2) Ineligible Deicing Facilities. Under Title 49 U.S.C., Section 47102(3)(G), the storage areas or facilities for aircraft deicing equipment and fluids are ineligible. For example, a garage for the deicing or vacuum trucks is ineligible. See Paragraph 547c on eligibility of storing abrasive or chemical material for snow and ice control of airport-paved areas, which has separate justification.

e. Maintenance Facilities. Maintenance or service facilities for maintaining required safety and security equipment at airports with a Part 139 certificate may be funded up to a maximum of 1500 square feet in an existing, new, or free standing building.

(1) The eligible area will be determined by adding 10 feet to the length and 10 feet to the width of the largest ARFF vehicle serving the airport, then multiplying these two dimensions for the bay size and adding a like amount for support space. (FAA Chief Counsel (AGC) opinion dated 3/22/83 on eligibility of security and safety equipment facilities.)

(2) If the proposed building is part of a snow equipment storage facility, ARFF facility, or other eligible structure, the square footage of the service bay and support facility is in addition to that eligible under Paragraphs 547b and c. For instance, new snow removal equipment maintenance areas are an eligible addition to a proposed ARFF building.

f. Fencing. Contiguous perimeter fences encompassing the airfield facilities and terminal building areas are eligible. Fences must be of an appropriate type for the situation. For instance, fencing to discourage the access of wildlife, such as deer, to the airfield or terminal building are eligible, although

the specific location, extent, type, and height must be designed for the purpose intended based on requirements for restraining the targeted animals.

(1) Safety and Security Fence. Fencing of operational and/or secure areas as required to meet the requirements of FAR Part 139 and Title 49 CFR, Part 1542 is eligible. Fence requirements will be determined by the FAA airport certification safety inspector. The TSA office in the region, or its designee, should also be requested to approve fencing as required by the approved airport security program. Fencing at other airports must be identified on the approved airport layout plan to be eligible.

(2) Gates and Locking Devices. Under many circumstances, only the installation of standard gate and mechanical locking devices is eligible. Where secured gates require the use of an electric locking device or an automatic gate, these systems will be eligible, subject to FAA approval of the system to be used. If the facility is for security purposes, it requires TSA approval.

(3) Non-Airfield Fencing. Fencing of the AIP approved projects for off-airport navigation aids, road relocation, utilities, and wastewater treatment plants is eligible. In addition, fencing of area-wide ARFF training facilities is eligible. Fencing other areas outside the airfield or terminal building area should be carefully reviewed by the region. For example, fences in any area separate from the airfield or terminal building for purposes related to an environmental mitigation project would normally be ineligible unless specified as eligible within the environmental finding. Likewise, fencing to benefit non-aeronautical use areas of the airport that is not primarily for protection of the airfield or terminal building is ineligible without exceptional justification established by the region. The fencing of property not owned or leased by the sponsor, such as Federal navigation aid projects, is ineligible.

g. Security Facilities. Airfield facilities work should be subject to the same scrutiny and requirements as security equipment prior to approving projects as described in Paragraphs 542 and 547f.

(1) Law Enforcement Facilities. The airfield facilities to provide for a law enforcement presence are eligible if required for air transportation security.

(2) Command and Control Centers. Command and control centers are not specifically required under Title 49 CFR, Part 1542. Costs of eligible areas required for air transportation security in such centers must be prorated to separate out ineligible work on various other police facilities to support general law enforcement duties.

(3) BEDS Facilities. Kennels and other canine facilities for biological explosives detection teams are eligible to the extent they were not otherwise funded by the Federal Government.

(4) Security Coordination. The proposed airfield security facilities must be coordinated with TSA during project formulation to establish eligible and ineligible work.

(5) Other Facilities. See Paragraph 602 about the security facilities within eligible passenger terminal building areas. The security facilities for air cargo building areas are subject to the same limitations as airfield and passenger terminal building projects. Requests on airfield security facilities involving military, general aviation, non-aeronautical, or other areas must be for eligible projects described in this paragraph unless the work is incidental to an approved project. Airfield security facilities located off the airport are ineligible. Security facilities in areas not owned or leased by the sponsor are ineligible.

548. - 549. RESERVED.

Section 6. AIRPORT AND TERMINAL AREA NAVIGATION AID FACILITIES

550. GENERAL.

Installation of a NAVAID, or any navigation aid used in the terminal area, will be accomplished primarily through the F&E program, but, under some circumstances, may also be funded under the AIP.

a. Terminal Areas. In this context, a terminal area is the specific vicinity of an airport designated by the FAA for air traffic control (ATC), such as the Pittsburgh Terminal Area.

b. Benefit-Cost Analysis. Order 7031.2, Airway Planning Standard Number One Terminal Air Navigation Facilities and ATC Services, is used in the F&E program. The benefit-cost analysis (BCA) in that directive applies to the AIP projects for navigation aids even if they are to be maintained by the airport and have been considered necessary to meet standards. The required BCA may be that obtained from the Flight Procedures Office, the regional Airway Facilities division, or APO-200 for the F&E program. Navigation aid exceptions to the BCA requirements are the airport rotating beacon and non-directional beacons. In some cases, the calculation of the BCA for a NAVAID project may involve special circumstances that are not addressed under Order 7031.2, and it must submitted to APP-520 for coordination. For instance, this added coordination is needed if there may be difficult-to-quantify benefits or when omitting the maintenance costs and making similar life-cycle cost exclusions would be appropriate in the BCA recommended to support a project (e.g. when the airport will maintain equipment as discussed in Paragraph 508).

551. FAR PART 171.

Part 171 contains regulations for the use of certain non-Federal navigation facilities in the NAS. NAVAIDs must meet FAA performance specifications within Part 171 to be commissioned as part of the NAS. NAVAIDs will also be maintained and operated in accordance with the FAA standards within Part 171.

a. Part 171 Standards and Specifications. For eligible NAVAID models or types that are currently approved under Part 171, contact APP-520. For new models or types of navigation aids, the airport must exercise special care to ensure equipment can receive Part 171 approval before advertising for it. The approval process is complex, and no equipment is eligible unless it can be approved under Part 171.

b. Other Standards. AIP standards for navigation aids that are not contained in Part 171 will normally be included within a memorandum or advisory circular. In the absence of such standards or specifications, competitive procurement for projects under the AIP will use advertisements that refer to FAA performance approval letters provided for equipment manufacturers. The requirement will be for a vendor to have the FAA performance approval letter by the date of bid opening.

552. SIMPLIFICATION OF NON-FEDERAL NAVIGATION AID PROJECTS.

When both the AIP and F&E (or FAA Airway Facilities division) programs are involved, simplification of navigation aid project requirements is needed so that the programs are clearly presented to airports. A joint Airports and Airway Facilities division position about each such airport project should be identified by dialog within the region and, where necessary, with Washington headquarters. If airports propose improvements having complex limitations as described in this section, options should be reviewed, including common sense solutions to achieve desired results. Airports may be able to negotiate a maintenance agreement with Airway Facilities division (for instance, in lieu of taking over a facility) when takeover is prohibited. Individual agreements involving trade-offs that are equitable and beneficial for both parties might be negotiated for a variety of FAA airport facilities.

AIP navigation aids are federally funded projects. However, requirements on the establishment, operation, and FAA ownership of facilities are described in Order 6700.20, Non-Federal Navigational Aids and Air Traffic Control Facilities. AIP-funded projects are considered non-Federal facilities in that directive since they are not procured under the F&E program and may operate without FAA support.

a. Frequency Reservation. The sponsor is responsible for obtaining from the regional office the reservation of available radio frequency spectrum for any electronic navigation aid requiring such and a non-objectionable airspace determination.

b. FAA Takeover. Under Title 49 U.S.C., Section 44502(e), airports have the option of having the FAA take over maintenance for an instrument landing system (ILS) acquired with AIP funding and associated approach lighting as well as runway visual range (RVR) equipment that conforms to F&E performance specifications. Non-Federal proponents must contact the regional Airports/Airway Facilities office prior to procurement of these facilities to ensure a mutual agreement of the conditions under which a timely transfer of ownership would occur. Runway end identifier lights and visual glide-slope indicators are individually unqualified for takeover under Title 49 U.S.C., Section 44502(e). In addition, if a localizer (and other single or set of components) had been installed under the F&E program, completion of an ILS in an AIP project is unqualified for FAA takeover and the airport would be required to maintain the new equipment. The statute allows transfer of a grant funded ILS (and associated approach lighting and RVR equipment), not the individual components that are less than a complete system. See Paragraphs 553-557.

(1) Life-cycle costs are a major feature of the F&E program funding decisions and a key component of the FAA's reformed acquisition management system. When an AIP equipment project involves takeover by the FAA, life-cycle costs need to be considered even though the FAA does not normally include airport maintenance in grants. For instance, remote maintenance monitoring (RMM) enhancements should be considered in the takeover projects. The region may require RMM based on a determination of the Airway Facilities division that it is needed to permit the FAA to accomplish the takeover of equipment without delay. RMM includes the original equipment procurement and installation capital costs. Equipment operational cost, e.g. staffing, training, and on-going supply support, is ineligible unless specifically approved in another provision of this order. See Paragraphs 508 and 911.

(2) If requested by the airport, the FAA will assume ownership and maintenance responsibility for an ILS procured under the AIP, provided it meets the requirements of this paragraph. Airport sponsors do not have the same statutory option with an ILS procured solely using Passenger Facility Charge program funds (for the FAA to take over the project operation and maintenance), although the Airway Facilities division may agree independently to that arrangement based on policy currently in effect.

(3) An alternative to FAA assuming ownership in the case of some AIP projects may be a reimbursable maintenance agreement for the equipment. In this arrangement, the airport may agree to reimburse the FAA for costs of maintaining the equipment. Such a reimbursable maintenance agreement is not eligible. (See Paragraph 553.)

(4) Written consent of the airport to waive the ILS (and associated approach lighting as well as RVR equipment) takeover is needed from airports determining not to exercise this option for such facilities. The written consent should document that the airport understands its maintenance obligations. In these cases, the airport must ensure maintenance of the equipment with alternative funding.

(5) Pending eligibility of the systems, the FAA will consider the future takeover and maintenance of a local area augmentation system (LAAS) and associated equipment as an incentive for airports that plan to implement augmented global positioning system (GPS) projects rather than an ILS.

(6) Each project for an ILS and/or associated equipment that includes FAA takeover will be coordinated with APP-520 before approval. Information needed includes the airport name, associated

city, description of the designated instrument runway, equipment specifications, estimated cost, benefit-cost ratio, and related justification. Regions should also contact APP-520 before allowing the transfer of other than ILS and related facilities.

553. SUPPORTING AGREEMENTS TO IMPLEMENT NAVAID PROJECTS.

Reimbursable agreements and/or supporting contract arrangements between the FAA and airport are allowed under the AIP as well as F&E programs for NAVAID projects. In the context of reimbursable agreements, the FAA may provide work to the airport within a portion of a project and be paid or reimbursed for it under Title 49 U.S.C., Section 106(l), or vice versa in accordance with Title 49 U.S.C., Section 44502(a). Either the projects should be accomplished by the F&E program or AIP as described below rather than through joint funding. For instance, if the F&E program has warehoused inventory, a sponsor could use its airport revenue to install the equipment, but AIP projects for the installation work are ineligible as that would be illegal augmentation of a Federal budget. The mixing of these AIP and F&E funding sources is not allowed except as specifically provided within this paragraph. (See Tables 5, 6, and 10, as well as Chapter 9.) Contact APP-520 for use of reimbursable agreements or other contractual arrangements proposed for NAVAID projects, such as the following acceptable practices and limitations:

a. Airports may take advantage of cost savings by purchasing an ILS, runway visual range, or airport approach lighting equipment under existing F&E contract mechanisms. While the FAA is moving to commercial navigation aid performance standards rather than establishing separate specifications, there may be some costs savings even with this new procurement method. The FAA Airway Facilities division does not necessarily need to be a party to the AIP procurements using F&E contract vehicles. However, several arrangements are possible, including those involving an FAA-sponsor purchase agreement. This has been the subject of a limited demonstration.

b. Site preparation for related airport requirements that are similar to navigation aid projects, such as runway safety area grading, may be the subject of reimbursable agreements. When the F&E program funds a NAVAID, see the limitations on use of AIP funding described in Paragraph 514. However, airport revenue may be used to reimburse the FAA for more extensive work.

c. Equipment installation and inspection of AIP projects may be in reimbursable agreements to ensure the airport will meet FAA standards. Sponsors may use a portion of the grant to retain FAA services where there is no F&E project, especially as a means of ensuring takeover of equipment without delay. See Paragraph 311k for nonallowable costs.

d. Upgrading and rehabilitation of FAA equipment would not normally require reimbursable agreements since that would be accomplished under an F&E project. However, improvement of sponsor-owned equipment or in-kind relocation of FAA projects may use reimbursable agreements provided other requirements have been met to ensure the new facility meets standards.

e. Airport operation and maintenance costs in a reimbursable agreement not funded by the AIP may be an alternative to FAA assuming ownership of equipment under Section 44502(e) of Title 49 U.S.C.. See Paragraph 551.

554. AIRPORT APPROACH AND LANDING SYSTEMS.

Airport approach and landing systems in the National Airspace System provide aircraft guidance during the most critical phase of flight. The FAA, in most cases, designates instrument runways during airport planning as described in Paragraph 521.

a. Designation of Instrument Runways. Eligibility of airport approach and landing systems is dependent upon the region's designation of instrument runways. The designation will consider safety requirements, relevant meteorological history, NAS-wide capacity, delays at individual airports, aviation activity forecasts, changes in the airfield and operational environment (including relocation of existing

systems), as well as overall airport capital improvement costs regardless of the funding source. Only airport rotating beacons, runway end identification light systems, and visual glide-slope indicator systems do not require a designated instrument runway.

b. Non-Precision Instrument Approaches. For the commercial service airports, a high priority shall be given to programming at least one non-precision instrument approach for each secondary runway to the extent justified. (See Paragraph 505.) Use of the term "non-precision" with only horizontal guidance is no longer retained in some directives for approval of instrument procedures. However, the aviation community continues to use those concepts, which are characterized by higher weather minima.

c. Precision Approach System. For commercial service airports, a high priority shall be given to programming at least one precision approach system, vertical visual guidance system, and full approach lighting system for each primary runway to the extent justified. (See Paragraph 505.) Contact APP-520 if, after the benefit-cost study and alternatives analysis, the airport capital improvement costs exceed benefits at any such location.

d. Runway Visual Range. See Paragraphs 570 and 574.

e. GPS Procedures. As a part of airport planning pending implementation of the systems, the FAA may facilitate early implementation of GPS procedures using the wide area augmentation system (WAAS) where an ILS cannot be approved. Airports identified in Appendix 24 will be the initial candidates for approach procedures and the related AIP projects based on WAAS.

555. AIRPORT NAVIGATION AID EQUIPMENT.

Table 7 outlines limitations on current types of federally funded airport navigation equipment and eligibility under the F&E since that is the basic vehicle for such projects. Table 7 also outlines principal standards (specifications, type acceptance, site requirements, and operational performance), routing of the office of primary interest (OPI), need for a BCA, use of remote maintenance monitoring (RMM), and FAA takeover potential. See Paragraphs 550b and 552b.

a. Airport Rotating Beacon. The airport rotating beacon equipment is eligible in accordance with Advisory Circular 150/5340-21 on miscellaneous lighting aids when necessary for visual approaches to the airfield at night. In this order, "visual" approach means approaches conducted by visual reference to an airport whether with or without an Instrument Approach Procedure (IAP).

b. Other Airport Navigation Aid. Other airport NAVAID equipment should be part of a coordinated plan based on visual aids for land and hold short operations, requirements of published approach procedures, temporary use during construction projects, or other operational features as described in the following paragraph. If temporary visual navigation aids, such as runway end identifier lights or the precision approach path indicator are proposed, the benefit-cost analysis must be completed using the salvage value reduction in project costs as described in Paragraph 550b.

Table 7 Limitations on AIP-Funded Airport Navigation Aid Equipment

EQUIPMENT	F&E	PRINCIPAL STANDARD	OPI ROUTING	BCA	RMM	TAKEOVER
Airport Rotating Beacon	No	AC 150/5340-21	AAS-100	No	No	No
Precision Approach Path Indicator (PAPI)	Yes	Title 49 U.S.C., §47101f, AC 150/5345-28, AC 150/5345-52	AAS-100	Yes	No	No
Visual Glide-Slope Indicator	No	AC 150/5345-52	AAS-100	Yes	No	No
Runway End Identifier Lighting System (REILS)	Yes	Title 49 U.S.C., §47101f, AC 150/5340-14	AAS-100	Yes	No	No
Omni-Directional Approach Lighting System (ODALS)	Yes	Title 49 U.S.C., §47101f, AC 150/5340-14	AAS-100	Yes	No	No
Medium-Intensity Approach Lighting System (MALS)	Yes	Title 49 U.S.C., §47101f, AC 150/5340-14	AAS-100, AND-740	Yes	No	No
Medium-Intensity Approach Lighting System with Runway Alignment Indicator Lights (MALSR)	Yes	Title 49 U.S.C., §47101f, Contact OPI	AAS-100, AND-740	Yes	Yes	Yes (if associated with an ILS)
Approach Lighting System with Sequenced Flashing Lights (ALSF)	Yes	Title 49 U.S.C., §47101f, Contact OPI	AND-740	Yes	Yes	Yes (if associated with an ILS)

556. AIRPORT APPROACH LIGHTING SYSTEMS.

Visual navigation aids for a runway are eligible depending upon the type of approach procedure. If a combined NAVAID and pavement project exceeds $5 million, benefit-cost analysis will include consideration of the runway plus visual navigation aid. For purposes of FAA takeover provisions under Title 49 U.S.C., Section 44502(e), approach lighting is not an instrument landing system (ILS), but associated equipment. Therefore, a stand-alone approach lighting system is not necessarily taken over. Airports cannot transfer ownership of these projects to the FAA unless it will be associated with an ILS funded under the AIP. Contact the Airway Facilities division for further guidance or about variations, such as the simplified short approach lighting facility or the medium-intensity approach lighting system (MALS) with sequence flashers.

a. Approach Lighting System with Sequenced Flashing Lights (ALSF). The approach lighting system with sequenced flashing lights is eligible on runways that have or are planned within five years for a precision approach procedure. RMM equipment is eligible and may be required if the project is to be taken over by the FAA. Each project that must meet performance specifications and/or RMM requirements for FAA takeover will be coordinated with APP-520 before approval. (Contact the region Airway Facilities division for design and performance standards.)

b. Medium-Intensity Approach Light System and Runway Alignment Indicator Lights (MALSR). MALSR is eligible based on all of the same requirements as described in Paragraph 556a. If required to reduce minimums, MALSR is also eligible on runways that have or are planned within five years for an instrument approach procedure.

c. Omni-Directional Approach Lighting System (ODALS). If required to reduce minimums, ODALS designed in accordance with Advisory Circular 150/5340-14 about economy approach lighting aids is eligible on runways that have or are planned for an instrument approach procedure (IAP). MALS without the runway alignment indicator lights is eligible based on the same requirements as ODALS. The airport cannot transfer ownership of these systems to the FAA.

d. Runway End Identification Light System (REILS). The stand-alone runway end identification light system designed in accordance with Advisory Circular 150/5340-14 is eligible for visual approaches (whether with or without an IAP) on runways not equipped with an approach light system. For commercial service airports, REILS on each runway without an approach light system shall be given a high priority for programming. REILS are not ILS "associated approach lighting" within the meaning of statutory authority permitting the takeover, and the airport cannot transfer ownership of these systems to the FAA.

e. Visual Glide-Slope Indicator System. A precision approach path indicator is eligible to provide vertical guidance for visual approaches (whether with or without an IAP) and related operational requirements in accordance with Advisory Circulars 150/5345-28 and 150/5345-52. Visual glide-slope indicator systems are not ILS "associated approach lighting" within the meaning of statutory authority permitting takeover, and the airport cannot transfer the ownership of these systems to the FAA. The precision approach path indicator is the only visual glide-slope system eligible for funding at airports with a Part 139 certificate.

557. TERMINAL NAVAID FACILITIES.

Electronic navigation aids for a runway or runways are generally eligible based on the establishment criteria in Order 7031.2, including consideration of aviation requirements within five years. Table 8 outlines limitations on current types of federally funded terminal navigation equipment and eligibility under the F&E since that is the basic vehicle for such projects. Table 8 also outlines the principal standards (specifications, type acceptance, site requirements, and operational performance), routing of the office of primary interest, need for benefit-cost analysis, applicability of remote maintenance monitoring, and FAA takeover potential. (See Paragraphs 550b and 552b.)

a. Local Area Augmentation System (LAAS). LAAS facilities are currently ineligible, although it is anticipated that such will be eligible at a future time based on similar criteria as instrument landing systems. Further guidance on programming LAAS projects is pending approval of specifications, type acceptance, site criteria, and operational performance standards. LAAS is considered to be an ILS from the standpoint of takeover as defined in Title 49 U.S.C., Section 44502(e). Decisions on LAAS or ILS projects need to be based on the premise that many locations have a benefit-cost ratio greater than 1, which requires close coordination with the F&E program. If a location does not have a qualifying BCA, or equipment fails to meet conditions in Part 171, the navigation and landing requirements of the airport should be reviewed with the sponsor. The potential use of GPS and higher minima is discussed in the next subparagraph.

b. Instrument Landing System (ILS). A new ILS is eligible on designated instrument runways under the AIP for a new runway or extension where that equipment is qualified and was not previously installed. The FAA may review funding arrangements and recommend combinations of sources or deferring such projects pending use of satellite navigation (SATNAV). However, the ILS or associated projects proposed to be jointly funded under the AIP and F&E program for other than cases described in Paragraph 514 are ineligible. ILS facilities include a localizer, a glide slope facility, marker beacons, and various monitors and controls. Each project that must meet performance specifications and/or RMM

requirements for FAA takeover will be coordinated with APP-520 before approval to ensure that benefits of projects exceed aviation system costs.

(1) The FAA will initially screen proposed ILS candidate projects using Order 7031.2. Secondary screening of proposals will calculate a specific benefit-cost ratio in accordance with an FAA report entitled Establishment and Discontinuance Criteria for Precision Landing Systems (Phase II), FAA-APO-83-10. However, a shortened investment life cycle is being used based on WAAS and LAAS availability at particular airports. Category I project planning will utilize as the end of the life cycle the date WAAS service is scheduled to be available at the airport plus seven years. For runways planned to use LAAS for Category I approaches only and all Category II/III projects, the end of the life cycle will be the date LAAS service is scheduled to be available at the airport plus seven years.

Table 8 Limitations on AIP-Funded Terminal Navigation Aid Equipment

EQUIPMENT	F&E	PRINCIPAL STANDARD	OPI ROUTING	BCA	RMM	TAKEOVER
Partial Instrument Landing System (Localizer, Glide Slope, or Other Component)	Yes	Title 49 U.S.C., §47101f, 14 CFR 171, Contact OPI	AND-740	Yes	Yes	Yes (if it completes ILS)
Instrument Landing System (ILS)	Yes	Title 49 U.S.C., §47101f, 14 CFR 171, Contact OPI	AND-740	Yes	Yes	Yes
Local Area Augmentation System (LAAS)	Yes	Title 49 U.S.C., §47101f, 14 CFR 171, Contact OPI	AND-710, ASD-410	Yes	Yes	Yes (when it becomes eligible)
Non-Directional Beacon (NDB)	Yes	14 CFR 171, Contact OPI	AND-740	No	No	No
Distance Measuring Equipment (DME)	Yes	14 CFR 171, Contact OPI	AND-740	Yes	No	No
Very-High-Frequency Omni-Directional Range (VOR)	Yes	14 CFR 171, Contact OPI	AND-740	Yes	No	No

(2) The benefit-cost of the ILS proposals may be evaluated separately from the AIP runway work. Approach lighting and runway visual range may be separately evaluated from the ILS because that would also be used for GPS/WAAS/LAAS-augmented approaches.

(3) The establishment of a full ILS on existing runways would be a low priority for an AIP project since current FAA policy is to accomplish this under the F&E program if the BCA is acceptable and other requirements are met. The localizer is an ILS component commonly planned as a stand-alone project for existing runways. However, for purposes of this directive, a “partial” ILS is the individual localizer, glide slope, or other grant supported components of the instrument landing system. In light of transition to SATNAV, a partial ILS project is ineligible unless it completes the instrument landing system. Furthermore, an airport cannot transfer ownership of a partial ILS to the FAA unless that will complete the instrument landing system with each component of it funded under the AIP.

For extension of a runway with an existing FAA-owned ILS (to accommodate an approved AIP project or otherwise), an AIP project may include relocation costs. See Paragraph 593.

(4) The costs of any upgrade or replacement of the FAA-owned ILS equipment that is obsolete are not eligible. However, where the upgrade and/or replacement will result in an essentially new ILS that would otherwise be justified by new air traffic (e.g. to fully realize the benefits of related AIP runway work), the region may determine it should be allowed. The costs of any upgrade or replacement of the airport-owned ILS that is obsolete will be subject to the same requirements as new equipment within this paragraph.

(5) Airports identified in Appendix 24 with early benefit from WAAS should be requested by the region to study the feasibility of transitioning to SATNAV approach procedures rather than installing an ILS.

c. Other Terminal Navigation Aid. The Office of Airports Planning and Programming has no substantial experience with AIP projects for the other types of traditionally F&E navigation aids, such as the distance measuring equipment (DME), the very-high-frequency omni-directional radio range facilities (VOR), non-directional beacons (NDB), or microwave landing systems (MLS). This equipment normally requires justification in terms of an instrument approach procedure and lower minimums that would be based on it. Contact APP-520 for requests on a DME, VOR, NDB, MLS, or other such equipment proposed under the AIP.

558. SPECIAL CONDITION.

Any grant including a navigation aid must include one of the special conditions on this subject in Appendix 7.

559. RESERVED.

Section 7. COMMUNICATIONS, SURVEILLANCE, AND AIR TRAFFIC CONTROL

560. GENERAL.

The installation of communications, surveillance, and air traffic control facilities at airports is normally accomplished through the F&E program. Only the limited projects described below are accomplished under the AIP. Table 9 outlines current types of this equipment that are AIP eligible, the principal standard requirements, and routing of the office of primary interest.

561. COMMUNICATIONS EQUIPMENT.

Communications equipment to be used on certain ARFF vehicles and systems for the automated weather observing system (AWOS) are eligible for AIP funding. Communications equipment eligibility

Table 9 AIP-Funded Communications, Surveillance and Air Traffic Control Equipment

EQUIPMENT	PRINCIPAL STANDARD	OPI ROUTING
Transceiver	AC 150/5220-16, AC 150/5210-7	AUA-400, AAS-100
Telephone Answering Device	AC 150/5220-16	AUA-400
Air Traffic Control Items	Contact OPI	ATP-140

depends upon the underlying equipment being eligible and does not extend to a wide variety of other radios or telephones in use at the airport. Requirements of communications equipment projects include those of the ARFF or security vehicles and AWOS equipment. See Paragraphs 541, 542, and 572.

a. AWOS Telephone Systems. The AWOS may be provided with an answering device using separate telephone systems, which allows pilots to call the system and receive a weather report. This device and a modem is eligible and recommended for AIP funded AWOS. The ongoing cost for leasing the telephone lines to service the modem is not eligible. However, the regional Airway Facilities divisions may reimburse certain costs and provide information about the current status of these essential weather data link programs.

b. Data Link. Sponsors should be encouraged to connect with the FAA's AWOS data acquisition system, which is evolving with the Aviation Surface Weather Observation Network. The network, located at each FAA air route traffic control center as well as the Air Traffic Control System Command Center, provides the data to pilots, FAA controllers, airline traffic managers, and other NAS weather data users. Acceptance of weather reports into the network by AAT-1 is required.

c. Other Transmitters. FAA policy is to transmit AWOS output over the Unicom or voice channel of existing navigation aids, such as a VOR or NDB. If a separate very-high-frequency transmitter is needed, it is eligible. See Paragraph 552a on the airport's responsibility for frequency reservation.

d. Responsibility for Maintenance. The airport has responsibility for maintenance of this communications equipment because it cannot be taken over by the FAA under Order 6700.20. See Paragraph 572e.

e. Remote Transmitter-Receiver (RTR). RTR projects are AIP ineligible because that is specialized FAA equipment serving airport traffic control towers and similar Federal facilities. Limitations on relocating RTR equipment is described in paragraph 593.

562. RADAR.

Eligibility for radar equipment under the AIP is limited to relocation required by another approved AIP project. Terminal Doppler weather radar, airport surface detection equipment, precision runway monitors, and airport surveillance radar are otherwise AIP ineligible. See Paragraph 593.

563. AIRPORT TRAFFIC CONTROL TOWERS.

Installation of air traffic control facilities in a terminal area will be accomplished primarily by the F&E program. An airport traffic control tower (ATCT) may also be funded under the AIP. If an ATCT is to be funded by the AIP, coordination between the Air Traffic, Airway Facilities as well as Airports divisions is needed to ensure the objective evaluation and clear presentation of project requirements for the sponsor.

a. FAA-Owned Airport Traffic Control Towers. ATCT eligibility under the AIP for facilities owned by the FAA is limited to costs described in d below.

b. Portable ATCT Facilities. Portable equipment to provide the temporary ATC services for using a runway during construction or special events, irrespective of ownership, is ineligible.

c. Contract ATCT Facilities. Construction, improvement and relocation of the ATCT are eligible using entitlements for certain airports that are in the FAA Contract Tower program under 49 USC 47124. The project Federal share may be up to $1.5 million. Eligible costs include the ATCT structure and equipment inside it. Standards for ATCT equipment that is required within AIP projects are under control of Director of Terminal Safety and Operations Support (ATP-140). Modification of any equipment

standard must be approved by the regional Air Traffic division and/or ATP-140. Standards for locating an ATCT are in Advisory Circular 150/5300-13. (See Paragraph 406t.)

(1) For projects that were completed after October 1, 1996, retroactive funding of the ATCT and equipment is eligible provided the airport demonstrates statutory requirements were met. For instance, the project must have been accomplished using Disadvantaged Business Enterprise, minimum wage, Veteran's preference, environmental impact assessment, and other requirements under 49 CFR 18.

(2) If an airport proposes State apportionments for these projects, those funds may be used provided the region consults with the State aviation official and obtains the State's support for the project as part of its airport capital improvement plan. State apportionment funds may only be used on projects that are to be undertaken in the future rather than for retroactive funding. The project file should include the State's written advisory regarding its support.

(3) For the airports that are not in the FAA Contract Tower program, the application procedures for projects include the sponsor requesting the Air Traffic division to add the location to that program before following procedures in subparagraph c(4) below. Contact regional Air Traffic divisions on how airports qualify for the FAA Contract Tower program.

(4) The airports that are currently qualified for the FAA Contract Tower program must continue meeting statutory requirements administered by ATP-140 for eligibility under the AIP. The project file should include copies of the following documentation indicating general requirements have been met and talking points should cite the dates of it:

(a) ATP-140 should provide a letter or comparable documentation stating that the airport was selected to be a participant in the FAA Contract Tower program or that the construction of the ATCT would qualify the sponsor to be added to the program.

(b) Prior to issuing a grant, ATP-140 should provide evidence if not provided by processing under subparagraph c(4)(a) above that it will seek appropriations for and maintain the airport in the FAA Contract Tower program in the same manner and priority as other airports already in the program.

(c) The sponsor must certify in the FAA operating agreement and the cost share agreement, if applicable, that it will pay its share of the cost to equip, maintain and operate the ATCT. The sponsor must also arrange to provide the State/local share of the AIP project.

d. Other ATCT Facility Costs. For the facilities other than covered elsewhere in this paragraph, AIP eligibility is limited to relocation required by another approved AIP or Passenger Facility Charge project. For example, if an AIP or PFC project restricts a controller's visibility in airport movement areas, improvement or relocation costs of the ATCT would be eligible to the extent required as mitigation. However, the statute does not otherwise allow the repair and replacement of F&E project equipment or FAA take over of maintenance for an ATCT funded under the AIP. (See Paragraphs 591 and 593.)

564. - 569. RESERVED.

Section 8. AVIATION WEATHER EQUIPMENT

570. GENERAL.

Only the weather observation, detection, reporting, and communications projects described below may be accomplished under the AIP. Installation of such aviation weather or forecasting facilities at airports is normally accomplished through the F&E program. Table 10 outlines limitations on current types of AIP eligible aviation weather equipment, eligibility under the F&E, principal standard requirements (specifications, type acceptance, siting, and operational performance), routing of the office of primary interest OPI), requirement for benefit-cost analysis (BCA), applicability of remote maintenance monitoring (RMM), and FAA takeover. (Contact APP-520 on integrated terminal weather systems).

571. WIND INDICATORS AND RECORDING ANEMOMETERS.

Recording anemometers are eligible. For assistance with standards, contact AAS-100. Wind tees and cones for the airfield are eligible in accordance with Paragraph 537.

Table 10 Limitations on AIP-Eligible Aviation Weather Equipment

EQUIPMENT	F&E	PRINCIPAL STANDARD	OPI ROUTING	BCA	RMM	TAKEOVER
Wind Tee	No	AC 150/5340-21	AAS-100	No	No	No
Wind Cone	No	AC150/5300-21, AC 150/5340-23	AAS-100	No	No	No
Recording Anemometers	No	Contact OPI	AAS-100	No	No	No
Runway Visual Range (RVR) ***(if information is provided directly to pilot and associated with precision approach)***	Yes	Contact OPI	AND-740	Yes	No	Yes (if associated with an ILS)
Automated Weather Observing System (AWOS)	No	AC 150/5220-16	AUA-400	No	Yes	No
Low-Level Wind-Shear Alert System (LLWAS)	Yes	Contact OPI	AUA-400	Yes	Yes	No

572. AUTOMATED WEATHER OBSERVING SYSTEM (AWOS).

The F&E program has installed AWOS projects, and the FAA still operates many such facilities. Automated surface observing system (ASOS) is now funded by the F&E program, which in combination with various weather sensor programs accomplishes similar data collection as the AWOS. AWOS designed in accordance with Advisory Circular 150/5220-16 may be eligible at any eligible airport if Airway Facilities division confirms such equipment and ASOS has not been operated or approved for the same location under the F&E program. AWOS cannot be taken over by the FAA under Order 6700.20. States may install and maintain the AWOS equipment under the State sponsorship of airport projects. Contact APP-520 for assistance on eligibility of weather observing equipment.

a. Sensors. An airport may be eligible for any or all AWOS types in production, although the costs and benefits differ for each system. The different capabilities provided through individual sensors determine differences between the systems. The sponsor should procure the minimum system based on airport activity levels and certified weather reporting that is required for an Instrument Approach Procedure under instrument meteorological conditions. Benefit-cost analysis described in paragraph 550b does not apply to AWOS within a grant even through Order 7031.2 has a section on such projects. The F&E program no longer funds new AWOS equipment.

b. Communications Equipment. Automatic telephone answering systems or radio transmitters are eligible and recommended to fully benefit from the weather data link opportunities with an AWOS. See Paragraph 561.

c. Options. The minimum required optional displays and printer systems are eligible for an AWOS. Regions should ensure the ancillary equipment is justified by an operational need and will be used.

d. Operation and Maintenance. Sponsors are required to operate and maintain AWOS equipment during its lifecycle. The special condition required for navigation aid projects (Appendix 7, Paragraph 6) should be in each AWOS grant. Inspection for weather observing sensor compliance by the local System Management Office of the FAA may also be required.

e. Automated Surface Observing System. The installation of the ASOS projects, which has been adopted as the F&E program standard for weather observation, is normally accomplished under that program. Any questions on the ASOS projects should be directed to the Airway Facilities division.

573. LOW-LEVEL WIND-SHEAR ALERT SYSTEM (LLWAS).

The installation of the LLWAS under the F&E program for wind direction and speed detection is accomplished for airports meeting the requirements contained in Order 7031.2. We have no experience with AIP projects for LLWAS. The data obtained from the equipment would need to be directly provided to pilots. Any equipment providing data only to air traffic control would not be eligible. Contact APP-520 for assistance on AIP eligibility of the LLWAS.

574. RUNWAY VISUAL RANGE (RVR).

For precision approach systems, RVR equipment is eligible if the visibility information is made available directly to pilots. RVR benefit-cost analysis may be separated from the AIP runway work and instrument landing system projects. Under Title 49 U.S.C., Section 44502e, an AIP ILS project including associated RVR, is to be taken over by the FAA at the option of the airport. RVR is not an ILS facility, but associated equipment. The airport cannot transfer ownership of AIP RVR equipment to the FAA unless it will be associated with an ILS as described in Paragraph 552. Contact APP-520 for assistance with proposed RVR projects.

575. - 579. RESERVED.

Section 9. AVIATION HAZARDS AND ENVIRONMENTAL MITIGATION

580. GENERAL.

This section includes information concerning the eligibility of projects to remove objects in the runway protection zones as well as certain airport hazards and environmental mitigation. See Paragraph 537 on airport hazard or runway closure marking/lighting and Chapter 7 for relocation caused by removal of hazards. See Chapter 8 on noise compatibility projects. Table 11 outlines current types of federally funded aviation hazard and environmental mitigation equipment, the principal standard requirements, as well as routing of the office of primary interest.

a. ENVIRONMENTAL MITIGATION IN APPROVED PROJECT. An environmental mitigation project is eligible as airport development if it is a condition of approval of an environmental action associated with an AIP funded airport development project. However, if the development project for which the environmental mitigation project was a condition of approval is ineligible, the environmental mitigation would be ineligible. Frequently environmental impact statements include both eligible and ineligible projects. Therefore, inclusion of a mitigation measure in an environmental impact statement does not automatically make the mitigation measure eligible for Federal funding.

b. STAND-ALONE ENVIRONMENTAL PROJECT. Stand-alone environmental projects that do not depend upon an AIP funded airport development project are described in paragraphs 585 and 587.

581. OBJECTS IN RUNWAY PROTECTION ZONE.

The runway protection zone (RPZ) is an area off the runway end to enhance the protection of people and property on the ground and to minimize aircraft damage if an airplane was to inadvertently leave the actual runway environment. See Paragraph 702 as well as Sponsor Assurances 20 and 21.

a. Control of Land Use. For any AIP development project that involves acquiring the property and/or constructing/reconstructing the runway associated with a nonstandard RPZ, the region should consider fee simple for RPZ land acquisition projects as the preferred method but, if this is not feasible, the phased acquisition of RPZ land or less-than-fee interest to control land use may be acceptable.

(1) An easement, lease, or restrictive covenant should be required if fee interest in a parcel is infeasible in the foreseeable future. For projects on new runways and extensions, a comprehensive analysis is necessary if it appears likely fee acquisition may not be attainable upon runway completion. In such a case, a study on alternative airport configurations, which may include airport site evaluation, may be necessary. At minimum, this study must identify costs of fee acquisition, legal constraints, and analysis comparing continued present use with potential reuse of the land. This study may result in a determination by the FAA to phase acquisition or approve less-than-fee property interests.

Table 11 AIP-Funded Aviation Hazard and Environmental Mitigation Equipment

EQUIPMENT	PRINCIPAL STANDARD	OPI ROUTING
Runway Closure Marking	AC 150/5345-55	AAS-100
Aviation Obstruction Lighting and Marking	AC 70/7460-1	ATA-400
Bird Hazard Reduction Equipment	AC 150/5200-33	AAS-300
Industrial Waste Treatment Facilities	AC 150/5320-15	AAS-100
Low Emission Systems	Contact OPI	APP-600

(2) The special condition in Appendix 7 should be applied to the cases involving a nonstandard RPZ.

b. Removal of Objects. The removal or relocation of any object located in the RPZ is eligible regardless of whether it constitutes an obstruction and/or airport hazard. When property within the RPZ is acquired under the AIP, structures and activities located on this land must be removed unless granted an exception by the regional Airports Division Manager or needed for air navigation facilities.

582. AIRPORT HAZARDS.

The removal, relocation, lowering, and other modification of any object (both natural and man-made) that constitutes an airport hazard as defined in Title 49 U.S.C., Section 47102 is eligible where an aeronautical study conducted under FAR Part 77 determines that action is required. Arrangements must be made that will preclude the problem from being recreated.

583. HAZARDOUS WASTE.

Land involving hazardous waste must be identified at the earliest possible time during the airport planning and development process.

a. Due Diligence Audits. Emphasis should be placed on due diligence audits to determine the nature and responsibilities for hazardous waste as an AIP eligible activity of environmental assessment during airport planning. Solutions that identify acceptable remedial actions can frequently be established in such a study. Where no solution can be identified, airport site evaluation may be required.

b. Ineligible Hazardous Clean Up. Clean up of hazardous waste is normally ineligible in airport development projects. Contact APP-500 for assistance on projects when hazardous waste is first found during the accomplishment of an AIP development project. See Paragraph 586.

584. WILDLIFE HAZARDS.

If wildlife hazards have been determined to exist (or may result because of planned construction or airport expansion) under procedures of Advisory Circular 150/5200-33, capital improvements to reduce the hazard within the airport boundary are eligible provided the actions will be designed to produce long-term solutions.

a. Habitat Modification. Removal of wildlife attractants through improving airport drainage, elimination or modification of man-made structures used by birds for nesting or roosting, purchase of contiguous land or easements, or modification of the habitat, are eligible. APP-520 shall be consulted prior to programming any items in this subparagraph.

b. Bird Hazard Reduction Equipment. Acquisition of equipment for bird patrols and wildlife hazard reduction on or adjacent to an airport is eligible. This includes cassette tape decks and public address systems for broadcasting distress calls, exploding gas cannons, shotguns, and pyrotechnic pistols.

c. Ineligible Items. Expendable items such as the shotgun shells, chemicals, and pyrotechnic devices (other than pistols) are not eligible. Airport operations vehicles associated with wildlife control are ineligible.

585. LOW EMISSION SYSTEMS AND OTHER AIR QUALITY PROJECTS.

Projects for low emission systems and the protection of air quality are eligible either for mitigation within a conventional airport development project in accordance with paragraph 580a or as stand-alone work. In addition to general requirements of Paragraph 505, the project file should contain relevant sections of the State implementation plans, environmental mitigation requirements within an airport development project, or the other documentation to justify the project. Contact APP-600 for assistance with air quality projects.

a. Stand-Alone Projects. Stand-alone air quality projects as described within this subparagraph must result in the airport receiving appropriate Airport Emission Reduction Credit (AERC). The region's approval of the stand-alone projects is contingent upon receipt of the State air quality agency letter of assurance to the FAA on the AERC credits under provisions of 49 USC 47139. Stand-alone projects may be authorized under any of several different statutory definitions, each with its own requirements:

(1) Sponsor Compliance Responsibility. As defined by 49 USC 47102(3)(F), projects must be the sponsor's compliance responsibility under the Clean Air Act of 1970 (CAA), as amended, and may include construction, reconstruction, repair, improvement or purchase of equipment to comply with Environmental Protection Agency (and State air quality agency) requirements; or

(2) Voluntary Airport Low Emission (VALE) Program. VALE program system projects are eligible at commercial service airports located in a non-attainment or maintenance area defined under the CAA. See http://www.faa.gov/arp/environmental/vale for general information regarding low emission systems for that program. Systems must meet emission standards contained within the VALE technical report dated September 30, 2004.

(a) Equipment. In the projects acquiring or providing for conversion to low emission systems, vehicles and equipment must be airport owned. In this paragraph, "equipment" means ground service or maintenance equipment used to support aeronautical and related activities at the airport that will remain in operation for its useful life. The vehicles and equipment cannot be used in non-airport

activities. See Appendix 7 for a special condition to be used on these projects. See 49 USC 47102(3)(L).

1. The vehicle and equipment technology must rely exclusively on alternative fuels that are substantially non-petroleum based, as defined by United States Department of Energy. However, this requirement does not exclude hybrid vehicles.

2. If the vehicles would not otherwise be eligible, such as shuttle buses, incremental costs of low emission technology are the allowable portion of the project.

(b) Facilities. For work necessary to construct or modify facilities to provide low-emission fuel systems, gate electrification and other related airport air quality infrastructure improvements, requirements of subparagraph a(2)(a) above apply except for the sentence about alternative fuels. See 49 USC 47102(3)(K).

b. Ineligible Work. Work benefiting non-aeronautical revenue producing airport areas and locations that are not at an airport is ineligible except as described in Paragraphs 303 and 502e. Ineligible portions may be prorated from eligible work in a project. Vehicles are ineligible if not operated within or in close proximity to the airport boundary and dedicated to the airport.

586. WETLANDS.

Wetland projects may be associated with separate justification related to wildlife hazards and water quality. See Paragraphs 584 and 587. In addition, similar wetland mitigation projects may be a requirement for coastal zones, endangered species, floodplains, and other environmental impacts included within the environmental documents for airport development.

a. General. Wetland restoration, creation, enhancement or exchange projects are eligible only when required by an environmental finding for an approved AIP project. Sponsors shall not implement wetland wildlife attractions unless the mitigation project is located at a site remote from existing or planned airport development as defined within Advisory Circular 150/5200-33, Hazardous Wildlife Attractants on or Near Airports. Wetland preservation and related work is not eligible when it conflicts with aircraft operations. (See http://www.faa.gov/arp/environmental/5054a/wildhazmou.pdf for a discussion of minimizing aircraft-wildlife strike potential.)

b. Monitoring Wetlands. Monitoring of wetland areas is eligible in a project for up to two years from the grant agreement (or the period projects are open for other project purposes) to determine whether the as-built conditions meet design objectives. A project should not be open beyond two years for the exclusive purpose of wetland monitoring. Two years is a common grant closeout objective. However, approved mitigation plans typically require a five-year oversight period. Such lengthy studies may be eligible for reimbursement of work accomplished prior to a grant and/or within multiple grants as follows:

(1) A portion of wetlands evaluation already completed and reimbursable may be eligible subject to the limitations of Paragraph 311j.

(2) A supplemental planning project continuing the wetland monitoring studies may be eligible after the initial grant is closed under provisions of Paragraph 406s.

c. Mitigation Banking. Mitigation banks combine wetlands required for various current or future projects. Funding for mitigation banks is allowable for a specific airport development project the FAA intends to fund under the AIP within two years from the grant agreement for wetland banking. See http://www.faa.gov/aip/environmental/5054a/wetpol.html for information on mitigation banking.

d. Environmental Trust Funds. Certain environmental trust funds or other similar devices that combine projects required for a variety of resources in addition to wetlands may be provided AIP funding

subject to the same conditions as mitigation banks in lieu of financing specific wetland projects. The purpose of the AIP funds must be identified in these cases for the management entity below.

e. Management Entity. Sponsors may not have wetland expertise or jurisdiction over the wetland areas. Therefore, the airport may prefer to work through a natural resource agency, conservation organization, or land trust to acquire and manage the land for project mitigation. In these cases, eligibility is dependent upon passing the airport's obligations on to the management entity. The eligibility for operations of a management entity to monitor wetlands is limited to conditions in subparagraph b above. Any additional costs incurred by the management entity are considered administrative or maintenance costs and would be ineligible for AIP funding.

f. Management Agreements. A formal agreement co-signed by the airport and proposed owner or management entity must be obtained to protect AIP funds. Agreements may be with public agencies or nonprofit organizations and should including the following information:

(1) A commitment to use the property on a continuous basis compatibly with airport operations and not subject to undue liability or misuse in any way;

(2) A wetland monitoring requirement for the period before, during or beyond the AIP project ensuring the property has at least value and function equal to that of the required mitigation as described in subparagraph b above; and

(3) The understanding that the administration and maintenance of the property in accordance with applicable laws will be the sole responsibility of the management entity, which is AIP ineligible.

587. WATER QUALITY PROJECTS.

Projects for protection of water quality are eligible as stand-alone work or as mitigation within a conventional airport development project as described in paragraph 580a. In addition to the general requirements of Paragraph 505, the project file should contain an applicable National Pollutant Discharge Elimination System permit, environmental mitigation requirements within an airport development project, or the other documentation to justify the work. On proposed projects that involve deicing, see Paragraphs 544 and 547.

a. Stand-Alone Projects. Stand-alone water quality projects must be a sponsor compliance responsibility under the Federal Water Pollution Control Act of 1972, as amended. The project may include any construction, reconstruction, repair, improvement or purchase of capital equipment for the airport necessary to comply with requirements of the U.S. Environmental Protection Agency and State agencies that have water quality jurisdiction. Advisory Circular 150/5320-15, Management of Airport Industrial Waste, describes eligible water quality equipment and facilities. (Contact AAS-100 for assistance on water quality projects not included in that advisory circular.)

b. Ineligible Work. Work benefiting non-aeronautical revenue producing airport areas and locations outside of airport boundaries is ineligible except as described in Paragraphs 303 and 502e . Ineligible areas may be prorated from eligible work in a project.

588. - 589. RESERVED.

Section 10. MISCELLANEOUS

590. BLAST FENCES.

Blast fences are eligible when they are needed for safety and are more economical than the acquisition of additional property interests or expansion of an apron.

591. EQUIPMENT LEASE, REPAIR, MODIFICATION, AND DISPOSAL.

a. Lease/Purchase. In a lease/purchase plan between a sponsor and a vendor, funding is limited to the purchase portion of the arrangement, and a grant would be issued only after the sponsor decides to buy. In such cases, the original lease/purchase solicitation must meet requirements of Chapter 9.

b. Refurbishing, Repair, or Modification. The cost to refurbish, repair, and/or modify eligible equipment and increase performance or extend its useful life may be eligible. Regions should carefully review the sponsor's economic basis for each such project to ensure it is not, in fact, normal maintenance. For information purposes, APP-520 should be notified of all projects for refurbishing or modification of equipment, which might be due to design or specification shortcomings.

c. Replacement of Equipment. The replacement of equipment acquired under the grant program, which has been destroyed accidentally, become obsolete, worn out, or may be otherwise deemed inoperable through no fault of the sponsor, is eligible.

d. Spares. AIP project costs of any eligible airfield equipment may include an additional 10 percent of the cost of equipment for spare parts or minor replacement components of systems to be used by the airport in maintaining the system. If the region has reason to believe the airport will be unable to store and accurately account for the spare parts inventory, the additional cost is ineligible.

e. Used Equipment. The acquisition of used equipment is eligible provided it meets FAA specifications and has an acceptable useful life based on the proposed purchase price. See also Advisory Circular 150/5150-2, Federal Surplus Personal Property for Public Airport Purposes.

f. Disposal of Replaced or Unneeded Equipment. Equipment with a current per unit fair market value of $5,000 or more may be retained by the sponsor, sold for salvage, traded for replacement, or transferred to another eligible airport or sponsor. If retained and used for airport purposes, no reimbursement is required. If transferred to another sponsor, grant obligations shall also be transferred. There is no need for monetary consideration if the entity receiving the equipment would be eligible under the grant program. If a non-eligible sponsor or non-airport entity obtains the equipment, fair market value shall be required and used to reduce the amount of a subsequent grant for replacement equipment at the option of the FAA Airports Office.

592. LANDSCAPING AND TURF.

Landscaping and turf are only eligible to the extent that they are a cost associated with an AIP project and necessary for erosion control or State and/or local construction practices. See also exceptions based on noise in Chapter 8. Art or decorative landscaping for the sole purpose of the aesthetic enhancement are not an allowable costs. See definitions and examples in Paragraph 304. Where the sponsor desires to include landscaping for aesthetic effect with a project, the eligible costs must be prorated.

593. PURCHASE, RELOCATION, OR DEMOLITION OF INELIGIBLE FACILITIES.

AIP funds cannot be used for any part of an airport building, except eligible portions of terminal buildings, certain former military facilities, hangars and parts of buildings intended to house equipment or activities directly related to safety. (If an underground storage tank that meets current standards must be relocated due to an AIP project actually funded by a grant or with the PFC program, relocation is an allowable cost of the project. If an underground storage tank that does not meet current standards must be relocated because of such a project, the costs are allowable and the project must result in placement of a tank that meets the current standard.) Existing non-eligible buildings located on the airport that constitute aviation hazards or impede an AIP project actually funded by a grant or with the PFC program may be purchased and relocated or demolished subject to the criteria below. See Chapter 7.

a. Non-Federal Structures. The purchase by an airport sponsor of a building from any owner other than the Federal Government is eligible. The market value and the costs associated with its demolition and removal are eligible, minus any salvage value. The relocation of the structure or facility to another location on the airport in lieu of purchase is eligible up to the market value of the facility. Nominal incidental costs of the relocation, e.g. extinguishing a lease or footings and floors, may be included.

b. Federally Owned Facilities. The cost of moving buildings owned by the Federal Government that impede an AIP grant or PFC project is eligible. Table 12 outlines limitations on FAA equipment relocation eligibility since the F&E program is the basic vehicle for such projects. Table 12 also outlines principal standard requirements (specifications, type acceptance, siting, and operational performance), routing of the office of primary interest (OPI), need for benefit-cost analysis (BCA), applicability of remote maintenance monitoring (RMM), and FAA takeover potential.

(1) Examples of relocating such Federal facilities include navigation aids, weather equipment, the airport traffic control tower (ATCT), the remote transmitter-receiver (RTR), terminal Doppler weather radar (TDWR), airport surface detection equipment (ASDE), the precision runway monitor (PRM), and airport surveillance radar (ASR). Under 49 USC 47110(b)(1), the projects may include military facilities or any other federally owned facility.

(2) Rebuilt facilities must be of an equivalent size and type. Equivalent capability of buildings, pavements, and facilities may require different features than existing structures depending on proposed location. However, the allowable costs will cover in-kind move or replacement rather than an upgrade and rebuilding with current technology. Prorating eligible cost may be necessary. See Order 6030.1 and Advisory Circular 150/5300-7 about FAA policy on ATCT, RTR, TDWR, ASDE, PRM, ASR, and other facility relocations occasioned by airport improvements or changes. See also Paragraphs 311k, 513, 514 and 550-574.

c. Sponsor Owned Facilities. A sponsor may choose to either remove or demolish a facility it owns. These costs are eligible minus any salvage value. The cost to the sponsor of extinguishing a lease is eligible.

(1) When a structure acquired under an AIP project is to be removed later, such as in 5 years, the sponsor may use the structure for any incidental purposes it deems desirable provided it does not interfere with the purpose of the airport. Any revenue at fair rental value received during the period between acquisition and demolition of the structure constitutes airport revenue and is to be used according to Sponsor Assurance 25. If a decision is made not to demolish the structure, then the sponsor will be responsible for reimbursing the grant program the Federal share of the appraised value attributed to the structure.

(2) The cost of a structure on land being acquired under the AIP is allowable if the building is to be used by the sponsor for a grant eligible facility, such as an ARFF building.

(3) The costs of a structure on land that is to be acquired for airport purposes is not allowable if the structure is to remain on the land or is to be relocated and will be used by the sponsor for a purpose not grant eligible. However, if the structure is to be relocated because its present location constitutes an airport hazard or impedes eligible airport development, then such relocation would be eligible up to the estimated costs to demolish and remove the structure. Participation is limited to the cost of a like facility.

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Chapter 6. TERMINALS, LANDSIDE, AND TERMINAL ACCESS PROJECTS

Section 1. TERMINAL DEVELOPMENT

600. GENERAL ELIGIBILITY.

This chapter includes information concerning eligibility or limitations for an airport terminal building, multi-modal terminal development, other landside projects, and surface access. See Paragraph 613 about prorating of eligible and ineligible terminal building work. As general requirements for eligibility, sponsors must:

a. Design all structures in accordance with the appropriate FAA Advisory Circulars attached to the project grant. At this time the FAA is initiating a revision to Advisory Circular 150/5360-13, Planning and Design Guidelines for Airport Terminal Facilities. This AC plays an important role in the understanding and analysis of airport terminal designs. It establishes requirements for airport terminal design for projects to be funded with AIP grants. It is also used to determine reasonableness of cost for Federal and federally approved funding.

However, industry methodologies for determining terminal space requirements have changed since the research for the original AC was completed. For example, the AC presents the equivalent aircraft factor methodology, while a level of service or similar method as described by the International Air Transport Association (IATA) is currently used by many airport planning and design consultants.

While AC 150/5360-13 continues to be the FAA standard for terminal planning and design, prudence should be applied when reviewing terminal building proposals. As an interim measure until the revision of the Planning and Design Guidelines AC is complete, we recommend methodologies following the IATA recommendations ("Airport Development Reference Manual", 8th edition), and a review of existing terminals facilities at comparable airports be considered as well as the AC recommendations when making FAA determinations. (Contact APP-400 for additional guidance if required.)

b. Submit with the grant application the required "Certification of Compliance with the Seismic Design and Construction Requirements of Title 49 CFR, Part 41". This certification submitted by the sponsor or the Sponsor's authorized representative states that the Sponsor will comply with the requirements set forth in Title 49 CFR, Part 41 in the design and Construction of the building(s) to be financed with the assistance of the Federal Aviation Administration;

c. Certify the airport has, on the date of submittal of the project application, all the FAR Part 139 safety and Title 49 CFR, Part 1542 security equipment required for certification of the airport;

d. In the event that Part 139 does not apply to the airport, certify any needed airport development project affecting safety, security or capacity will not be deferred due to the project; and

e. Provide access for passengers to enplaning and deplaning areas of aircraft other than air carrier aircraft.

601. TERMINAL DEVELOPMENT.

Except as noted by Paragraphs 602-606, "terminal development" is defined in this Chapter as development for non-revenue producing public-use areas that are directly related to the movement of passengers and baggage in terminal facilities within the boundaries of the airport. Typical eligible items include baggage claim delivery areas, automated baggage handling equipment (see Paragraph 602c for limitations), public-use corridors to boarding areas, central waiting rooms, restrooms, holding areas, and foyers and entryways, as well as passenger loading bridges and handicapped boarding assistance

devices. Excluded would be those areas that are primarily revenue producing such as restaurants, concession stands, and airline ticketing areas. With exception to the terminal modifications in Paragraph 602 regarding baggage makeup areas, only public-use areas associated with baggage claim delivery are eligible under the AIP program. See Table 13 on page 114, which describes terminal eligibility by commercial service airport type.

a. For large, medium, and small hub airports, terminal development can only be funded from a sponsor's passenger entitlement funds.

b. For nonhub airports, funds from the discretionary or small airport fund may be used for terminal development. For nonhub primary airports, passenger entitlements may be used as well.

c. Cargo entitlement funds may not be used for terminal development.

d. Nonprimary commercial service airports cannot receive more than $200,000 of discretionary money in any fiscal year for allowable terminal development project costs.

e. Reliever airports cannot receive more than $200,000 of discretionary funds in any fiscal year for allowable terminal development project costs. Typical eligible items include baggage claim delivery areas, automated baggage handling equipment (see Paragraph 602c for limitations), public-use corridors to boarding areas, central waiting rooms, restrooms, holding areas, and foyers and entryways, as well as passenger loading bridges and handicapped boarding assistance devices. See Table 14.

602. TERMINAL SECURITY PROJECTS.

Projects that are justified as meeting an access control requirement at Category I-IV and X, Title 49 CFR, Part 1542, (formerly 14 FAR Part 107) airports are AIP eligible. Projects to prevent the unauthorized intrusion of individuals near aircraft parked on aprons or in operation on taxiways and runways, or any other part of the air operations area (AOA) are also eligible. (See Section 542 for a more detailed discussion of eligible security projects.) Further, any sponsor who proposes a terminal security project that requires TSA staffing must have a written commitment by the TSA to provide the necessary personnel for operation of the equipment or manning of those facilities. These typical security projects are generally required in an airport's Part 1542 security plan or required of an airport by the FAA in a security directive or emergency amendment to Part 1542.

a. Other security projects that are generally considered eligible would include such things as finger printing equipment, computerized and noncomputerized door controls, perimeter security fencing and gates (including adequate lighting at gates), closed circuit television to monitor persons' exiting from buildings to the AOA or vehicular and persons entering the AOA from public roadways and other landside locations, vehicle checkpoints on the AOA if secondary security is determined necessary, the one-time replacement of keylocks and cores after September 11th, and explosive detection devices to inspect and transport packages in the terminal environment outside the sterile area and explosive disposal equipment.

b. Security for other facilities on the airport may be determined eligible with the submission of additional, convincing justification. One such area would be the security of fuel farms. Airports desiring AIP grants to provide increased security in a fuel farm area would need to demonstrate that the fuel farm is located in an area where the ignition or explosion of fuel would create an imminent danger to passengers or aircraft. The more remote the fueling facility is to terminals or the AOA, the more the project becomes one intended to prevent theft or vandalism, which is a local law enforcement issue rather than air transportation security.

Another project might be the purchase of tow trucks to tow vehicles left within the secured area of a terminal. While not strictly required, these trucks could be a mitigation measure. TSA has indicated that frequent public announcements and adequate signage are also acceptable less costly mitigation

methods. Due to the fact that tow vehicles would inevitably be used for other purposes including general traffic control, parking violations unrelated to security and for vehicle assistance, the FAA has determined that these would not compete well for discretionary funds. Entitlement funds, however, may be used.

Further, since tow charges are normally passed on to the violator rather than remaining an airport expense, and in those locations where adequate towing services are available, regions should consider the need for an airport owned tow truck.

Other projects in this category may include public address systems and terminal improvements for checking baggage or passengers. For example, the replacement or installation of a general public address system, which will be used predominately for air carrier announcements and only periodically make required automatic security announcements, would not be eligible. However, the equipment necessary to make the automatic announcements and the feed to the public address system would be eligible. In the case of full replacement or installation, costs should be prorated in order to identify the required security costs.

c. The Aviation and Transportation Security Act (ATSA) amended Title 49 U.S.C., Section 47102(3) to include terminal modifications necessary to accommodate the installation of Explosive Detection Systems (EDS) in baggage makeup areas as eligible for AIP funding. Note the amendment only provides for that development or reconfiguration necessary to accommodate the installation of bulk explosive detection equipment. It does not provide general eligibility for the baggage makeup area and baggage conveyor systems under the AIP program. Since passage of ATSA, projects were funded with either entitlement or discretionary funding. After FY 2003, the projects are limited to entitlements. Note the FY 2004 and FY 2005 Appropriations Act prohibit using AIP funds for baggage system, terminal building or other modifications in order to install EDS during each of those years.

The project may include the replacement of baggage conveyor systems, and reconfiguration of terminal baggage areas, that are undertaken by an airport owner or operator and that the FAA determines necessary to install the bulk explosive detection devices. If replacement of an outdated baggage system is found necessary, project files must contain substantial justification that no feasible alternative exists to the complete replacement. The Regional Airports Division or ADO will consider the use of proration in order to determine an acceptable approximation of the costs of replacement due to explosive detection systems versus replacement due to age. If an entire baggage handling system must be replaced it must be available to all air carriers on a non-exclusive use basis and it must remain the property of the airport. Where the project is in the baggage makeup area only, either discretionary or entitlement funding may be used.

d. A project to provide an efficient use of terminal space or even aesthetics in the public spaces of the terminal, such as enlargement of areas to permit more efficient queuing of passengers or to accommodate random screening, is considered to be terminal development and therefore can only be funded at large, medium and small hubs using entitlement funds (nonhub and reliever airports may use discretionary funds if available). Widening of the entrance to a concourse to accommodate additional screening lanes or construction of rooms to do random screening rather than performing the screening in the terminal for example are not security projects but may be considered terminal development. It should be noted here that the Federal share for terminal development projects, as well as this expanded eligibility, remains unchanged for these projects.

In federalizing the screening activities at an airport, some security projects that were previously funded under AIP through Section 308 of the FAA Reauthorization Act of 1996 such as X-ray equipment, magnetometers, search wands and any similar equipment used by TSA screening agents are no longer eligible and cannot be funded. Also, projects that appear to exceed known requirements or are used to support law enforcement functions unrelated to air transportation security such as parking enforcement, and general traffic law enforcement patrol duties are ineligible for funding.

603. OTHER ELIGIBLE TERMINAL DEVELOPMENT.

Normally the following areas are considered eligible terminal development:

a. Sufficient space is eligible to house necessary equipment/items and personnel to support the FAR Part 139 safety and Title 49 CFR, Part 1542 security operations at the airport. That area is limited to that required by Title 49 CFR, Part 1542 "Airport Security" and endorsed by the Manager, Regional Civil Aviation Security Division as facilities required to meet Title 49 CFR, Part 1542. Any non-public use area beyond that required by Title 49 CFR, Part 1542 is not eligible. This may necessitate a prorated cost procedure for the terminal.

b. Emergency operation command centers may be located in a separate building or within the terminal building. These facilities can vary widely in cost and complexity. Since their use is directly tied to the occurrence of major emergencies on airports (hijacks, bomb threats, major accidents), the following rules should be followed in determining reasonable and necessary costs of eligible work:

(1) Only special facilities and equipment directly necessary for dealing with emergencies during a major incident are eligible along with the normal ARFF and security equipment required by FAR Part 139 and Title 49 CFR, Part 1542. Other equipment and facilities used for day-to-day airport operations may not be funded under this type of project even though they may be used during a major emergency.

(2) Where an emergency operation command center is co-located with the airport operation center, as is often the case, a means of pro-rating the cost of space and facilities between eligible and ineligible portions must be developed.

(3) Austerity should be sought, since such facilities will be rarely used. Amenities such as dormitories or kitchenettes are not considered directly necessary and are not eligible. Please consult with APP-520 as soon as details of such proposed projects are known.

c. Buildings devoted to aircraft safety (aircraft rescue and firefighting) are normally located on the airfield side. (See Chapter 5.)

604. EXPANDED TERMINAL ELIGIBILITY AND PARKING LOTS.

Generally the Act prohibits using AIP funds for decorative landscaping, the provision or installation of sculpture or works of art, and the construction, alteration, or repair of public parking facilities for passenger automobiles or any part of an airport building except those identified in Paragraphs 601, 602, 603 and 606. The following two exceptions should be considered:

a. The ATSA makes mitigation of an explosive blast that would significantly damage a terminal building eligible under AIP. This would include barriers to prevent vehicles from entering an area in close proximity to a terminal building, a guard facility for the purpose of inspecting vehicles, or an actual deflection device constructed as a result of a blast analysis. However, replacement of parking lots would not be considered an air transportation security project.

b. Section 47110(d)(2) expands the area of allowable costs to include terminal development in revenue-producing areas and construction, reconstruction, repair and improvement of non-revenue-producing public parking lots at nonhub primary and nonprimary commercial service airports. Non-revenue-producing parking lots associated with a passenger terminal building or hangar are also eligible at nonprimary airports that do not have commercial service under 49 USC 47119(b)(5) provided requirements described in paragraph 526d(3) have been met. See Tables 13 and 14.

Section 47110(d)(2) does not specifically alter the requirement that allowable costs be directly related to the movement of passengers and baggage in air commerce. However, allowable costs attributable to other revenue-producing areas in a terminal at an airport in this category are likely to be

incidental with respect to the total project cost. Therefore, allowable costs in a project for terminal development may include, in addition to other allowable costs, incidental costs attributable to revenue-producing areas other than those directly related to the movement of passengers and baggage in air commerce.

Examples of such areas include space for a snack shop or vending machines, an alcove for pay telephones, and wall or floor space to accommodate rental car, lodging reservation facilities, or public or travelers information booths. In addition, the costs necessary to provide utilities, heating, ventilating, and air conditioning for such space are allowable. Costs related to administrative (nonpublic use) space and any equipment, furnishings or facilities used in revenue production (e.g., snack bar equipment or furniture, vending machines, telephones, reservation lines) are not allowable costs under this provision. Non-revenue producing parking lots not associated with the passenger terminal building (or a hangar in the case of nonprimary airports) are ineligible. Employee parking lots are ineligible. The FAA has also determined that a project solely to provide a restaurant, for example, in an existing terminal is not an eligible project.

605. AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

Section 47102(3)(F), makes projects to comply with the Americans with Disabilities Act of 1990 eligible under the AIP. See Advisory Circular 150/5360-14.

The provision applies for any construction, reconstruction, repair or improvement of an airport (or any purchase of capital equipment) which is necessary for compliance with the responsibilities of the owner or operator of the airport and does not primarily benefit a revenue producing area used by a nonaeronautical business, most often referred to as a concession.

It is important that projects of this nature be scrutinized to determine that they are in fact the responsibility of the airport owner or operator. Many access projects may be required for an airport tenant (air carrier or other aeronautical business) under Title I of the ADA for employment purposes or required under the Air Carrier Access Act. These projects are not the responsibility of the airport and would be ineligible. On the other hand, some projects that had not been considered eligible previously are now eligible under this section of the Act. (For example, an elevator to airport offices for public and internal meeting use had not been considered eligible as terminal development since the elevator was not “directly related to the movement of passengers and baggage in air commerce". Under this provision, the same elevator may now be eligible if it is determined to be necessary to comply with ADA.) Projects to comply with Title I for airport owners or operators would be eligible, even though Title I requirements for other than airport owners or operators are ineligible.

The Federal Share for these projects is the same as other airport development for the airport.

606. EXPANDED ELIGIBILITY UNDER THE MILITARY AIRPORT PROGRAM (MAP).

Some expanded eligibility at MAP locations will facilitate the transition of military facilities to civil airports. The greatest obstacle to growth at current or former military airports designated by the Secretary to receive funds under MAP may be inadequate facilities that are ordinarily ineligible. The expanded projects may be funded from MAP discretionary funds. Discretionary funding of expanded items may not exceed an aggregate amount of $10 million per airport per year in FY 2004-2005. Thereafter that amount will be $7 million.

a. Passenger Terminal Buildings. Section 47118(e) of the Act makes eligible the construction, improvement or repair of a terminal building facility, including terminal gates used for revenue passengers getting on or off aircraft. The gates must not be leased for more than 10 years. The gates must not be subject to majority in interest clauses.

b. Related Projects. Section 47118(f) of the Act makes eligible the construction, improvement, or repair of airport surface parking lots, fuel farms, utilities, hangars and air cargo terminal building facilities

of an area that is 50,000 square feet or less. MAP airports may be reimbursed using entitlements, discretionary funds, or the MAP discretionary funding for the cost of construction work for these items performed in FY 2003-2004 prior to a grant.

(1) Parking Lots. Parking lot eligibility is limited to parking facilities serving passenger terminal buildings. Allowable size is limited to that area needed to support the forecast parking needs of the air carrier passengers and other terminal users, as specified in the airport master plan. Reference FAA Advisory Circulars 150/5360-9, Planning and Design of Airport Terminal Facilities at Nonhub Locations, and 150/5360-13, Planning and Design Guidelines for Airport Terminal Facilities, to determine the scope of the parking development as based on forecasts. Provisions of Paragraph 526 are superseded by the MAP eligibility.

(2) Fuel Farms. Fuel farm eligibility includes new construction of fuel farms (based on forecasted needs) and rehabilitation of existing fuel farms to bring them up to operating standards established by the EPA or local permitting agencies. FAA participation is limited to those fuel farms, which will be operated by the sponsor or leased to or managed by a fixed base operator for non-exclusive use by the flying public. The branch of the military that operated or currently operates the military airport is responsible for cleanup of contamination. Cleanup that has occurred under civil ownership or operation is ineligible. See Paragraph 515.

(3) Utilities. Utility eligibility is generally allowable subject to proration in accordance with Paragraph 613. The eligibility of utilities at MAP locations is expanded to allow the rehabilitation of existing utility systems to support the aeronautical use portions of the designated airports. Projects on the non-aeronautical, revenue-producing portions of an airport are ineligible under this provision. See Paragraph 515.

607. ENERGY ASSESSMENT.

Energy assessments on new buildings or on the expansion of an existing building are eligible as incidental elements when part of the building design. They are not eligible items of work under a master plan.

608. VALUE ENGINEERING.

Value engineering is the systematic application of recognized techniques that identify the function of a project or service and provide the best function reliably at lowest overall cost. See Paragraph 1009.

609. UTILITIES.

The installation of water, gas, and electric utilities and wastewater treatment facilities will be eligible to the extent they are needed to serve eligible airport development projects. The allowable cost of any installation serving both eligible and ineligible areas or facilities will be a prorated share of the total cost, the method to be determined by the FAA Airports Office as in Paragraph 612a. (See Paragraph 612 and Appendix 12, Paragraph 1 for special conditions, and Paragraph 515 for airfield utilities. Also, see Paragraph 605 for utilities on former military airports.)

610. RELOCATION OF AIR TRAFFIC CONTROL TOWERS AND NAVIGATIONAL AIDS.

Section 47102(3)(E) of the Act makes eligible the relocation of an air traffic control tower (ATCT) and any air navigation facility aid (NAVAID) (including radar) if such relocation is necessary to carry out an AIP or PFC project. Such a project, therefore, is eligible airport development under the AIP. (See Paragraph 593(b).)

This provision applies in those circumstances where the facility physically impedes the construction or future use of an approved AIP project (i.e., shown on an approved airport layout plan and environmentally approvable as well). Relocation of ATCTs solely to correct existing line-of-site problems would not be eligible. Also, the Act is specific in using the term “air traffic control tower". Therefore,

terminal radar approach control (TRACON) facilities, air route traffic control centers (ARTCC'S), flight service stations (FSS) and automated flight service stations (AFSS) are not eligible for relocation; an ILS or TVOR is eligible.

Allowable costs under the AIP are limited to the costs incurred by an in-kind relocation; costs incurred for any upgrade in equipment or facility size are not eligible. In addition, AIP Funds will not be used to relocate an ATCT or navigational aid (including radar) that is presently included in the Facilities and Equipment (F&E) budget or CIP for the current and next 3 fiscal years.

The programming priority of facility relocation will be the same as the project for which it is required. The AIP participation rate for such relocation should be the same as for the development item with which it is associated; i.e., the rate would be 75 percent for relocation to accommodate terminal development at a large primary airport, and 90 percent if done in conjunction with construction of a runway at a reliever airport.

AIP funds may (as well as PFC revenues) be used for relocation of an ATCT or NAVAID only if the project, which necessitated this relocation, is funded under either AIP or PFC.

APP-520 must be consulted if an airport sponsor applies, or intends to apply, for a grant to relocate an ATCT or NAVAID. These proposed relocations will be reviewed on a case-by-case basis.

611. ELIGIBILITY LIMITATIONS.

Terminal development, as defined in Paragraph 601, is eligible. The Federal share of allowable project costs for large and medium hub primary airports shall not exceed 75 percent. At all other commercial service airports the Federal share is 95 currently percent.

a. Except as noted in Paragraphs 603-605 eligibility is limited to non-revenue producing public-use areas that are directly related to the movement of passengers and baggage in air carrier and commuter service terminal facilities within the boundaries of the airport. Typical eligible items include baggage claim delivery areas, automated baggage handling equipment, public-use corridors to boarding areas, central waiting rooms, restrooms, holding areas, and foyers and entryways, as well as loading bridges. Excluded would be those areas that are primarily revenue producing such as restaurants, concession stands, and airline ticketing areas. With regard to baggage areas and equipment serving those areas, only public-use areas associated with baggage claim delivery are eligible.

(1) The fact that public-use areas are subject to a lease where monies are recovered to defray amortization, depreciation, maintenance, or operation costs of the building will not make such areas nonpublic or revenue producing and thus ineligible. In addition, the fact that areas may be limited in use for reasons of security or processing international passengers shall not affect eligibility.

(2) Incidental use of public space for display or advertising, vending machines for public convenience, or coin-operated locks in restrooms will not render areas ineligible. However, costs associated with building adaptation for installation of these items are not eligible. In addition, areas

Table 13 Terminal Eligibility by Commercial Service Airport Type

COMMON AIRPORT NAME*	ELIGIBILITY	FEDERAL SHARE (%)**	DISCRETIONARY FUNDS RESTRICTION	ENTITLEMENT FUNDS (APPORTIONMENTS) ALLOWED
Large & Medium Hub	Limited to public use, non-revenue producing areas **§47110(d)(1)**	75	None, §47119 (b) does not allow the use of discretionary funds	Any amount of passenger entitlement funds for the specific airport **§47119(b)**
Small Hub	Limited to public use, non-revenue producing areas **§47110(d)(1)**	95	None, §47119 (b) does not allow the use of discretionary funds	Any amount of passenger entitlement funds for the specific airport **§47119(b)**
Nonhub Primary	May include revenue producing areas and non-revenue public parking lots. Does not include equipment and final finishes of restaurants and retail spaces **§47110(d)(2)**	95	Any amount of discretionary and small airport funds Secretary approves	Any amount of passenger entitlement funds for the specific airport **§47119(b)**
Nonprimary Commercial	May include revenue producing areas and non-revenue public parking lots. Does not include equipment and final finishes of restaurants and retail spaces **§47110(d)(2)**	95	$200,000 / FY **§47119(b)(2)(B)** and **§47119(b)(4)*** **	Nonprimary entitlements apportioned **§47114(d)(3)(A)**

Note: See Table 14 for terminal eligibility by general aviation and special airport categories.

*See Paragraph 23 for information on types of airports.

**See Paragraph 26 for variations in Federal share.

***This limits program costs to $25,000,000 per fiscal year per airport.

Table 14 Terminal Eligibility by General Aviation and Special Airport Categories

COMMON AIRPORT NAME*	ELIGIBILITY	FEDERAL SHARE (%)**	DISCRETIONARY FUNDS RESTRICTION	ENTITLEMENT FUNDS (APPORTIONMENTS) ALLOWED
Reliever §47102(18)	May include revenue producing areas and non-revenue public parking lots. Does not include equipment and final finishes of restaurants and retail spaces **§47110(d)(2)**	95	$200,000 / FY **§47119(b)(2)(B)**	Nonprimary entitlements apportioned **§47114(d)(3)(A)**
Military Airport Program §47118 (a)	Construct, improve, or repair a terminal facility, including gates for revenue passengers. Gates may not be leased for more than 10 years or subject to majority in interest clauses **§47118 (a)**	95	Not more than $10,000,000 / FY at each airport '04 and '05; $7,000,000 thereafter **§47118(e) and (f)**	Any amount of apportioned funds to the specific airport **§47119(b)**
Cargo Service §47114(c)(2)	None	95	Depends on requirements based on the airport's other airport types or categories	None
General Aviation	May include revenue producing areas and non-revenue public parking lots. Does not include equipment and final finishes of restaurants and retail spaces **§47110(d)(2)** and **§47119(b)(5)*****	95	None, limited to nonprimary entitlements **§47119(b)**	Nonprimary entitlements apportioned **§47114(d)(3)(A)**

Note: See Table 13 for terminal eligibility by commercial service airport type.

*See Paragraphs 23 and 40 for information on airport program categories.

**See Paragraph 26 on variations in Federal share.

***Contact APP-520 for revenue-producing support facility proposals other than hangars and fuel farms.

designed to provide income by serving the public through coin machines and similar collection methods such as cleaning and laundry areas, game rooms, etc., are not eligible.

b. Terminal Passenger vehicles that are used exclusively within the boundaries of the airport primarily to move passengers between airline terminals or gates and devices used to board airline passengers with mobility impairments are eligible. Vehicles to transport passengers to and from aircraft are also eligible. The fact that monies are recovered to defray the costs of amortization, maintenance, and operations will not make such vehicles ineligible. Also, see AC 150/5220-21, Guide Specification for Devices used to Board Airline Passengers with Mobility Impairments.

c. The construction or improvement of public-use areas of Federal inspection facilities, including baggage-handling equipment is eligible, with the following exceptions:

(1) Administrative office space is not eligible, and

(2) Special purpose equipment such as, computers, radios, video monitors, telephones, and teletypewriters are not eligible. Also space, such as training rooms and employee break rooms, are not eligible.

d. Fixed terminal facilities and equipment including ramps, mechanical lifts, or other suitable boarding devices required by Title 49 CFR, Part 27 for access to aircraft by persons with disabilities to any aircraft with a minimum seating capacity of 19 passengers are eligible provided:

(1) They are an integral part of the design of new terminal construction or are incidental to a major terminal renovation;

(2) They are not minor items of personal property such as telephones, teletypewriters, etc. (Legal opinion, AGC-130, Aug.20, 1980);

(3) They do not serve an area exclusively leased to a single carrier and are not themselves exclusively leased; and

(4) Other terminal development eligibility criteria are met.

612. MULTIMODAL TERMINAL BUILDINGS.

Subject to the requirements in guidance above, AIP funds may be used to develop a multimodal terminal located within the boundaries of the airport.

a. Multimodal terminal buildings serve as an interchange for passengers and baggage between two or more modes of transportation that operate on a scheduled basis under a franchise or similar authority granted by a Federal, state, or local agency.

b. Only the portions of the building, which are directly related to air commerce, are eligible. APP-520 shall be consulted prior to the programming of any multimodal terminal project.

613. PRORATION OF TERMINAL BUILDING WORK.

Terminal building projects will usually involve work in both eligible and ineligible areas (See Paragraph 601 and Appendix 7, for special conditions). Federal participation may be determined by the following or other methods, as appropriate (and may be used for other eligible airport buildings):

a. Detailed Cost Analysis. A detailed analysis is undertaken by the sponsor's design consultant during the design stage and prepared on the basis of assigning costs to eligible areas under the guidelines in Paragraph 602. This analysis would also prorate costs for items such as site preparation,

foundations, and utilities that contribute to public-use areas. This method of proration is particularly applicable to new terminal construction.

b. Proration on a Square Footage Basis. Construction costs are prorated on the ratio of the square footage that the eligible area bears to the total usable square footage of the structure. The proration of costs for items that contribute to public-use areas such as site preparation, foundations, and utilities is based on this ratio. This method of proration is particularly applicable to determining retroactive financial assistance for existing terminal facilities.

614. TERMINAL DEVELOPMENT BOND RETIREMENT.

For most airports, see the information on the payment of interest in Paragraph 504b. Additional information within this paragraph applies to a limited number of airports subject to the normal limitations on terminal development funding categories and levels.

a. Repaying the principal of bonds for terminal development or other evidences of indebtedness is an allowable cost when carried out –

(1) On or after July 1, 1970, and before July 12, 1976, at commercial service airports;

(2) Between January 1, 1992, and October 31, 1992, at nonhub, commercial service airports; or

(3) Between January 2003 and August 2004 at nonhub primary airports in the Military Airport Program during FY 2003.

b. The reimbursement under this paragraph is eligible if:

(1) The sponsor submits the required terminal development grant certification in Paragraph 600;

(2) The Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

(3) Amounts available for airport development under Section 47119 of the Act will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money subject to funding limitations.

c. In addition to subparagraph b above at airports described in subparagraph a(2), eligible work is not subject to the requirements for Veteran's preference, Davis-Bacon, Disadvantaged Business Enterprise, and the Brooks Act (professional services).

615. - 619. RESERVED

Section 2. TERMINAL ACCESS

620. ACCESS ROAD ELIGIBILITY.

The construction, reconstruction, and alteration of airport roads and related facilities may be eligible.

a. Access Roads. Access roads and related facilities are eligible provided they meet the following conditions:

(1) The access road may only extend to the nearest public highway of sufficient capacity to accommodate airport traffic.

(2) The access road must be located on the airport or within a right-of-way acquired by the airport sponsor.

(3) The access road must serve exclusively airport traffic. Any section of the roadway, which does not serve airport traffic exclusively, is ineligible. (AGC opinions, 1949, and 1951.) As an example, an airport is fronted by a retail and hotel development. That portion of the road that goes through and also serves the commercial development would not be eligible; however, that portion of the road continuing into the airport to the terminal would be eligible. As another example, a road that serves an airport terminal complex, then goes on to provide access to other unrelated airport development would not be eligible. Also, the access road must serve airport traffic exclusively and the cost of that road cannot be prorated on the basis of airport traffic to nonairport traffic.

(4) More than one access road is eligible if the airport surface traffic is of sufficient volume to require more than one road. The justification for the additional access road(s) shall be supported by traffic counts and a recent traffic study. This study may be an element of a master plan study or an individual study specifically to support the proposed project.

(5) Related facilities such as acceleration and deceleration lanes, exit and entrance ramps, street lighting, and bus stops also are eligible when they are a necessary part of an eligible access road.

b. Public Circulation Roads. Roads constructed to provide for the circulation of passengers and freight on the airport are eligible except:

(1) Roads exclusively for the purpose of connecting parking facilities to an access or circulation road (for roads that directly connect terminal facilities to ineligible public facilities, see Paragraph c. below);

(2) Roads serving solely industrial or non-aviation related areas or facilities; and

(3) Roads necessary only to maintain FAA facilities installed under the F&E program.

c. Service Roads. Service roads located on the airfield side of the airport are eligible in accordance with Paragraph 527 if necessary for:

(1) ARFF access to the runway and runway safety areas; or

(2) Operation and maintenance of the airport.

(3) A service road that provides incidental access to FAA or other non-aviation related areas or facilities may be eligible.

(4) Roads constructed to provide separation of airport surface vehicles and aircraft may be justified on the basis of safety. This would depend on the amount of surface vehicle and aircraft traffic and the specific layout of the airport.

d. Special Circumstances. Roads directly from a terminal to an ineligible (revenue producing) parking lot are eligible as would be sidewalks or people movers between eligible terminal areas and the ineligible parking lot. The Act provides that access to and from a terminal is eligible if it is necessary for the movement of passengers and baggage. This also includes sidewalks and people movers. In addition, access between an eligible terminal and an eligible parking facility (nonrevenue parking lot on a nonhub primary or nonprimary commercial service airport) is eligible.

621. WALKWAYS.

At commercial service airports, walkway facilities including surface sidewalks, moving sidewalks, tunnel walkways, stairs, and overhead walkways are eligible. Covers or canopies over surface sidewalks may be eligible when necessary to protect concentrations of persons from the weather such as at passenger loading or unloading areas. If structurally part of the terminal facility, they will be

considered as part of terminal development. At airports other than commercial service airports, surface sidewalks and bike lanes will be eligible only as an incidental part of an eligible access roadway project.

622. ON AIRPORT RAPID TRANSIT SYSTEMS.

a. Light Rail, Monorail, and Automated People Mover Systems. Light rail, monorail, and automated people mover systems, including equipment needed to provide operational control of the system, used to transport passengers and baggage between eligible terminals and parking lots and other areas of an airport are eligible. Stations or stops for passenger access are only eligible to the extent that they only provide passenger access. Any commercial areas, maintenance areas, employee parking lots, ticketing, or fare collection areas are ineligible. If any ineligible areas are included in the station's design, the cost for the station must be prorated. Any operations, maintenance, storage facility, spare parts, spare equipment, any equipment required to perform any maintenance, whether that maintenance be on rail cars, structural elements, operations systems, or other components, administrative offices, and any track to a maintenance facility is ineligible. Also, extensive justification for an on airport passenger transportation system is required. This justification must include a discussion of other alternatives. Any such project should be coordinated with APP-520 before it is programmed.

b. Rail Service to Airports. Rail service to an airport must meet the same eligibility criteria as airport access roads as found in Paragraph 620. The rail line must be limited to only serve passengers and employees traveling to and from the airport. Stations or stops for passenger access are only eligible to the extent that they only provide passenger and employee access. Any commercial areas, maintenance areas, ticketing, or fare collection areas are ineligible. If any ineligible areas are included in the station's design, the cost of the station must be prorated. At a minimum, the eligibility/ineligibility in Paragraph a above would apply to rail service to airports. Also, any equipment needed for fare collections is not eligible.

623. - 629. RESERVED.

Section 3. OTHER TERMINAL LANDSIDE CONSTRUCTION.

630. GENERAL.

There are other terminal area projects that may be eligible. These projects may be required as a result of environmental findings, such as, water and air quality projects. (See Paragraphs 544, 547(d), 580,and 586).

631. ESTABLISHMENT OF STRUCTURES ON FEDERALLY OBLIGATED PAVED AREAS.

An airport sponsor may construct a locally funded structure for deicing or anti-icing purposes (only) on an AIP funded taxi lane or apron, even if that structure would be located on an existing Federally obligated pavement. (See Paragraph 526b.) A sponsor may build more than one shelter for additional capacity. Other types of structures are not permitted. The FAA will take appropriate action to ensure sponsor compliance with the following requirements when a deicing or anti-icing structure is constructed:

a. Any proposed anti-icing shelters; adjacent hangars or related facilities must be depicted on the FAA-approved ALP prior to initiating work. The size of the structures must accommodate an appropriate range of user aircraft if limited anti-icing facilities are available. In reviewing the ALP, FAA Airports offices should give special attention to any adverse impacts that such construction may have on taxi or run up operations at the airport.

b. The sponsor will establish a fee schedule for use of the structures consistent with the assurance that requires that the airport be as self-sustaining as possible. Use of the structures during fair weather and for other than deicing/anti-icing purposes will be considered in establishing the fees.

c. The sponsor may not operate the structures on an exclusive or near exclusive basis, and the sponsor must establish procedures for management and operation of the structure to ensure prompt access to the facility for each potential user. This may include movement of aircraft parked within the shelters to accommodate other airport users.

632. - 639. RESERVED.

Section 4. AIP/PFC PROGRAM DISPARITIES

640. GENERAL.

There are few disparities between the AIP and PFC programs and they are as follows: At large, medium, and small hub airports the terminal baggage makeup area is not eligible under the AIP program except as described in Paragraph 602(c). Under the PFC program, this area would be eligible. Also, non-exclusive use baggage makeup equipment (conveyors) owned by the sponsor would be eligible under the PFC program. This equipment would not be eligible under the AIP. These areas are considered “gates and related areas", which is an area of additional eligibility for the PFC program. The ineligible areas must be prorated for an AIP grant; however, the PFC program would not require a proration. In addition, the PFC program is not subject to the source of funding limitations to which the AIP is subject. At nonhub primary airports and nonprimary commercial service airports, revenue-producing areas are eligible under both programs. See Paragraph 600(g) and Table 11. Also, for a more detailed discussion on the PFC program, and more specifically gates and related areas eligibility, please refer to FAA Order 5500.1.

641. - 699. RESERVED.

Chapter 7. LAND ACQUISITION PROJECTS

Section 1. LAND ACQUISITION

700. GENERAL.

a. The acquisition of any interest in land is eligible when it is necessary for airport purposes, provided the land was acquired after the date of enactment of the Federal Airport Act, May 13, 1946. For reimbursement of land costs, see paragraph 310a(4).

(1) The cost of all real property acquired for AIP purposes shall be supported by a real estate appraisal and accepted settlement justification in accordance with Order 5100.37A, Land Acquisition and Relocation Assistance for Airport Projects, and in Advisory Circular 150/5100-17, Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects. These documents contain detailed coverage of the appraisal and acquisition of real property, and are expected to be used as complimentary guidance to Order 5100-38, Airport Improvement Program Handbook.

(1) The term “airport purposes", as used herein, refers to all aviation activities normally found on an airport. Although many infrastructure and construction elements are not eligible for AIP, the land they occupy would be eligible for acquisition.

(2) The term “necessary", as used above, is relative and need not be so narrowly applied as to limit land acquisition to the minimum presently required for the airport. The acquisition of any interest in land if it is necessary for future as well as current airport development purposes shall be encouraged based on reasonable projections contained in the latest airport master plan but, not to exceed 20 years of aeronautical need as determined by the FAA Airports Office.

b. The approved ALP serves as a primary basis for determining the areas of land necessary for the airport. Generally, land necessary for airport purposes includes the building areas, landing area, runway protection zones, approach areas, areas for noise compatibility, and offsite areas required for airport utilities, such as sanitary sewers, storm drainage, electrical power, and obstruction lighting facilities.

c. Eligible land acquisition will normally be fee simple; however, some lesser interest may be acquired if that interest is legally sufficient for the purpose of the grant. However, when the cost of a lesser interest approaches the cost of a fee simple interest, the acquisition in fee simple is encouraged. It may also include extinguishment of easements or other interests in land held by others, such as mineral rights, which interfere with or might adversely affect the development or operation of the airport.

d. Existing property lines and boundaries created by nature such as rivers and manmade development (highways, railroads, etc.) should be recognized in delineating areas of land to be acquired. There will be instances where it is prudent for a sponsor to acquire an entire parcel of land rather than a specific portion that is the minimum needed for airport projects, (such as where the entire parcel can be purchased for approximately the same price as the portion required for airport purposes). This excess land should be treated in accordance with Paragraph 702 of this Order.

e. Where a partial acquisition would leave the owner with an uneconomic remnant (defined at Title 49 CFR, Part 24.2 [1]), as required under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) the airport owner shall offer to purchase the remnant

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1 uneconomic remnant. The term "uneconomic remnant" means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the airport sponsor has determined has little or no value or utility to the owner.

parcel in addition to the property needed. Uneconomic remnants may be incorporated into airport property as feasible, or disposed of in accordance with Paragraph 702 of this Order.

701. LAND ACQUISITION FOR CURRENT AIRPORT DEVELOPMENT.

The acquisition of land or any interest in land for current airport development is eligible when necessary for:

a. Airside Development. Runways, taxiways, associated safety areas, ramps, aprons, and the land adjacent to these facilities required by current standards for separation and clearance. In addition, land for ultra light operations at an existing airport is eligible when necessary for safety or capacity purposes and if the airport itself is eligible to receive grant funding.

b. Protection of The Airport Approach Area. The approach zones (including runway protection zone), horizontal, conical, and transitional zones at airports required to convey a right of flight. This also includes the right to remove existing obstructions and to restrict the establishment of future obstructions (See Chapter 5, Section 9). As used in this paragraph, zone means land lying under the appropriate Part 77 surface.

(1) Runway Protection Zone (RPZ). The sponsor should be strongly encouraged to acquire fee title to all land within the RPZ, with first priority given to land within the Object Free Area. See Paragraph 581. If the fee title acquisition is impracticable, an avigation easement is required. This easement must convey the right of flight with inherent noise and vibration below the approach surface, the right to remove existing obstructions, and a restriction against the establishment of future obstructions. Alternatively, for existing runways the RPZ may be subject to written agreements (rather than an easement) with a public agency, e.g. a State highway division, to control the use of land. The grant agreement must contain the special condition in Appendix 7, Paragraph J which obligates the sponsor to protect the runway protection zone.

(2) Approach and Transitional Zones. Land interest is eligible when acquisition is necessary to restrict the use of land in the approach and the transitional zones (the dimensions as cited in the applicable AC's) to activities and purposes compatible with normal airport operations as well as to meet current and anticipated development at the airport. Unless there is a need for the land for future development or noise compatibility purposes, sponsors should be encouraged to acquire the minimum property interest necessary to ensure safe aeronautical use. For approach zones, except for noise compatibility, fee simple acquisition beyond 5000 feet from the end of the existing or proposed primary surface will not normally be eligible.

(3) Protection of Horizontal and Conical Surfaces. Normally zoning will be adequate to provide the necessary rights and protection above the entire horizontal and conical surface. In any case, where an easement or fee title acquisition is needed to provide such rights, special justification should be included in the project file to document such need.

c. Landside Development. Items include airport terminal and administrative buildings; hangars; equipment buildings; fixed base operator buildings; and other airport buildings needed in connection with the operation and maintenance of the airport. The building area also includes the tie-down area, transient parking apron, automobile parking, access roads, and walks. Land acquisition specifically for development of industrial or nonaeronautical commercial building areas is ineligible.

d. Navigational Aid Facilities. Land may be acquired for the installation, operation, and maintenance of a Sponsor owned navigational aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, whether located within or outside of the airport boundary. Also, a relocation site may be acquired for an air traffic control tower and any NAVAIDs (including radar) if the relocation is required by eligible airport development and if the sponsor is responsible for such relocation. (See Paragraph 305.)

e. Installation of Airport Utilities. Right-of-way for drainage, sanitary sewers, storm water runoff, utility lines, etc., that are located outside the airport boundary.

f. Mitigation of Airspace Conflicts. The resolution of a conflict caused by the proximity of two or more airports, which cannot be resolved by an acceptable operational or design alternative. Allowable costs for resolving such conflicts are limited to the lesser of the following:

(1) The appraised value of acquisition of any easement or of placing a restrictive covenant on the property necessary to permit full development and use of facilities eligible for AIP grants-in-aid. The value of the easement or restriction must be based on appraisals using the Before-and-After Method as described in Paragraph 2-21, Order 5100.37A.

(2) An amount equal to the difference in cost between fee simple acquisition of the property and the resale of the property at full market value after imposition of appropriate restrictions to allow airport development. If this method is used, the sponsor should be cautioned that the Uniform Act may apply, depending upon the sponsor's acquisition techniques. Also, the grant may not include any provision for directly paying sponsor costs of fee simple acquisition.

702. TREATMENT OF UNNEEDED REAL PROPERTY.

Normally, AIP funds may be used to pay the Federal share of the cost of acquiring only such land as is needed for airport or noise compatibility purposes. However, where the sponsor must acquire a tract of land in excess of airport needs and where the land or improvements will be immediately disposed of, the grant may be based on the full value of the parcel, including that part which is excess. The net proceeds from the sale shall be deducted from the grant amount before project closeout. In those cases in which the sponsor does not intend to sell the excess property immediately after acquisition, the amount of the purchase price attributable to such property shall not be included in the grant. If, after having originally selected the option of immediate disposal, the sponsor elects after grant award to retain any property for nonaeronautical purposes, the amount attributable to that property retained shall be deducted from the grant.

703. RETENTION OF EXCESS LAND FOR NOISE PURPOSES.

Where the sponsor must acquire a tract of land for airport development and a portion of the tract is in excess of airport development needs and that portion is to be retained for noise purposes, the excess land must meet the requirements contained in Chapter 8, Section 2.

704. RELOCATION AND REAL PROPERTY ACQUISITION ASSURANCES.

For projects that involve the acquisition of real property or which result in the relocation of any person or business, the sponsor must satisfy certain requirements of the Uniform Act and the implementing DOT regulations contained in Title 49 CFR, Part 24. Information on these requirements is contained in Order 5100.37A, Land Acquisition and Relocation Assistance for Airport Projects, and in Advisory Circular 150/5100-17, Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects. These assurances are required both for all FAA assisted projects and programs where acquisition or relocation is required or contemplated, and for projects to reimburse the sponsor for prior acquisition or relocation.

705. LAND ACQUISITION FOR FUTURE AIRPORT DEVELOPMENT.

a. General. Acquisition of land for future airport development is eligible if it is based on reasonable projections of aeronautical need as determined by the FAA Airports Office. "Future development" is considered to be the development of a facility more than 5 years after acquisition. A sponsor may consider such land acquisition in planning a new airport or in the orderly development of an existing airport. Justification for use of current AIP funding for long term land needs must be documented, taking into consideration such factors as rising land costs, encroachment on available land by incompatible uses and development, and the probable unavailability of land for airport use in the future. The property

acquisition must conform to Uniform Act requirements and persons displaced shall be provided relocation assistance and payments as prescribed. The acquisition of land for future airport development must meet the requirements of the National Environmental Policy Act (NEPA) of 1969, as implemented by the current versions of FAA Orders 1050.1 and 5050.4.

b. Requirements. No project to acquire land for future development of a proposed airport shall be approved unless the following requirements have been satisfied:

(1) There is a valid aeronautical need for the land;

(2) The site selected has been approved by the FAA;

(3) Airspace clearance for the site has been granted;

(4) There is an approved airport layout plan; and

(5) Environmental concerns have been identified and addressed in accordance with NEPA.

c. Special Conditions. The grant document shall include the special conditions specifically drafted for projects that include land as contained in Appendix 7, Paragraph K.

d. Land Banking and Purchase of Land Options. Studies of the concepts of "Land Banking" and "Purchase of Land Options" were conducted to determine if there were conditions and procedures that enabled acquisition of land needed for future airport development in the current time frame. The 1977 study of land banking assesses the potential to ensure the future availability of land for airport development. A study of the purchase of land options was completed in 1997. That study summarized some of the findings and conclusions of the land banking study. It then evaluated the concept of purchase of land options as used in the private sector with a view toward adapting the concept to Federal projects. It provides a comprehensive overview of the use of land options, with an emphasis on terminology used in the commercial real estate arena. The study also summarizes Federal experience with advance purchase of land for future development. The study concludes that the concept of purchase of land options may have limited usefulness in the Federal sector. The study is available on the APP-500 web site at the following address: http://www.faa.gov/arp/500home.htm. The report, Land Options Used in Federally Funded Airport Projects, is listed near the bottom of the page and is available for viewing and downloading in both HTML and PDF.

706. LAND ACQUISITION FOR NOISE COMPATIBILITY.

a. General. The acquisition of, or interest in, land to ensure that such land is used only for purposes compatible with the noise level of the airport is eligible provided:

(1) It is a noise compatibility program measure approved by the FAA pursuant to FAR Part 150;

(2) It is reimbursement for noise land acquired through FY 1986 or it was a noise compatibility project included in a multi-year grant that was entered into prior to FY 1987. In either of these cases, the project must have been an element of a noise compatibility program determined by the FAA to be substantially consistent with the purposes of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses under Title 49 U.S.C., Section 47504(c)(2)(c).

(3) It is required as a mitigation measure in an environmental document for airport development upon which approval of the project is conditioned.

b. Areas below DNL 65 dB. Airport sponsors may determine that local circumstances warrant land acquisition for noise compatibility, including noise buffers, in areas of moderate noise exposure (i.e., either between DNL 65-60 dB or between DNL 65-55 dB). Such acquisition is eligible when supported by appropriate documentation from the sponsor and approved in a Part 150 program or FAA

environmental document. Contact APP-600 for assistance in advising sponsors on documentation. The funding priority for land outside DNL 65 dB is lower than for land subject to significant levels of noise exposure.

c. AIP/PFC Program Disparity. PFC eligibility differs from AIP eligibility. To be eligible for PFC, a noise mitigation project must be located in an area adversely impacted by noise and the proposed mitigation must be eligible for approval as a noise compatibility measure under Part 150 if it were so submitted. However, PFC funded projects do not have to be submitted to FAA in a Part 150 program and do not have to receive Part 150 approval. Where a project is not in an approved Part 150 program, FAA requires a sponsor to provide documentation demonstrating that the project will accomplish a noise mitigation purpose that would be eligible for approval under Part 150. The eligibility of the proposed noise project must be supported by noise contours that could be prepared in conjunction with a Part 150 study, environmental document, or other suitable planning analysis. Noise mitigation in areas of moderate noise exposure below DNL 65 dB is also eligible, as with AIP.

707. ACQUISITION OF A PRIVATE AIRPORT BY A PUBLIC SPONSOR.

a. General. The acquisition of a private airport by a public sponsor will normally include acquisition of lands already developed as a privately owned airport and of all structures, fixtures, and improvements constituting a part of the realty. A public sponsor, when purchasing an existing privately owned airport, normally acquires all land owned and used for the airport. To do otherwise would encourage “through the fence operations.”

b. Highest and Best Use - As an Airport. The value of structures, lands, or other development, which would be ineligible for inclusion in a construction or land acquisition project under the AIP, may not be included in the grant amount when the appraisal is based on the highest and best use as an airport.

c. Highest and Best Use - Other than an Airport. If the basis of an appraisal is the highest and best use other than as an airport, the grant may be based on the entire appraised estimate of value.

d. Legal Review. A legal review shall be made of the agreement of sale to ensure that the sponsor can carry out all of the grant obligations. Particular attention should be paid to any on-going agreements with former owners.

708. LAND ACQUISITION AT A PRIVATELY-OWNED PUBLIC USE AIRPORT [2].

a. Eligibility of Land. The eligibility of land acquisition at privately owned public use airports is limited to that land necessary for landing areas (including helipads), taxiways, aprons, associated safety areas, and runway protection zones or land necessary to improve safety. A private sponsor can only acquire land needed for AIP eligible development.

b. Ineligibility of Land. The acquisition of land for an entire airport for a private sponsor is ineligible.

c. Full Disclosure. The sponsor must provide full disclosure of any prior interest it may have had in any land proposed for acquisition. Where such interest exists or existed, the FAA Airports Office should contact APP-520 for guidance.

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2 As defined in Paragraph 208. Private Airport Owners. This may be an individual, a partnership, corporation, etc., that owns or operates a reliever airport or a public use airport that receives scheduled passenger service of aircraft which enplane annually 2,500 or more passengers.

709. LAND ACQUISITION FROM A STATE/LOCAL PUBLIC AGENCY.

The FAA Airports Office shall determine that land acquired from another public agency is, in fact, a bona fide sale to the sponsor, and that such land was not transferred merely for the purpose of making the land eligible for Federal Funding. This pertains to purchase from another public agency and not donation. Donated land valuation is covered in Chapter 3.

Section 2. TITLE AND PROPERTY INTEREST

710. TITLE REQUIREMENT.

Title 49 U.S.C., Section 47106(b)(1) states that no project grant application for airport development may be approved by the Secretary until the Secretary is satisfied that the sponsor, a public agency, or the United States Government holds good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or gives assurance to the Secretary that good title will be acquired.

711. TITLE FOR LANDING AND BUILDING AREAS.

a. General. Title with respect to lands to be used for landing area or building area purposes can be either fee simple title (free and clear of any and all encumbrances), or title with certain rights excepted or reserved. Any encumbered title must not deprive the sponsor of possession or control necessary to carry out all obligations under the grant. A deed containing a reversionary clause, for “so long as the property is being used for airport purposes", does not negate good title provided the other conditions are satisfied. Where rights excepted or reserved would prevent the sponsor from carrying out its obligations under the grant, such rights must be extinguished or subordinated prior to approval of the project.

b. Airport Property Subject to a Mortgage. The existence of a mortgage on the airport property, in and of itself, is not a sufficient reason to render such project ineligible. However, the sponsor’s ability to meet the principle and interest payments on the mortgage must be determined prior to the approval of the project.

c. Lease of Aeronautical Land. Privately owned public use airport sponsors that qualify for Federal funding under AIP must own the landing and building areas and may not be a lessee of land for aeronautical purposes. In those instances where the public sponsor’s title consists of a long-term lease, such title is satisfactory provided the following conditions are met:

(1) If the landing area is leased, the lessor must be a public agency;

(2) The sponsor has a long-term lease (minimum of 20 years from the date of the grant) to all landing areas and building areas;

(3) The lease contains no provision which prevents the sponsor from assuming any of the obligations of the grant agreement; and

(4) That consideration for the entire lease is paid in advance. However, this condition may be waived if the sponsor has adequate financial resources to assure future lease payments.

712. TITLE FOR OFF-AIRPORT AREAS.

Property interests required in off-airport areas (See Paragraph 303) must be sufficient to assure that the sponsor will not be deprived of its right to occupy and use such lands for the purposes intended.

713. DETERMINATION OF ADEQUATE TITLE.

A certification by a sponsor that it has acquired property interests required for a project may be accepted in lieu of any detailed title evidence (See FAA Order 5100.37A Paragraph 3-13) and need not be submitted to the Regional Counsel unless the regional Airports Division Manager considers legal review necessary. Without such certification, the sponsor's submission of title evidence must be reviewed to determine adequacy of title. The adequacy of such title is an administrative determination made by FAA Airports Office personnel and need not be submitted to Regional Counsel for review unless there is reason to suspect title is not adequate.

714. TITLE REQUIREMENT PRIOR TO NOTICE TO PROCEED.

Authorization for the sponsor to issue a notice to proceed with construction work should not be given until it has been determined that all required property interests on which construction is to be performed have been or will be acquired in conformance to the Uniform Act and that comparable replacement dwellings have been made available to persons displaced from their homes. The Sponsor Uniform Act Certification and Certification of Title may be accepted in making these determinations and should be provided to the FAA prior to notice to proceed being issued (See Chapter 9 of AC 150/5100-17). See Paragraph 1203 for more information.

715. - 719. RESERVED.

Section 3. LAND COSTS

720. GENERAL.

The purchase price or cost of land, including justified administrative settlement amounts (See FAA Order 5100.37 for acceptable criteria) and costs incidental to the acquisition of any property interest necessary for airport purposes including appraisal costs, is allowable provided such costs are necessary and reasonable in amount. Sponsor costs for obtaining title insurance for lands it purchased are not allowable. The sponsor shall maintain adequate documentation to support costs as eligible for Federal reimbursement. A documentation checklist and quality control guidelines are provided in AC 150/5100-17.

721. RELOCATION COST.

a. General. The cost incurred by the sponsor to meet the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is eligible for Federal assistance as project costs except that the Federal share of the cost incurred by the sponsor of providing payments and assistance under the Act from January 2, 1971 through June 30, 1972, is 100 percent of the first $25,000. (See Order 5100.37A.) Also, see Appendix 7 for special conditions for land in projects.

b. Examples of Relocation Costs:

(1) Moving expenses;

(2) Reestablishment expenses;

(3) Replacement housing payments;

(4) Rent supplements;

(5) Down payments;

(6) Mortgage interest differentials or mortgage buy downs;

(7) Incidental expenses in connection with the acquisition of replacement housing;

(8) Advisory services; and

(9) Preparation of feasibility studies and relocation plans.

722. REIMBURSEMENT FOR LAND PREVIOUSLY ACQUIRED.

b. For public sponsors the grant shall be based on the value of the land at the time it was acquired by the sponsor. Where it is necessary to substantiate the reasonableness of cost of land previously acquired, an examination of the facts surrounding the transaction should be made. If the sponsor, at the time of acquisition, did not obtain and use appraisal reports, a historical appraisal shall be prepared. For private reliever sponsors AIP funds may be used to reimburse at the current fair market value for land acquired prior to receipt of a preapplication.

c. Title 49 U.S.C. provides a special rule regarding the valuation of land contributed by the sponsor of a privately owned reliever airport. Unlike public sponsors, owners of eligible privately owned reliever airports receive current fair market value for land contributed (not donated) to a project as the sponsor's share. Title 49 U.S.C., Section 47109(c) provides that a privately owned reliever airport that contributes any lands, easements, or rights-of-way to carry out a project under AIP is permitted to credit the current fair market value of these property interests toward the non-Federal share of allowable project costs. Public sponsors, however, continue to receive credit based on the cost or value at the time of acquisition. The methodology for applying this provision is unchanged from that set forth in Paragraph 353, except that, for a project at a private reliever airport in which land is contributed in lieu of cash for the local share, the basis for the value of the land must be based on the current fair market value. Such claims of valuation should be supported by recent credible appraisals. Land contributed to a project, whether by a public or private sponsor, is subject to Assurance 31 should the sponsor propose to dispose of the land.

(1) The background on the evolution of the current policy for valuation of previously acquired land is provided below.

(a) A letter was written to Congress on behalf of a privately owned reliever airport owner's concern for the way the Federal Aviation Administration was handling land reimbursement policy at private reliever airports, and in particular, his. His contention was that he was donating land for the airport development project and therefore should be able to claim current fair market value. He also contended that we were treating private and public relievers differently.

(b) An evaluation of his assertion resulted in the conclusion that he was confusing two distinct and separate matters related to land. He consistently referred to donated land in his letters to his Congressman. In his case, he was not dealing with donated land, which would entail a gift from another party. Instead, he was dealing with the issue of using previously acquired land as the sponsor's matching share for a new Federal grant.

(c) The policy, in effect at the time, on the use of previously acquired land was based on legislation contained in Title 49 U.S.C.. Specific language in Title 49 U.S.C., Section 47110(c) outlines eligibility of certain prior costs as allowable costs in a new grant. The costs of formulating a project, including costs incurred after May 13, 1946, to acquire interests in land, may be included in a grant associated with the project. It should be noted that this section provides no authority to base the grant amount on other than the actual costs incurred by the sponsor, or to reimburse any land acquisition costs incurred on or before May 13, 1946.

(d) This provision, as it applies to public airports, has been in effect since 1946, the first year of Federal grant programs for airports. Under this provision, a sponsor may include the cost of all or a portion of previously acquired land in a project grant application. The grant is then issued, in effect, for a project in which land acquisition and construction costs are combined, and the grant amount is based on the Federal share of the combined allowable costs. When the cost basis of such land equals the sponsor's share of total project costs, the sponsor need contribute no cash toward the construction

costs of the project. For example, in a project with construction costs of $90,000, the inclusion of $10,000 in previous land acquisition costs would result in combined project costs of $100,000. With the Federal share set at 90 percent of allowable project costs, the AIP grant would be $90,000 and the sponsor would not need to make any additional cash contribution.

(e) When legislation was enacted establishing the eligibility for AIP grants at private reliever airports, FAA did not apply the provision for reimbursement of prior land acquisition costs to privately owned airports. This, however, did not preclude the use of AIP grant funds to acquire additional development land where needed at a private reliever airport.

(f) A 1994 conference report directed the FAA to determine if private relievers should be treated differently in regard to the valuation of land they used in a project. The inference was that the land had been relatively worthless before being developed as an airport, and to use that value would not provide the sponsor the ability to maximize his return on the increased value of the land as an airport. It was found that the improvements to the land and the valuable contribution of the airport to the Nation's aviation system were not being recognized. However, there was no authority under Title 49 U.S.C., Section 47110 to revise the policy of land valuation for private relievers.

(g) The FAA's response to Congress identified rationale for interpretation of legislative intent being applied to valuation of previously acquired land.

3. Most of the 3,400 airports in the FAA's National Plan of Integrated Airport Systems are small publicly owned facilities, and, as at private airports, funds for the matching share on Federally assisted projects are extremely limited. Using the cost of previously acquired land allows a sponsor, public or private, to obtain a grant for an important project without a cash outlay for the sponsor's share. Public owners have always been reimbursed for previously acquired land based on their actual acquisition costs. The same provision, at that time, was being applied to private owners.

4. The authority provided in Title 49 U.S.C., Section 47110(c) to reimburse an airport sponsor for project formulation costs incurred after May 13, 1946, including costs to acquire land or interests in land for airport development, refers to costs incurred. This section sets forth an exception to the more general provision in Section 47110(b) that likewise defines allowable costs in terms of costs incurred. The FAA found no statutory basis for reimbursing a sponsor for an amount other than its actual costs incurred. Thus, in the example noted above, no basis in law could be found for valuing the land at any amount other than $10,000 for determining total project costs or actual local share.

(h) Based on the findings by FAA, Congress acted to clarify their intent in relation to private reliever airports. Section 1211 of the Federal Aviation Reauthorization Act of 1996 amends Section 47109 to change the way land reimbursement is treated when a privately owned reliever airport uses a portion of existing airport land for use in a project to cover the non-Federal share. The current fair market value, instead of the fair market value at time of acquisition, is now to be used to determine the value of the land included in the project.

(i) This change results from our findings during the past several years that the private relievers should be treated no differently than public relievers and legislation would not permit any other method. Although this change validates our previous eligibility determination for valuing land included in an airport project, we must now treat public and private reliever airports differently.

d. There have been suggestions that in the past we may have allowed some private reliever sponsors to obtain current fair market value for land they included in projects. We believe this may have resulted from a misinterpretation of the terms "donation" and "reimbursement". If it is found that an error was made through confusion of terms, the fact should be documented in the project folder. It is not likely that recovery of excess funds would be feasible or possible. That fact should also be noted in the folder.

723. LAND ACQUIRED THROUGH CONDEMNATION.

The cost of land or property interest established by the courts in a condemnation proceeding may be accepted as a reasonable cost, even though above current appraised value. However, if the FAA has reason to believe that the court award is excessive, the sponsor should be requested to appeal the award. While infrequent, there have been cases where the amount of the original award has been reduced on appeal because it was found to be excessive and unreasonable. There have been other cases where the condemner, after withdrawing from the proceeding because of excessive amount of the award, obtained the land involved by negotiation or subsequent condemnation at a lower price. Attorney fees, interest, and other incidental expenditures included in a court award to land owners in a condemnation action may be included as project costs.

724. LAND EXCHANGE.

The acquisition of land required for the airport, through the exchange of other land owned by the sponsor, constitutes an eligible project cost. In such cases, the value of the sponsor-owned land will be determined in the same manner in which the value of donated land is established. In the case of a donation (See Paragraph 351), the maximum value eligible for Federal participation is the fair market value at the time the property was conveyed to the sponsor, as determined by an independent historical appraisal in accordance with Paragraph 722. Therefore, if the sponsor acquires property from some third party through the exchange of other property it owns, it may seek reimbursement from the FAA for the appraised fair market value of its property with a date of value as of the time that property was originally conveyed to it.

725. LAND LEASES.

Lease payments in the form of periodic rental payments for use of land owned by another public agency are considered to be operating costs and are not eligible. However, prepaid rent, which is payment in full in advance for the full term of the lease, is eligible. The pre-paid rent should reflect the present value of the rent payments not to exceed the current fair market value of the real property leased.

726. NONALLOWABLE LAND COSTS.

See Paragraph 311.g. for limitation on interest charges related to land acquisition. Land costs should exclude payments that exceed entitlements prescribed in Title 49 CFR, Part 24 and for items generally held to be non-compensable in eminent domain (e.g. compensation for loss of business, goodwill, frustration of development plans, and applicable limitations as described in the Uniform Appraisal Standards for Federal Land Acquisitions available on the Department of Justice web site at the following address: http://www.usdoj.gov/enrd/land-ack). DOJ appraisal standards are used to describe the compensable limits. Some of the provisions of the DOJ appraisal standards do not apply where the state or local government is taking title, and only apply when taking title in the name of the USA and having condemnations in US Courts. The FAA appraisal standards conform to Title 49 CFR, Part 24.103 and are described in FAA Order 5100.37A, Land Acquisition and Relocation Assistance for Airport Projects, and in Advisory Circular 150/5100-17, Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects. Consult APP-600 for other suspected nonallowable land costs.

727. - 729. RESERVED.

Section 4. DISPOSAL OF UNNEEDED LAND

730. DISPOSAL OF LAND.

Land that initially had an aeronautical purpose, but is no longer needed for such purpose, shall be disposed of in accordance with Order 5190.6A and such proceeds shall be handled in accordance with Assurance 31, Disposal of Land. That portion of the proceeds retained by the airport is considered airport revenue, subject to the requirements of Title 49 U.S.C., Sections 47107(b) and 47133.

731. USES OF AIRPORT REVENUE.

a. Title 49 U.S.C., Section 47133 Requirement. Under Title 49 U.S.C., Section 47133 sponsors must provide assurance that all revenue generated by their airport, if it is a public-owned airport, will be expended for the capital or operating costs of the airport, the local airport system or other local facilities which are owned or operated by the sponsor and directly and substantially related to the actual air transportation of passengers or property. This requirement appears as Assurance 25 in the Assurances for Airport and Planning Agency Sponsors though it does not apply to planning projects.

b. Exceptions to Title 49 U.S.C., Section 47133 Requirement. Title 49 U.S.C., Section 47133 does not apply to planning agency, private, or nonairport sponsors. Additionally, the section itself contains language exempting certain sponsors from this limitation and "shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator." AAS-400 should be consulted for assistance in making determinations on the applicability of the exemption in particular cases.

c. Guidance on Airport Revenue. Additional guidance on acceptable uses of airport revenue can be found in Federal Register Notice, Policy and Procedures Concerning the Use of Airport Revenues, Volume 64, Number 30, Tuesday, February 16, 1999.

732. - 799. RESERVED

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Chapter 8. NOISE COMPATIBILITY PROJECTS

Section 1. GENERAL

800. GENERAL.

The Aviation Safety and Noise Abatement (ASNA) Act of 1979, as amended, and recodified without substantive change at Title 49, U.S.C., Sections 47501 – 47510, permits the FAA to provide funds for projects at both commercial service and general aviation airports to carry out an FAA approved noise compatibility program (NCP). In addition, the FAA may provide AIP funds for noise insulation projects in buildings used primarily for educational or medical purposes that are not included in an FAA approved NCP. Grants for such projects may be made to airport sponsors as well as to eligible public agencies not owning airports (nonairport sponsors). However, noise mitigation associated with airport development projects will continue to be funded as airport development (See Paragraph 580 of this Order).

801. PROJECT ELIGIBILITY.

Prior to programming noise compatibility projects, airport sponsors and FAA Airports Offices should review the Noise Exposure Maps upon which noise compatibility projects are based to ensure they are a reasonable representation of current and/or forecast conditions at the airport. (This review may be accomplished using the Noise Exposure Map Checklist, Part II, Section III.B. The checklist is available at http://www.faa.gov/arp/environmental/14cfr150/index14.htm.) A proposed noise compatibility project is eligible for Federal participation if it meets one of the following four criteria (Note: Projects are *eligible* if they are approved under Part 150. However, projects must also be *justified* using the criteria specified for the project type as further described in Section 2 of this chapter):

a. It is a measure in an NCP, as described under Section 47504(a) of Title 49 U.S.C., prepared by the airport sponsor, and the measure is approved by the FAA in accordance with FAR Part 150; or

b. It is a project to provide noise insulation for a building that is:

(1) Used primarily for educational or medical purposes in the noise impact area surrounding a public airport(s), and

(2) Determined to be adversely affected by airport noise; or

c. It is reimbursement for costs that were incurred:

(1) After February 1, 1980 (date of enactment of the ASNA Act), by the airport operator,

(2) Before, on, or after the execution of the grant agreement,

(3) To implement a part of the airport sponsor's approved NCP (including project formulation costs), subject to the following criteria:

(a) The NCP must show evidence that the project was specifically approved in the NCP, or

(b) If the project involved acquisition, the acquisition must have been accomplished in accordance with provisions of the Uniform Relocation Assistance and Real Properties Acquisition Polices Act in effect at the time the land was acquired, and

d. It is in accordance with other exceptions as listed in Section 47504(c)(2) of Title 49 U.S.C.

802. SPONSOR ELIGIBILITY.

a. Airport Sponsors. Noise compatibility projects may be carried out by eligible airport sponsors as described in Chapter 2 of this Order.

b. Nonairport Sponsors (Unit of Local Government or Public Agencies not Owning Airports). Noise compatibility projects may also be carried out by a unit of local government or public agencies that are not airport sponsors. Section 47504(c)(1)(B) of Title 49 U.S.C. requires a unit of local government to have the capability to carry out the projects for which applications are made. Though any unit of local government meeting this criterion is eligible, the FAA should encourage sponsorship by those units of local government with the widest or most direct authority for land use control so as to obtain more effective compliance with the compatible land use assurance.

803. COSPONSOR.

Any two or more units of local government may cosponsor a noise compatibility project, provided that such units of local government jointly or severally are eligible sponsors. An airport sponsor may be a cosponsor on such a project. Cosponsorship should be encouraged, particularly where it would contribute to more effective compatible land use commitments on the part of unit of local government having jurisdiction over land use.

804. APPLICABILITY OF THE AIRPORT AND AIRWAY IMPROVEMENT ACT (AAIA) PROVISIONS.

Title 49 U.S.C., Section 47504(c)(5) states that all of the provisions applicable to AIP grants shall be applicable to any grants for noise compatibility projects. Therefore, requirements pertaining to DBE, Davis-Bacon, NEPA, E.O. 12372, etc., apply to noise compatibility projects. (AGC Opinion, August 24, 1983.)

805. ENVIRONMENTAL CONSIDERATIONS.

Noise compatibility projects must receive appropriate FAA environmental determinations prior to consideration for AIP funding. The current version of Order 5050.4, Airport Environmental Handbook, indicates which noise compatibility projects require an environmental assessment or environmental impact statement, and which are categorically excluded. Environmental requirements for non-airport development projects, for air traffic procedures for example, are covered by the most current version of FAA Order 1050.1, Policies and Procedures for Considering Environmental Impacts. Contact the Community and Environmental Needs Division (APP-600) for assistance in this area.

806. AGREEMENTS FOR NOISE COMPATIBILITY PROJECTS ON PUBLIC PROPERTY NOT OWNED BY THE SPONSOR.

a. General. Where a noise compatibility project is located on public property not owned by the sponsor, Assurance 5 requires the sponsor to enter into an agreement with that unit of local government, having control over the public property, to ensure that such a beneficiary complies with the same general requirements to protect the Federal investment, regardless of whether or not it “sponsors” the project. The agreement should be modeled on the Nonairport Sponsors assurances (available on the FAA web site at the following address: http://www.faa.gov/arp/financial/aip/assurances.cfm?ARPnav=aip). The agreement may take one of two forms, depending on whether the noise compatibility project is sponsored by an airport sponsor or a nonairport sponsor. The specific assurances that should be incorporated into each agreement are listed below, although circumstances unique to the project, sponsor, or unit of local government may require ad hoc variations. For example, when the sponsor is administering the procurement and construction, and the other unit of local government is not directly involved in project accomplishment, Assurances 8, 9, 10, 11, and 12 need not be incorporated into the agreement. For the purposes of this Paragraph 806, a Nonsponsoring unit of local government is not a party to the actual grant with the Federal Government but is the actual owner of the public property. A sponsoring unit of local government is the unit of government that is a party to the grant agreement with the FAA.

b. Agreements between Airport Sponsors and Nonsponsoring Units of Local Government. Except as discussed in Subparagraph a., the agreement between the airport sponsor and the non-sponsoring unit of local government should incorporate the substance of the following nonairport sponsor assurances, as applicable:

(1) Assurance 1, General Federal Requirements. It is only necessary to include the first paragraph. Reference to and listing of laws and regulations may be deleted;

(2) Assurance 2, Responsibility and Authority of the Sponsor;

(3) Assurance 3b, Sponsor Fund Availability;

(4) Assurance 8, Accounting System, Audit, and Record keeping Requirements;

(5) Assurance 9, Minimum Wage Rates;

(6) Assurance 10, Veterans Preference;

(7) Assurance 11, Conformity to Plans and Specifications;

(8) Assurance 12, Construction Inspection and Approval;

(9) Assurance 13, Operation and Maintenance;

(10) Assurance 15, Compatible Land Use;

(11) Assurance 16, Reports and Inspections; and

(12) Assurance 17, Civil Rights.

The airport sponsor may also add any other terms and conditions, consistent with the Assurances, which it believes are necessary.

c. Agreements between Sponsoring and Nonsponsoring Units of Local Government. Except as discussed in Subparagraph a., an agreement between the nonairport sponsor and another unit of local government should include the following nonairport sponsor assurances, as applicable:

(1) Assurance 1, General Federal Requirements. It is only necessary to include the first paragraph. Reference to and listing of laws and regulations may be deleted;

(2) Assurance 2, Responsibility and Authority of the Sponsor;

(3) Assurance 3b, Sponsor Fund Availability;

(4) Assurance 8, Accounting System, Audit, and Record keeping Requirements;

(5) Assurance 11, Conformity to Plans and Specifications;

(6) Assurance 12, Construction Inspection and Approval;

(7) Assurance 13, Operation and Maintenance;

(8) Assurance 14, Hazard Prevention;

(9) Assurance 15, Compatible Land Use; and

(10) Assurance 17, Civil Rights.

The nonairport sponsor may also add any other terms and conditions, consistent with the assurances, which it believes are necessary.

807. PROJECTS ON PRIVATELY OWNED PROPERTY - CONDITION IN GRANT AGREEMENT.

a. Requirement for Agreement. Assurance 5 requires the sponsor and the private property owner to enter into an agreement that contains provisions specified by the Secretary. To aid in satisfying this requirement, the special condition Noise Projects on Privately Owned Property contained in Appendix 7, shall be included in the grant agreement.

b. Responsibility for Operation and Maintenance. The purpose of requiring the special condition Noise Projects on Privately Owned Property in Appendix 7 is to establish that the owner is responsible for maintenance and operation of the noise compatibility improvements, not that the owner is required to conduct any specific operation and maintenance activities. In the case where the private property is a parochial school, for example, this condition should not be construed to mean that the owner is obligated to operate the facility as a school for the useful life of the noise compatibility measures. It should generally be understood, however, that noise compatibility projects should be implemented only in those buildings that can reasonably be expected to be used for a period of time equal to or exceeding the useful life of the project.

808. EASEMENT IN CONJUNCTION WITH SOUNDPROOFING.

A grant under the AIP may not include a requirement that a property owner donate an easement (or other property interest) to the airport sponsor in exchange for noise insulation. FAA policy, however, encourages sponsors to work out such voluntary arrangements locally, exclusive of FAA grant stipulations. Alternatively, the airport sponsor may agree to acquire an easement at the time the structure receives noise insulation. See Paragraph 811 for additional discussion of easement acquisition.

809. REVENUE FROM NOISE COMPATIBILITY PROJECTS.

In some noise compatibility projects, sponsors may acquire property that produces net revenue, such as rents and royalties. Such revenue earned prior to final project closeout shall be deducted from the total cost of that project for determining the net costs on which the grant will be based. Revenue earned after final project closeout shall be considered airport revenue. (See Section 3 for the use of proceeds from the disposal of land acquired for noise compatibility).

Section 2. NOISE COMPATIBILITY PROJECTS

810. GENERAL.

a. Eligible noise compatibility projects generally fall into the following categories: land acquisition (including relocation assistance), noise insulation, runway and taxiway construction (including associated land acquisition, lighting and NAVAIDs), noise monitoring equipment, noise barriers and other Part 150 approved noise abatement/compatibility measures. Sponsors may from time to time propose noise compatibility measures not described in this section. In such a case, contact APP-600 for assistance in determining the scope of FAA approval in the sponsor's NCP; contact APP-520 for assistance in determining the scope of eligible work in such proposals.

b. Noise compatibility projects usually are located in areas where aircraft noise exposure is significant, as measured in day-night average sound level (DNL) of 65 decibels (dB) or greater. However, projects may also be approved and made eligible in areas of less noise exposure. The following criteria apply: the airport operator must adopt a designation of non-compatibility different from the Federal guidelines; the NEM and NCP must identify the areas as noncompatible; and the measures proposed for mitigation in that area must meet Part 150 approval criteria. If a noise buffer is

recommended in areas of moderate noise exposure (i.e., DNL 64-55 dB), only non-noise sensitive land uses may be developed within the area to be considered a noise buffer. Projects in areas below DNL 65 dB that are approved in noise compatibility programs must be supported by appropriate documentation from the sponsor to determine whether they are justified for Federal financial assistance for the year of the grant application. These measures, when proposed for approval in a Part 150 document, are subject to the same FAA review and approval processes as noise compatibility projects within the DNL 65 dB noise contour. Contact APP-600 for assistance in advising sponsors of documentation requirements. The AIP priority ranking assigned to projects below DNL 65 dB would be lower. In addition, projects within DNL 65 dB may be expanded beyond the DNL 65 dB contour to include a reasonable additional number of otherwise ineligible parcels contiguous to the project area, if necessary to achieve equity in the neighborhood. Neighborhood or street boundary lines may help determine what is reasonable, in addition to numbers of properties. Other projects that produce community-wide benefits (development of a noise attenuation standard in a local building code, for example) are also eligible.

c. Individual recipients (e.g., homeowner or school) of noise compatibility projects may be entitled to more than one mitigation measure if the additional measures are approved in the sponsor's NCP, enhance land use compatibility, provide additional protection for the airport, and the total cost of the measures is reasonable in relation to the property value. For example, noise insulation may be combined with acquisition of an easement, or a sponsor may acquire residential property and install noise insulation with an easement, before offering it for resale.

d. Noise compatibility proposals in an NCP that are not approved by the FAA are not eligible under the AIP when eligibility depends on Part 150 approval. Remedial noise mitigation measures that are disapproved under Part 150 for new noncompatible development constructed after October 1, 1998 also are not eligible. Other noise compatibility proposals may be approved in the NCP as noise beneficial, but are not eligible for AIP. These projects may include: development of new or modified flight procedures or environmental assessments prepared by the FAA for flight procedures approved in an NCP; projects which cannot be implemented by an eligible sponsor; operational or administrative costs of a sponsor's ongoing noise mitigation program; and demonstration programs intended to test the effectiveness of new noise mitigation technology. Projects that are not described in sufficient detail to determine their noise mitigation benefits are also ineligible.

811. ACQUISITION OF LAND OR INTERESTS IN LAND FOR NOISE COMPATIBILITY.

Both airport and nonairport sponsors are eligible to acquire land for noise compatibility purposes. Earlier guidance stated that costs of removing structures from land acquired under a grant for noise compatibility purposes were not allowable. However, sponsors frequently have strong justification for demolishing or otherwise removing structures promptly after they acquire property. Therefore, land acquisition with justification for demolishing or otherwise removing structures is allowable. However, sponsors should be encouraged to consider other alternatives (e.g., sale and relocation or reuse for compatible purposes), if appropriate, if those alternatives could lower the project costs. Acquisition may occur under the following criteria and limitations:

a. Land Acquisition to Change Land Use. These programs acquire non-compatible property within the designated eligible areas and relocate the occupants from the noise impact. Acquired land is assembled for reuse as an airport compatible land use. This airport compatible use normally should be maintained as a buffer area, even if airport noise is projected to decrease and place the property within areas of moderate (DNL 64-55 dB) noise exposure. Procedures and requirements for acquiring noncompatible property are identical to those outlined in Chapter 7 of this Order and must conform to the Uniform Act as described in the most current versions of the Land Acquisition and Relocation Assistance for Airport Projects, Order 5100.37 and Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects, AC 150/5100-17. Under these "Buy-out" programs, displaced homeowners and tenants are entitled to relocation assistance and payments prescribed in the Uniform Act. The following factors should also be considered when acquiring land for noise compatibility purposes when the objective is to convert to compatible uses.

(1) The FAA should work closely with the sponsor in such land acquisition projects to develop a long-term plan for land reuse. (See Paragraph e. below regarding the land disposal assurance.) Land acquisition projects should include development of land use conversion, economic feasibility, and marketing plans to ensure that subsequent land uses are consistent with local land use plans and policies, including compatibility with noise exposure levels in the area, and that the sponsor recoups a reasonable amount upon resale. Such planning is eligible in conjunction with a land acquisition project or as a separate project. However, costs to implement the marketing plan are considered operational costs and as such are not allowable. (See Section 3 of this Chapter and Order 5190.6A on the use of resale proceeds.)

(2) Costs attributable to removal of structures from land acquired for noise compatibility, when properly justified, are allowable costs under a grant for land acquisition or for reimbursement. Such removal costs may include, but are not limited to, demolition of structures, sale of structures for removal by purchaser, and relocation of structures to another site. Removal costs and proceeds from sale of structures may be used to adjust the net proceeds from resale of the property.

(3) Costs attributable to preparing land for resale may be deducted from the proceeds of disposal, but are not allowable costs under a grant. Such costs may include, but are not limited to, rezoning, replatting and upgrading of utilities and services.

(4) Costs associated with holding land are not allowable under a grant, nor may they be deducted from the proceeds of resale. Such holding costs may include, but are not limited to, property taxes assessed against the sponsor during the period of ownership, charges for utilities and public services, insurance, financing charges, and assessments.

Example: A sponsor acquires 10 parcels of land for a total cost of $1.0 million; the sponsor removes all structures, assembles the parcels into one marketable unit, prepares requests for zoning changes, resurveys, determines consistency with local land use plans and files necessary documents with local officials; utilities and public services improvements are made at sponsor expense; a marketing plan is prepared and the property is sold for $750,000. The proceeds of the sale are calculated as follows:

Acquisition Cost = $1,000,000 ($800,000 Federal/$200,000 Local)

Development and Sale Costs:	
Remove Structures	$250,000
Revise Zoning, Local Plans, Maps, etc.	$100,000
Improve Utilities and Public Services	$100,000
Marketing and Sales	$ 50,000
Total Costs	$500,000
Sales Price	$750,000
Less Total Costs	$500,000
Net Proceeds	$250,000 ($200,000 Federal/ $50,000 local)

Note: Costs associated with holding the land (taxes, fees, assessments, insurance, etc.) may not be used in calculating the net proceeds.

b. Land Acquisition without Change to Land Use. An airport sponsor's approved NCP may include "Purchase Assurance", "Sales Assurance", or "Transaction Assistance" measures (described below) to acquire for resale or assist a market sale of eligible noncompatible property without changing the existing land use. These measures assist homeowners to move from the noise impact by facilitating a timely market sale of their noise-impacted property. Noise insulation of residences is eligible prior to

sale or resale. Also, pre-existing noise insulation will not disqualify a property from these programs (see paragraph 812 for noise insulation criteria). Under these programs, the sponsor shall ensure that potential buyers are provided with an appropriate disclosure statement that describes the airport noise exposure on the property and the intention of the sponsor to retain an easement or similar interest.

(1) Purchase Assurance. Under Purchase Assurance, a property that fails to sell within a specified time period is purchased by the airport and then resold for continued residential use. The airport purchases the property at the appraised fair market value "as is" subject to airport noise. Typically, noise insulation is provided and the property is then listed and sold subject to the airport's easement.

(2) Sales Assurance. Under Sales Assurance the appraised fair market value of the homeowner's residence is guaranteed on a timely market sale, however the airport does not acquire the property. Should the property sell for less than the appraised value, the selling owner is compensated for the short fall by the airport. Property is appraised at its current fair market value "as is" subject to airport noise. The property is listed and sold subject to the airport's easement that is conveyed to the airport at sale of the property.

(3) Transaction Assistance. Transaction assistance generally involves an agreement by the airport sponsor to pay certain costs associated with the sale of residential property. Allowable costs should generally be limited to the real estate sales commission (consult with APP-600 for other allowable transaction costs). The property is listed and sold subject to the airport's easement that is conveyed to the airport at the assisted sale of the property.

c. Easements and Other Property Interests.

(2) Purchase of easements or similar property interests for noise compatibility is eligible if it is an approved measure of a sponsor's NCP. Depending on local real estate laws and other site factors, sponsors may propose to acquire restrictive covenants, development rights, or other specified interests. The requirements and procedures applicable to acquisition of such property interests with Federal assistance are described in Chapter 7 of this Order.

(3) Easement compensation is difficult to appraise because of limited market information. Acceptable appraisal procedures are described in the most current version of FAA Order 5100.37, and specific considerations and methods to appraise easements acquired for noise compatibility are provided in FAA AC 150/5100-17. As provided in this guidance appraised just compensation owed for an easement acquisition shall be based on application of the "Before and After Appraisal" method. The estimated or actual costs of acquiring easements should be carefully reviewed prior to approving the project or approving payment to the sponsor to confirm adherence to this valuation guidance. Where the cost for acquiring easements seems disproportionately high, the FAA office administering the project should consider whether it meets the reasonable cost criterion as discussed in Paragraphs 310 and 1022. Where costs appear to be unreasonable when compared to costs associated with other, more tangible mitigation measures, airport sponsors should be encouraged to consider revising the NCP and developing these means to achieve compatibility.

(4) Nonairport sponsors are also eligible for grants to acquire easements only; however, the easement should be written specifically to protect the airport.

d. Currently Compatible Land-Use. If the airport sponsor proposes to acquire land presently in compatible use (e.g., parking lot, agricultural, vacant) on the grounds that noncompatible development is highly likely and that local controls are inadequate to prevent that development, and if the FAA has approved the sponsor's recommendation in an approved NCP, the acquisition is eligible. In such cases, it is advisable to urge the sponsor to first consider acquisition of an interest less than fee simple (e.g., development rights, easement). If fee simple acquisition is approved, the sponsor should be advised of the requirement for timely disposal.

e. Sponsor Assurance Regarding Disposal of Land Acquired for Noise Compatibility. Title 49 U.S.C., Section 47107(c)(2)(A) provides that for land purchased under a grant for airport noise compatibility purposes, the airport owner will dispose of the land, when the land is no longer needed for such purposes, at fair-market value, at the earliest practicable time. Any disposal must assure that the land is re-used compatibly with aircraft noise exposure levels, including land that was purchased within the DNL 65 dB contour and is now subject to "moderate" noise exposure (DNL 64-55 dB) with Stage 3 transition or other airport specific factors. In cases where such land was incompatible with airport noise at the time of acquisition (based on the sponsor's selected noise compatibility criteria in the NCP of either the Federal guidelines or the local compatibility standard adopted by the airport sponsor in accordance with Part 150), and the noise levels both now and in the foreseeable future are no longer "significant" using the standard adopted by the airport sponsor, at a minimum disposal of the land must include a noise avigation easement to protect the airport against noise damages. Where possible, the FAA prefers the property to be reused for non-noise sensitive development to provide a noise buffer around the airport to guard against potential new noncompatible land uses that could not be foreseen at the time the property was disposed. Further, the portion of the proceeds of such disposition that is proportionate to the United States' share of acquisition of such land will, at the discretion of the FAA acting on behalf of the Secretary of Transportation, 1) be repaid to the Airport and Airway Trust Fund, or 2) be reinvested in an approved noise compatibility project. Reinvestment of proceeds from the sale of noise land at the original airport is the option preferred by the FAA. See Section 3 of this Chapter for more information on the use of proceeds from the sale of such land.

812. NOISE INSULATION PROJECTS.

a. General. Noise insulation, if approved in an airport sponsor's NCP, or if qualified as a school or hospital under Title 49 U.S.C., Section 47504 is eligible under the AIP. To be justified for discretionary funding assistance, the project must meet the noise insulation criteria in this chapter. Eligible sponsors include units of local government having jurisdiction over the project location, airport sponsors, and special purpose units of local government (e.g., school and hospital districts). Eligible structures include residences (single family and multifamily), schools, hospitals, churches, and other noncompatible structures identified in the sponsor's NCP and approved by the FAA as a project in the NCP. In addition, noise insulation may be installed in buildings near an airport without an approved NCP if the buildings are used for educational or medical purposes and they are demonstrated to be adversely affected by airport noise.

(1) Noise insulation projects are subject to the general guidance governing noise compatibility projects within and below DNL 65 dB in Paragraph 810.b. In addition, unless extenuating circumstances dictate, noise insulation should normally not be considered for a number of types of noise sensitive structures (e.g., residences, schools, hospitals, churches, auditoriums, concert halls) within a DNL 75 dB or greater noise contour since it is preferable to change the land use. Noise insulation is not a viable noise compatibility project for mobile homes, since their design and construction may not lend themselves to effective noise reduction measures. However, modular structures may be classified as permanent if they meet construction guidelines applied to permanent structures. A determination to noise insulate these structures will be made on a case-by-case basis.

(2) The purpose of noise insulation projects is to reduce the adverse impact of airport-related noise on building occupants or residents. These projects are not intended to compensate for inadequate maintenance, to bring nonconforming structures up to building code standards, or to improve the comfort or attractiveness of a building, although these benefits may result indirectly from the project. Therefore, if a noise insulation project requires that new windows be installed, or that upgraded electrical service be provided for ventilation equipment to achieve noise reduction objectives, the costs associated with those work elements are allowable costs. If, however, it is determined in the course of designing a project that a building needs several improvements to conform to local building codes, the costs of such improvements are not allowable under the grant program.

(3) Where noise insulation is being proposed as a single project for a large number of structures, and where a standard package of noise insulation improvements will be included, the

qualifying criteria need not be so restrictively applied that it would prevent an incidental number of homes within the project area from receiving the standard package of improvements. For example, if acoustical windows are to be installed in a preponderant number of homes within the project area, eligibility may be extended to an incidental number of homes within the project area, even though they would not qualify for window installation if considered individually.

(4) Sponsors must certify to the FAA that the engineering plans and specifications for the noise insulation measures conform to the local building code.

(5) A noise level reduction (NLR) of 25-35 dB from outdoor noise levels to indoor levels usually can be achieved with some combination of window and door replacement, ceiling insulation, caulking, weather-stripping, and central air ventilation (or air conditioning as limited below) systems. Therefore, project eligibility will normally be limited to these measures plus “before and after” noise testing. The target noise level for the interior habitable area is a DNL of 45 dB (refer to Table 1 of 14, CFR part 150). If, for example, existing construction or the location of the structure within the noise contour causes the structure to already meet or exceed the interior target of DNL 45 dB, additional noise insulation normally is not justified. Some limited exceptions may apply, as described below. APP-520 should be consulted if additional measures are recommended.

(6) Sponsors may offer a continuous positive ventilation system or air conditioning to owners of eligible structures in conjunction with noise insulation projects. The goal of a continuous positive ventilation system is to provide two volume changes of air per hour. This roughly equates to a condition where windows in the structure are open. Likewise, an air conditioning system will provide air exchanges along with temperature and humidity reduction. The added benefits are preferred by most residents. Either option preserves the noise attenuation benefits achieved with the insulation project by eliminating the need to open windows to maintain an acceptable level of indoor comfort. However, the FAA believes that an air conditioning system would be comparable in cost, and perhaps less expensive than customized air handling systems. Consequently, air conditioning could be offered as an eligible noise attenuation measure in lieu of the positive air handling equipment. There is no need to compile a price comparison and to prorate cost differentials between options offered for selection. Two caveats should be discussed with sponsors and recipients who receive air conditioning or a continuous positive ventilation system:

(a) The recipient will be expected to operate the system installed under the AIP grant to preserve the noise attenuation benefits achieved with the insulation project. Failure to use the installed system will negate the benefits and will not be grounds for making complaints about noise levels.

(b) Property owners and residents should be presented with information about utility and maintenance costs for the installed equipment. Increased utility costs are to be expected. Also, routine maintenance costs should be planned to keep the system operating at peak efficiency. Maintenance service contracts tend to minimize disruptions by providing regular checks of the installed system. The costs of these contracts are a responsibility of the property owner.

(7) Sponsors are encouraged to obtain a noise easement in return for the noise insulation provided by the project, but it is not a mandatory AIP requirement. (See Paragraph 808.).

b. Residential Noise Insulation.

(1) The design objective in a residential noise insulation project generally should be to achieve the requisite NLR when the project is completed. (This is mathematically equivalent to achieving a DNL of 45 dB in all habitable rooms.) For residences located in areas where exterior noise exposure is DNL 65 dB, the requisite NLR provided by the structure should be at least 20 dB in major habitable rooms. The requisite NLR should be increased commensurate with any increase in exterior DNL above 65 dB. The project design should be based on exterior DNL and the existing NLR in the structure. The existing construction must provide less than the needed noise level reduction for the noise exposure level at the

location of the residence. For purposes of equity in a neighborhood where noise insulation has taken place, the following example may be considered as a guide. A house having 30 dB noise level reduction is located at the DNL 68 dB. It is already compatible because the interior noise level would be approximately equivalent to 38 dB, well below the target 45 dB. Although such a dwelling is compatible under the Federal guidelines of part 150, some lesser level of noise insulation (replacement of depreciated windows, storm doors, caulking and weather stripping, etc.) may be provided to assure conformity of improvements and perceived equity of application in the project neighborhood.

(2) Since it takes an improvement of at least 5 dB in NLR to be perceptible to the average person, any residential noise insulation project should be designed to provide at least that increase in NLR as a marginal minimum.

(3) Examples.

(a) A residence located in an area where the DNL is 73 dB has existing NLR of 26 dB. The requisite NLR in that area is 28 dB (73 - 45). However, to meet the requirement for increasing the NLR by not less than 5 dB, a noise attenuation project for that residence should result in NLR of 31 dB (26 + 5).

(b) A residence located in an area where the DNL is 67 dB has existing NLR of 16 dB. The requisite NLR in that area is 22 dB (67 - 45). Therefore, the noise insulation project should be designed to increase the NLR by at least 6 dB (22 - 16).

c. Noise Insulation in Schools.

(1) For schools, the usual design objective for classroom environment is a time-average A-weighted sound level of 45 dB resulting from aircraft operations during normal school hours. As with residential noise insulation, a school project should reduce existing noise levels by at least 5 dB for the same time-average school hours time frame.

(2) Eligible schoolrooms include classrooms, libraries, offices, and other rooms for which noise insulation is specifically justified because of the substantial and disruptive effect of aircraft noise. Facilities, such as gymnasiums, cafeterias, and hallways are usually not eligible, unless the facility is also used substantially for purposes that qualify for noise insulation. Consequently, eligibility for these areas should take into consideration the extent they are used for instructional activities and assemblies.

d. Other Buildings. Churches, concert halls, offices, and other structures identified as noncompatible, and for which noise insulation has been recommended by the airport sponsor in its NCP and approved by the FAA, are also eligible. Such proposals should be evaluated carefully on a case-by-case basis and should involve consultation with APP-520 and APP-600.

813. NOISE MONITORING EQUIPMENT/SYSTEMS.

A project for noise monitoring may be as modest as a few portable noise monitors or as extensive as a system of a dozen or more fixed monitors linked to a central processing unit, perhaps incorporating air traffic, weather and land use data. Such projects are eligible, subject to the following criteria:

a. Noise monitoring must be an approved item in the sponsor's NCP. Procurement of noise monitoring equipment in conjunction with master planning or noise compatibility planning is not eligible. In the case of a planning product, such as a master plan or NCP, the noise monitoring equipment is only a tool used by the consultant to prepare the study. However, the NCP may include a measure for an ongoing requirement for the sponsor to monitor noise conditions. In that case, acquisition of equipment to be used by the airport sponsor for that purpose is eligible. (Consult with APP-600 for clarification.)

b. Nonairport sponsors (e.g., school districts, municipalities) are eligible only for portable noise monitoring equipment when used in connection with noise insulation projects managed by that sponsor.

In cases where more than one sponsor is expected to engage in noise insulation programs, however, the airport sponsor should be encouraged to acquire the equipment and make it available to other local agencies as needed.

c. Eligibility for a fixed (permanent) monitoring system will be limited to circumstances where sponsors can clearly show that portable monitors would be inadequate. Fixed noise monitoring equipment is ineligible where the Part 150 noise exposure maps (existing and forecast) show no noncompatible land uses. In all cases, sponsors should be encouraged to acquire the least costly system that will satisfy the purposes used to justify the project.

d. A noise-monitoring proposal should not be an end in itself, nor an instrument for enforcement of a noise rule or procedure. Rather, noise monitors should provide an ongoing stream of useful products and data in support of the overall noise compatibility program. A primary justification should be to provide information necessary to carry out other noise compatibility projects in the approved NCP, or to monitor progress in achieving noise compatibility objectives. Some sample uses of noise monitoring data include:

(1) Selection of dwelling units or other structures for noise insulation;

(2) Pre- and post-insulation interior/exterior noise measurement;

(3) Compliance with a monitoring requirement of State noise law;

(4) Aiding implementation of other noise compatibility projects; or

(5) Providing noise data for future revision of the NCP.

e. Allowable costs include system design, noise monitoring equipment, dedicated data processing equipment and software, equipment installation, site preparation and one-time costs for installation of electrical power and data transmission lines. All costs for permanent monitoring systems should be minimized. Sponsors should be encouraged to obtain low cost monitoring locations by using existing utility poles and easements, accessible public land, or donated access to private property.

f. Costs for vehicles to be used in a noise-monitoring program, general-purpose computer software, operating costs, and equipment to be used only for public information purposes (equipment for visual presentations at public meetings or hearings, for example) are not allowable.

814. NOISE BARRIERS.

Noise barriers may be effective in certain locations to reduce adverse noise impacts from aircraft on the ground, particularly from maintenance areas and loading gates. Generally, such activities do not make a substantial contribution to total noise exposure, but single event occurrences may disrupt nearby classrooms or residences. Noise barriers, earth berms, wall structures, “hush houses” and other devices designed to shield areas from noise generated on the airport are eligible with the following provisions:

a. Noise barriers must be located and constructed in areas that benefit noncompatible uses affected by a single event ground operation noise that interferes with sleep and conversation. A single event noise reduction of at least 5 decibels should be realized at the nearest noncompatible land uses.

b. The construction or installation must mitigate noise from a variety of airport users. For example, a hush house in the leased area of an airline maintenance facility is not eligible. If the airport sponsor proposes to designate an area on the airport for all engine runups, however, a noise barrier or hush house may be eligible to shield nearby areas from such activities.

c. Noise barriers must be designed to ensure that they do not violate airport design standards or Part 77 surfaces.

d. Landscaping costs in conjunction with noise barrier or berm construction are allowable only for materials necessary to stabilize soil against wind or water erosion.

e. If not done in conjunction with evaluation of alternatives in the Part 150 study, a cost-benefit analysis should be conducted which compares the effectiveness of the proposed noise barrier with other feasible alternatives, such as land acquisition and noise insulation. If other feasible alternatives were not approved in the NCP, a Part 150 update comparing the effectiveness and costs of other alternatives may be required to permit the use of noise set-aside funds. (Consult with APP-600 if additional guidance is needed.) Noise barriers constructed outside of the Part 150 process may not be paid for using the noise set aside.

815. MISCELLANEOUS NOISE COMPATIBILITY PROJECTS.

The following types of projects, when they are approved measures in a sponsor's NCP, are eligible if they are justified as described below. The Federal share shall be calculated as other noise compatibility projects:

a. Runway and Taxiway Construction. Runways and taxiways, including land acquisition, lighting and marking, if it can be shown that the primary purpose and benefit is noise relief. For example, if a proposed project is part of development shown in a master plan for capacity or safety purposes and has incidental noise benefits, it is not an eligible noise compatibility project. It may, however, be eligible as airport development. However, if it can be shown that the project would have a significant immediate noise benefit it may be eligible.

b. Lighting and/or Visual Markers. Lights or other visual devices to help pilots fly specific noise abatement VFR flight tracks or traffic patterns.

c. Special Studies. Special studies are eligible if they are approved in an NCP, and may be justified for Federal participation if they meet applicable criteria. Studies to redevelop a noncompatible area, to determine the most effective location for a hush house or sound barrier, to determine the most effective noise abatement departure procedures to be used by aircraft operators (not the actual flight procedure itself, which would be implemented by the FAA) at various runways, to evaluate airport noise and access restrictions, to address noise compatibility problems that were beyond the scope of the basic Part 150 study, or to prepare noise elements of local building codes, are typically appropriate to be included in a Part 150. In the case of noise and access restriction studies, the measure to study restrictions must be included in an NCP, approved by the FAA for study, and included in a Part 150 update. Studies are eligible provided that they result in definitive, implementable products. Usually, these studies are accomplished by the airport operator's consultant. Studies whose implementation would be within the purview of a local land use planning jurisdiction (for noise elements of local building codes, for example) may be accomplished by a local agency sponsor by force account. In the latter case, however, sponsors should clearly understand that routine administrative costs are not allowable under the AIP. (Refer to the discussion of force account work in Chapter 4.)

d. Other. Consult with APP-520 for other noise compatibility proposals.

816. ALLOWABLE PROJECT COSTS.

Costs for work that is necessary to accomplish a noise compatibility project are allowable in the same way that such costs are allowable for airport development projects as discussed in Chapter 5. For example, if construction of a noise barrier would require the demolition of a structure on the airport, those costs are allowable. If the structure were occupied by a tenant under a lease, the cost of relocating the tenant and the cost associated with terminating the lease, as provided for under the Uniform Act, are also allowable. The Federal share of such costs associated with a noise compatibility project is the same as the Federal share of the cost for noise compatibility projects at that airport, rather than the share applicable to airport development projects.

817. - 819. RESERVED.

Section 3. USE OF PROCEEDS FROM SALE OF NOISE COMPATIBILITY LAND

820. DISPOSAL REQUIREMENT.

When land acquired for noise compatibility purposes is no longer needed for that purpose, the sponsor is required to dispose of the property. The proceeds, at the discretion of the FAA, may be returned to the Airport and Airway Trust Fund or reinvested in approved noise compatibility projects. Reinvestment of proceeds from the sale of noise land at the original airport is the option preferred by the FAA.

821. USE OF FUNDS.

In accordance with Section 47107(f), proceeds from the sale of noise compatibility land that are returned to the Trust Fund may be reissued in grants for airport development and airport planning and are not subject to obligation limitations. Contact APP-520 for information on procedures for depositing such proceeds and their subsequent reuse. To avoid unnecessary actions, in lieu of returning the funding to the Trust Fund to be reissued, regions may request approval from APP-500 to allow use of the proceeds directly in an airport development or planning project. Project files should contain enough of an audit trail so that these actions are clearly understood.

822. EVALUATING REINVESTMENT PROPOSALS.

In many cases, it will be desirable to reinvest proceeds from the sale of noise land in another noise compatibility project at the original airport or vicinity. The following factors should be considered, however, prior to approving local reinvestment of such funds:

a. The sponsor's financial management procedures should be able to account for the proceeds and track their subsequent use in new projects.

b. Projects at that airport should be of sufficient priority to justify their reuse locally, and the FAA should concur in the sponsor's project selection for use of the proceeds.

823. REQUIREMENTS FOR REINVESTMENT.

Where the proceeds are to be reinvested in another noise compatibility project, the following provisions apply:

a. The project must be an eligible noise compatibility project as described in Paragraph 801. In addition to those eligible projects in an NCP, the FAA may allow the reinvestment of revenues for projects not in an NCP such as noise insulation projects in buildings used primarily for educational or medical purposes.

b. The project must be at the same airport or in the vicinity as that where the land sale proceeds were realized.

c. The same sponsor who disposed of the land and realized the proceeds of the sale must sponsor the new project.

d. When Federal assistance is used to acquire land, and the land is subsequently sold and the proceeds are used to acquire additional land, that acquisition is also subject to the provisions of the Uniform Act, even if no "new" Federal funds are provided for the later acquisition. (Regional/General Counsel Opinion 3/1/88) By extension, it follows that other conditions and assurances are renewed when such proceeds are used in follow-on projects. The sponsor should be advised of this continuing obligation early in the original grant application process, if possible, but no later than prior to use of the proceeds in a new project. The following actions are normally applied to facilitate tracking these sponsor obligations:

(1) Award a grant with "new" (current year) Federal grant funds when a project is to be undertaken with proceeds from the sale of noise land to ensure sponsor/FAA cognizance of the renewed grant obligations; and/or

(2) Use the proceeds for noise insulation or another noise related improvement project which uses up the funds and eliminates the need to track the proceeds and sponsor obligations through subsequent iterations; and/or

(3) Amend the original grant to make use of the proceeds if the grant amendment requirements and limitations can be met.

824. CONVERSION TO AIRPORT DEVELOPMENT LAND.

Land acquired for noise compatibility purposes may subsequently be redesignated as airport development land without any further certifications or adjustment in the Federal share of the cost of acquisition, provided that the land being redesignated as airport development land is justified by a new or revised airport master plan. In addition to the justification, the land must be depicted on a new or revised airport layout plan, depicted as future development land, and unconditionally approved by the FAA.

825. - 899. RESERVED.

Chapter 9. PROCUREMENT AND CONTRACT REQUIREMENTS

Section 1. PROCUREMENT

900. GENERAL.

a. Procurement Regulations. Title 49 CFR, Part 18.36 (referred hereinafter as Part 18.36) provides the policy, procedures, and regulations to be used for procurements made under Federal grant programs. Typical procurements under the airport aid program involve construction projects, equipment purchases, and professional services such as engineering/architectural, planning, legal, land appraisal, and audit services.

b. State and Local Procurement Standards. Federal law provides that the granting agency (FAA) has a minimal role in the procurement used by airport sponsors. For example, if the sponsor is a state, states are authorized under Part 18.36 to use the same procurement policies and laws that they use for procurements not funded in whole or in part by Federal sources. Other non-state Sponsors will use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in Part18.36.

c. Contractual Responsibility. The standards in this section do not relieve the sponsor of the contractual responsibilities arising under its contracts. The sponsor is the responsible authority, without recourse to the FAA regarding the settlement and satisfaction of all contractual and administrative issues arising from procurements entered into, in support of an AIP grant. This includes, but is not limited to, disputes, claims, protests of award, source evaluation, or other matters of a contractual nature.

d. Code of Conduct. The sponsor is required to maintain a code of standards of conduct, which governs the performance of its officers, employees, or agents in contracting with and expending airport aid funds. The sponsor's officers, employees, or agents are not allowed to solicit or accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by the state or local law, rules, or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the sponsor's officers, employees, or agents, or by the contractors or their agents.

901. REVIEW OF PROPOSED PROCUREMENTS.

FAA Airports Office personnel are required to assure that a proposed procurement meets the standards of Part 18.36. Except as provided below, this can be accomplished by two methods. The first and preferred method is for the review and determination that a sponsor's procurement system complies with the standards of Part 18.36. Absent this summary determination, each proposed procurement must be reviewed for compliance with regulatory requirements.

Under Part 18.36, a sponsor is exempt from the pre-award review if the FAA determines that its procurement systems comply with the standards of Part 18.36. Therefore, FAA Airports Office personnel are not required to review or concur in award of sponsors' contract if a determination is made that the sponsor's procurement system complies with Part 18.36 requirements. In order to manage workload, FAA Airports Office personnel are encouraged to review the standards of Part 18.36 with airport sponsors and to perform a procurement system compliance review. Regional Airports Divisions are delegated the authority to determine that a proposed procurement meets the requirements of Part 18.36. Such authority may be redelegated.

FAA Airports Offices are authorized to accept certifications that the technical specifications meets the standards of the FAA but may require sponsors to submit such technical specifications on proposed

procurements where the FAA believes such review is needed to ensure that the item or work specified meets FAA standards.

a. Pre-Award Review Required. Pre-award review of proposed contracts is required in the following cases:

(1) The sponsor does not comply with the standards promulgated in Title 49 CFR, Part 18.36, Procurement;

(2) The proposed contract is to be awarded on a sole source basis or when only one bid or proposal is received in which the aggregate expenditures exceed $100,000 (all proposed contracts specifying "brand name" products shall be considered sole source procurements);

(3) The apparent low bidder under a formally advertised procurement is determined by the sponsor to be a non-responsive and/or not responsible bidder (the FAA must review and concur in this determination and document it in the project file); or

(4) A review of the bid abstract reveals the possibility of bid improprieties (See Paragraph 1053).

b. Pre-Award Review Optional. The FAA Airports Office has the option to impose pre-award review when:

(1) Sponsors are working on their first assistance project supported by DOT and have not yet been reviewed for compliance with the standards contained in Title 49 CFR, Part 18.36, Procurement;

(2) Sponsors request pre-award assistance for proposed contracts;

(3) Contracts are awarded for automatic data processing in accordance with Paragraph C1 of Attachment B to OMB Circular A-87;

(4) Contracts are repeatedly awarded to the same firm;

(5) Purchasing is performed outside the sponsor's established procurement system or office;

(6) Proposed construction contracts are to be awarded through the competitive proposal procurement method; and/or

(7) FAA determines that the circumstances warrant and requests such documents.

902. FAA REVIEW OF CONTRACT DOCUMENTS.

When requested by the FAA Airports Office, the sponsor shall submit one copy of the executed contract and other procurement documents for review to determine whether all of the required contract provisions have been included. The sponsor is required to make procurement documents available for pre-award review when:

a. FAA has determined that the sponsor's procurement procedures or operation fail to comply with the standards of Part 18.36 as provided above;

b. the procurement is expected to exceed $100,000 and is to be awarded without competition or only one bid or offer is received;

c. the procurement, which is expected to exceed $100,000, specifies a "brand name";

d. the proposed award over $100,000 is to be awarded to other than the apparent low bidder; or

e. a proposed contract modification changes the scope of a contract or increases the contract amount by more than $100,000.

903. COMPETITION IN PROCUREMENTS.

Title 49 CFR, Part 18.36(c) states “all procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Part 18.36".

a. Practices considered to be restrictive of competition include but are not limited to:

(1) Unreasonable requirements on firms in order for them to qualify to do business;

(2) Noncompetitive pricing practices between firms;

(3) Organizational conflicts of interest;

(4) Unnecessary experience and bonding requirements;

(5) Unnecessary product or “brand name” specifications; and

(6) Preference to in-state or local bidders.

b. In addition to the proceeding Paragraph a, the specification of features that require bidders to significantly alter a product’s design can have an effect of limiting competition. Therefore, FAA Airports Office employees should encourage sponsors to be diligent in specifying only essential requirements in purchase specifications.

c. The sponsor’s requests for bids or proposals shall clearly and accurately describe the technical requirements for the material, product, or service to be procured. The request must clearly state all requirements that must be fulfilled and the factors that will be used to evaluate the bids or offers.

d. Unreasonable limitations placed in a solicitation are not permitted. There are conditions under which specifications may be limited to meet valid operational demands or other pertinent circumstances. If a sponsor knowingly writes a proprietary specification (and, therefore, knows the specification is actually limited or sole source), it must advise the FAA in advance of issuance that the specification contains limitations, is proprietary, and must justify this procurement method.

904. PROCUREMENT METHODS.

Four basic methods of procurement are permitted:

a. Competitive Sealed Bids. Competitive sealed bids are usually used in the airport grant program for procurements involving construction projects or equipment purchases. In this procurement method, sealed bids are publicly solicited and a firm fixed price contract (either lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is lowest in price.

(1) The invitation for sealed bids must be publicly advertised although it may also be sent directly to known suppliers;

(2) Where specified in the bidding document, factors such as discounts, transportation costs, and life cycle costs may be considered in determining which bid is lowest (See Paragraph 910 for additional guidance on use of life cycle costs);

(3) If the sponsor determines that the bidder submitting the lowest bid is not responsive and/or responsible, the FAA must review and concur in this determination. The FAA’s action on the sponsor’s

determination should be documented in the project file (See Paragraph 912 for Award to Other than the Apparent Low Bidder).

b. Competitive Proposal. Competitive proposals are used when it is not appropriate to use the sealed bid method. This method would be used, for example, when complete and adequate specifications or purchase description are not available, or when more than one responsible bidder is not reasonably expected to bid, or when the selection of contractor cannot be made principally on the basis of price. Generally, competitive proposals include price but elements of price are prohibited when being used for selection and award for professional services as described below.

(1) Competitive proposals are solicited from an adequate number of qualified sources. Additionally, the request for proposals (RFP) is also publicized. The request for proposals must identify all the factors that will be used to evaluate the proposals and their relative importance. Under this method (except for professional services in Paragraph (2) below), Sponsors may be permitted to pay a reasonably higher price for a better quality product if justified. Since this de-emphasizes the price concept, the approval to use competitive negotiations is given sparingly except for the required use for procurement of professional services.

(2) The procurement of certain professional services is accomplished through a special form of competitive proposal. The nature of the services dictates the use of this method rather than the professional credentials of the employees to be used. These services include program management, construction management, planning and feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services. The competitive negotiation method recognizes that the expertise of firms (or individuals) providing professional services varies. Although several firms may be qualified to provide the professional service required, some of them may have more expertise in the particular area than others. For this reason, procurement (selection) under this special competitive negotiation method considers the technical qualifications of the competitor, subject to negotiation of fair and reasonable compensation (price). Sponsors may not request price or cost data prior to determination of the best qualified firm even if the data is submitted in a separate sealed envelope and further, price may not be used as a selection factor in the procurement of these services. Sponsors may use competitive proposals for procuring engineering and architectural services whereby only the offeror's technical qualifications are evaluated for selection. In these cases, the request for proposals requires that firms only submit their technical qualifications for performing the project. The best-qualified firm is then selected subject to the negotiation of a fair and reasonable price. If the sponsor and the best-qualified firm cannot agree upon a price, negotiations with that firm are terminated. Price negotiations are then entered into with the second best qualified firm. The same procedure should be followed with the third firm, fourth firm and so on until a fair and reasonable price can be negotiated with a qualified firm. Once negotiations have been terminated with a firm and begun with another, they cannot be reopened with the former firm. Advisory Circular 150/5100-14 provides further details on the procurement of engineering and architectural services through competitive negotiation.

c. Small Purchase Procedures. The procurement process under small purchase procedure is less formal than either of the previously discussed methods and may only be used for procurements of less than $100,000. The number of sources solicited would be determined by the number of qualified sources available, the time frame involved, and the dollar value. Oral solicitation is acceptable for very small purchases, but should be adequately documented. Except for very small purchases, a letter request should be issued as a minimum, and a written proposal should be solicited.

d. Noncompetitive Proposal.

(1) Although it is preferred that all procurements be made on a competitive basis, a noncompetitive proposal is permitted under the following circumstances:

(a) The item is available only from a single source;

(b) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;

(c) After solicitation of a number of sources, competition is determined inadequate; or

(d) The FAA authorizes noncompetitive negotiation.

(2) Under (1)(d) above, regions may authorize noncompetitive negotiation for professional services if the cost of the contract is not expected to exceed $10,000 and the professional services are incidental to the grant project. Typical contracts of this nature include:

(a) Services to review legal sufficiency of the grant;

(b) Appraisal;

(c) Grant audit services performed as part of a project; and

(d) Independent project cost estimates.

(3) Care must be exercised in allowing noncompetitive contracts for legal services involving land acquisition (especially those which may include condemnation proceedings) since these types of contracts may exceed the $10,000 limitation and, in some cases, could be considered a prime rather than an incidental part of the project. Similarly, engineering/architectural services are normally a prime part of the project (rather than incidental); and, therefore, noncompetitive proposal would not be appropriate.

(4) If a sponsor knowingly writes a specification that is noncompetitive (and, therefore, knows the specification is actually sole source), it must notify the FAA in advance that the specification is, in fact, sole source and then justify this procurement method.

(5) Utility companies owning service lines or other facilities generally do not permit work on their property or equipment by anyone other than their own employees. Accordingly, contracts for installation, extension, removal, and relocation of public utility facilities may be entered into through a noncompetitive proposal. However, the contracts, cost estimates, and plans for such work must be reviewed and approved by the FAA. (See Paragraph 594.)

e. Other Methods of Contracting. Other methods of contracting may be appropriate when used for an AIP project. One such method is considered a two-step procurement in which a general scope of the project is provided to prospective bidders. A technical proposal is submitted and the sponsor determines which bidders provide a technical proposal that meets the requirements of the general scope. An invitation for bids that encompasses the general scope and incorporates a bidder's technical proposal by reference is issued to each bidder whose technical proposal is deemed acceptable. The bidder then bids on the general scope as well as its technical approach and the responsible and responsive bidder submitting the lowest bid is awarded the contract. Other methods that may have some use under AIP are various forms of Design-Build. Except in those circumstances under which a project has been approved under a Design-Build pilot program, sponsors should be cautioned that the design-build contracting must still meet the requirements of both Paragraph 904(b)(2) above for professional services as well as the price competition for construction. In addition, sponsors should be cautioned that except under limited circumstances (See Chapter 3, Section 2) costs incurred prior to a grant are not necessarily reimbursable so the contract phasing should reflect the need to perform construction services after a grant is issued.

905. PROCUREMENT OF EQUIPMENT.

a. FAA is authorized to establish or approve standards for airport development, which is to be accomplished with AIP funds. FAA has done this for many types of equipment, such as snow removal

equipment, airport lighting, aircraft rescue and firefighting equipment, etc. In some cases, it has also published approved lists of items meeting FAA plans and specifications. However, the fact that a piece of equipment is not on an approved list, in and of itself, does not make the equipment ineligible or not acceptable. For such equipment, the sponsor will have to establish, to FAA's satisfaction, that the equipment does, in fact, meet the standards and specifications. If the equipment does not meet the standards and specifications, it is not eligible for Federal aid. If the sponsor elects to install equipment, which has not been approved by FAA and cannot meet standards at the time of commissioning, then the sponsor must take whatever steps necessary to replace the equipment or the appropriate costs will be disallowed.

b. Where FAA has published specifications for specific items, the specifications should be used with no modification, unless the sponsor can justify to FAA such modification. Some sponsors in the past have altered or required features not contained in the advisory circulars for items such as airfield lighting and aircraft rescue and firefighting equipment. Sponsors should be advised that, if not approved by FAA in advance, these alterations could jeopardize FAA's ability to fund the purchases through AIP. A sponsor's solicitation should contain only FAA specification and related designation (e.g. AC 150/5345-46, L-850A, runway centerline fixture). Solicitations should not include limiting factors, which have the effect of restricting competition, which requires manufacturers to radically change design or make other changes to their equipment unreasonably. Inclusion of limiting factors could cause a defacto limitation of competition.

c. While FAA can appreciate the sponsor's desire to have uniformity of equipment, both for maintenance as well as for aesthetic purposes, Federal regulations regarding the bidding process require open and free competition. This is not to imply that there may not be reasons for specifying a certain type of equipment. If such is the case, the sponsor must submit a justification for such restriction to FAA for consideration. An example of such justification might be that the equipment quantities to be acquired represent an insignificant number (for example, less than 5%) of the overall equipment in use and, therefore, do not justify the creation of duplicate inventory. In some cases a sponsor may request equipment to "match existing" equipment. If the effect of such request is, de facto, the establishment of sole source procurement because of the lack of interchangeability of parts or equipment, then this type of wording should not be allowed in the solicitation. Open and free competition is to be the norm and not the exception.

d. To allow sponsors flexibility in purchasing equipment, they should be permitted to select and specify in their bidding documents, equipment features, and characteristics when FAA standard specifications for such equipment allow a choice. However, in selecting those features and characteristics, the sponsor must assure FAA that at least two manufacturers will be able to meet the selected specification with their standard production model. In cases where sponsor selections are likely to result in only one qualified manufacturer, field personnel must secure from the sponsor sufficient justification for those selected features that create the exclusivity since the resulting procurement would be noncompetitive.

e. FAA Airports Offices may approve procurement of equipment containing additional features not contained in FAA specification. Unless the additional features represent state-of-the-art development, Federal financial participation shall be limited to those features incorporated in the specification and some basis must be established for determining the cost of nonessential items. State-of-the-art features may be eligible for participation if approved by the Office of Airport Safety and Standards (AAS) and justified by the airport sponsor. In no case can these added features (other than state-of-the-art ones) result in the elimination of competitive bidding by specifying a design limited exclusively to one manufacturer.

f. Field offices should strongly encourage sponsors to send nonstandard specifications for equipment to industry for review and comment prior to issuance of the Invitation for Bids (IFB). This will allow defects in the specifications to be identified in advance, especially if the specification is proprietary.

Using the information and input from industry, correcting or modifying the specification, the sponsor can certify to FAA that at least two manufacturers will be able to meet the proposed specification in the IFB.

g. If a sponsor knowingly writes a proprietary specification (therefore, knows the specification is actually sole source), it must notify in advance FAA that the specification is, in fact, proprietary and then justify this procurement method.

906. PRICE OR COST ANALYSIS.

a. Required Analysis. Sponsors are required to perform some form of a cost or price analysis for every procurement, including change orders. This analysis is needed for FAA review to determine the reasonableness of cost (See Paragraph 1052) and to identify possible bid improprieties (See Paragraph 1053).

(1) Cost Analysis. Cost analysis is the review and evaluation of a contractor's proposal and the judgmental factors, which the contractor applied. The analysis is used by the sponsor to form an opinion as to whether proposed costs are consistent with what contract performance should cost, assuming reasonable economy and efficiency. For the procurement of professional services, the sponsor should make a technical evaluation of the effort needed to perform the tasks and should include this in the analysis. Cost analysis results in a determination of the necessity for costs and the reasonableness of the amounts.

(2) Price Analysis. Price analysis is accomplished by comparing the submitted proposals or quotations with prior quotations and prices and using parameters such as average unit cost, published price lists, etc. A price analysis should be used in most cases, other than for professional services, since a detailed cost analysis is already required. Apparent gross inconsistencies should be subjected to more intensive inquiry.

(3) Significant Differences. Significant differences in the proposed contract prices and the sponsor's cost estimate should be explained as part of the analysis.

b. FAA Review. The sponsor's analysis shall be submitted to FAA for review only if the procurement is submitted for review under Paragraph 901. Otherwise, the analysis will be retained with the sponsor's procurement file and made available upon FAA request. Particular attention should be paid to the sponsor's analysis where the procurement involves a negotiated price.

907. PROFESSIONAL SERVICE RETAINERS.

a. Many sponsors hire firms (or individuals) to provide professional services necessary for their normal operations (not necessarily related to a grant) on a retainer basis. The sponsor may use these same firms to provide professional services necessary for a grant project without further procurement action provided that:

(1) The retainer contract was awarded as a result of a procurement method which would have met the requirements of competitive procurement, as specified in Paragraph 904;

(2) The parties competing for the work were advised that anticipated grant funded projects would be performed under the retainer contract. This would include advising them of a specific scope of services for those specific projects; and

(3) The price for the work to be performed under the grant contract will be fair, reasonable, and supported by a cost or price analysis. Comparisons should be made to similar type projects.

b. The sponsor shall be required to initiate a competitive procurement action in accordance with Paragraph 904 if the firm on retainer does not meet all of the above conditions.

908. PROCUREMENT OF ENGINEERING, ARCHITECTURAL, AND OTHER PROFESSIONAL SERVICES FOR SEVERAL PROJECTS.

Advisory Circular 150/5100-14provides guidance for airport sponsors in the selection and employment of architectural, engineering, and planning consultants under FAA airport grant programs. Firms competing for engineering, architectural, and other professional services must be selected on their qualifications subject to the negotiation of a fair and reasonable price. Consequently, it would be permissible for the sponsor to procure engineering and architectural services for several grant projects through one procurement action if the following criteria are met:

a. The parties competing for the work must be advised that the work is expected to be accomplished during the course of several grant projects;

b. The parties shall also be advised that possibly all or some of the services may not be required and that the sponsor reserves the right to initiate additional procurement actions for any of the services included in the procurement;

c. The scope of the proposed development work and required services must be defined along with the expected schedule of project initiation. The scope of the development must be specific rather than general;

d. Unless otherwise approved in writing by the appropriate FAA Airports Office, the services included in the procurement shall be limited to those projects that can reasonably be expected to be initiated within five years of the final procurement selection. This time limitation has been established so that competition is not unduly restricted. In some circumstances (e.g. a project that will take many years to complete a safe, usable unit), it may be permissible to approve an engineering contract that involves services beyond the five-year limitation. However, APP-500 shall be consulted prior to approval for periods exceeding five years:

e. The negotiation of the fee will usually be limited to the services expected to be performed under the initial grant;

f. The contract should be limited to the services covered by the negotiated fee. Subsequent services should be covered by amendment to the initial contract or subsequent contracts. However, at the time the initial contract and cost analysis are submitted for review, the sponsor should notify FAA of the subsequent services that were included in the procurement;

g. The negotiation of the fee for subsequent services (i.e. services included in the procurement action but not included in the initial contract) shall occur at the time those services are needed. The sponsor must perform a cost analysis for each of these negotiations. If a price cannot be agreed upon between the sponsor and the selected firm, then negotiations are terminated with that firm. However, rather than entering negotiations with the firm ranked in the next place at the time the initial contract was negotiated, a new procurement action must be initiated.

909. SOLICITATIONS CONTAINING BOTH ELIGIBLE AND INELIGIBLE WORK.

Unless there is a convincing reason to combine eligible and ineligible work in a single solicitation, sponsors should be discouraged from doing so. Sponsors who issue such combined IFBs should be made aware of the policy in this paragraph before the IFB is issued. In solicitations or IFBs where both eligible and ineligible work are combined (e.g. paving an apron and building a hangar), the extent of Federal participation with grant funds will be determined as follows:

a. Where a combined solicitation is logical, eligible work should be clearly identifiable as separate line items, or, as in the case of pavement overlay for instance, easily prorated;

b. On any solicitation to be funded in part with Federal grant money, the sponsor must award to the lowest responsive and responsible bidder on the entire contract, except as in "c" below;

c. If the low overall bid contains a cost for the eligible work higher than that of other bids, Federal participation shall be based on the lowest amount bid for the eligible work by a responsive and responsible bidder, unless it is obvious from a comparison with other bids or the engineering estimate that the bid containing the lowest price for the eligible work is unbalanced and the price of the eligible item is unreasonably low. In this case, FAA Airports Office should limit Federal participation to the next lowest reasonable bid on the eligible work.

910. LIFE CYCLE COSTS IN COMPETITIVE SEALED BIDS.

a. The concept of life cycle costs recognizes that although an item may have the lowest initial cost, it may actually be more expensive than some other item when other costs such as those associated with operation and maintenance are considered. Under the life cycle cost concept, any costs expected to be incurred for the item over its useful life (i.e. acquisition, installation, operation, and maintenance) are considered. Cost data must be verifiable independently of a claim by the manufacturer or contractor. Since life cycle costing can result in overall economy to the sponsor when properly carried out, FAA Airports Offices should encourage life cycle costing when the conditions below can be met:

(1) The invitation for bid states that life cycle costs will be used in determining the low bidder;

(2) The factors to be considered are specified and the costs associated with the factors must be quantifiable:

(a) "Specified" means that the invitation for bid specifically states the factors that will be included in the life cycle cost computation. Examples of factors that could be specified include annual fuel consumption for a motor vehicle, electrical consumption, and lamp replacement for lighting equipment, recurring inspection, and maintenance. All factors that have quantifiable costs should be specified in the bidding document.

(b) "Quantifiable" means that there is sufficient information available so that costs associated with these factors can be readily calculated. Calculation of energy consumption costs is fairly straightforward and should be based upon some objective standard or independent testing. For lighting equipment, electricity consumption and lamp replacement should be based upon the rating assigned by the manufacturers of the components rather than the equipment manufacturer. Calculation of costs associated with recurring inspections and maintenance is much more difficult. Generally, costs associated with maintenance should only be included in the life cycle costs computation if a fair and accurate calculation of such costs can be made. Maintenance costs, if used, should be independently validated.

(3) The IFBs must explain how the costs for each of the specified factors will be calculated:

(a) The costs associated with a factor can vary substantially depending upon how they are calculated. For this reason, any assumptions that will be used in making the calculations should be included in the bidding document. For example, if the fuel consumption of a vehicle will be considered, the IFB should state the expected number of annual miles and the price of fuel that will be included in the calculation.

(b) The period of time over which the life cycle costs will be calculated should also be stated.

b. The item that meets the bidding specification and has the lowest life cycle cost is the successful bid. Sponsors desiring to use the life cycle cost concept should be advised to consult with their FAA Airports Office before issuing an IFB to assure that their procurement procedure will meet grant requirements.

911. BONDING.

Bonding requirements for construction are found in Title 49 CFR, Part 18.36(h) and allows sponsors to follow their own requirements relating to bid guarantees, performance bonds, and payment bonds for construction unless the contract or subcontract exceeds $100,000. For those contracts and subcontracts exceeding $100,000, FAA may accept the bonding policy and requirements of the sponsor provided the appropriate FAA Regional Office has made a determination that the Federal Government's interest is adequately protected. The determination should be adequately documented in the project file. If such a determination has not been made, the minimum requirements shall be as follows:

a. Bid Guarantee of Five Percent. Each bidder shall submit a bid guarantee equivalent to five percent of the bid price with its bid. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of its bid, execute such contractual documents as may be required within the time specified.

b. Performance Bond of 100 Percent. Each contractor shall submit a performance bond for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such a contract.

c. Payment Bond of 100 Percent. Each contractor shall submit a payment bond for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract.

912. AWARD TO OTHER THAN APPARENT LOW BIDDER.

When the competitive sealed bid procurement method is used, the contract must be awarded to the lowest responsible and responsive bidder. If the sponsor determines that the apparent low bidder (i.e., the bidder submitting the lowest dollar amount) is not responsible and/or nonresponsive, FAA must review and concur in this determination. Although the sponsor can award to other than the apparent low bidder, Federal funds cannot be used in the contract unless FAA concurs in the determination prior to award of the contract.

a. Not Responsible. The bidder must be a responsible party, i.e. it must have the required financial, managerial, technical, and ethical capacity to perform the contract. Part 18.36 (b)(8) reads that "grantees...will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources." However, sponsors possess a wide amount of discretion in determining who is responsible. To concur in a sponsor's determination of not responsible, FAA personnel should review the determination to assure that there is a factual basis for the determination.

b. Nonresponsive. When a bid does not conform to all the material terms and conditions of the IFB that are deemed substantial, it is nonresponsive. It is the sponsor's responsibility to determine if the exceptions taken by a bidder to the solicitation are substantial or not and the extent of deviation it is willing to accept. Sponsors should be encouraged to disallow all deviations except for those that they would waive as being immaterial. Items affecting material terms and conditions of the invitation for bids such as delivery time, quantity, technical specifications, price, etc., should be considered material. FAA project manager should normally not use his/her judgment in place of the sponsor's unless there are compelling reasons to do so or unless the sponsor is not in compliance with local procurement regulations. Determinations of nonresponsiveness should not be based upon deviations that are not substantial.

913. ALTERNATE BIDS.

To allow more flexibility in the procurement process, the sponsor may request alternate bids in a procurement action. For example, a sponsor may be taking bids on a bituminous aircraft-parking apron. An alternate might be the construction of the same apron with concrete. The amount of Federal participation will depend on the manner in which the alternate bids are addressed in the IFB.

a. If the sponsor specifies in the IFB that it reserves the right to award to the low bidder in either alternate category and establishes a reasonable objective standard that will be applied in making the award, then the contract may be awarded to the low bidder in either alternate with full Federal participation. (As an example, the IFB might state that: "The sponsor reserves the right to award to the low bidder in either Alternate "A" or Alternate "B," provided that the amount of the low bid in the alternate selected does not exceed the amount of the low bid in the other alternate by more than 10%.")

b. If, in the IFB, the sponsor has not reserved the right to accept the low bid in either alternate or has not established an objective standard to be applied in making the award, the sponsor may award to the low bidder in the higher alternate bid if local policy allows; but the Federal participation will be based on the lowest responsive alternate bid.

c. If a sponsor plans to use alternate bids, the FAA Airports Office should call to the sponsor's attention the differences in "a" and "b", above, so that the sponsor is aware prior to the issuance of the IFB of the Federal participation.

914. BID PROTESTS.

a. Role of the Sponsor. Under Title 49 CFR, Part 18.36, the sponsor will develop protest procedures to handle and resolve disputes relating to their procurements and shall, in all instances, disclose information regarding the protest to FAA. The sponsor is responsible for all procurement actions to be accomplished in accordance with its established procedures including the handling of complaints and protests.

b. Role of FAA. FAA's role is limited to a review of the protest for violations of Federal law or regulations and violations of the sponsor's protest procedures if the bidder subsequently appeals to FAA. A protestor must exhaust all administrative remedies with the sponsor before pursuing an appeal with FAA. FAA field offices should ensure that the sponsor sends a copy of all protests to them and should redirect to the sponsor any protests received from bidders. To avoid delaying the procurement process, field offices should immediately review any protest they receive and send a copy to APP-520 to assure consistency in the resolution of bid protests. APP-520 will provide advice on matters of regulation and policy upon request. Regions should determine the disposition of appeals to FAA in consultation with Regional Counsel, if such consultation is deemed appropriate.

c. Defects in Bid Solicitation.

(1) Since defects in the bid solicitation can be identified prior to bid opening, the protest should be filed with the sponsor before bid opening since the deficiency can often be corrected by amending the solicitation. Unless a sponsor has a valid and justifiable reason to shorten the time, bid-opening dates should be at least 30 and preferably 45 days after the public issuance of the bid solicitation (including the issuance of plan sets). This would normally allow a prospective bidder time to review the plans and specifications and to confer with the sponsor in order to clarify any area that may be vague or misunderstood. Such informal discussion may be in order because of unintentional inclusions of proprietary items by the sponsor or its engineer in the plans and specifications. This would allow the sponsor time to issue addenda, as necessary. Such action may well avoid the filing of a formal protest.

(2) If a prospective bidder formally protests the procurement on the grounds that the bid solicitation is defective, it is the responsibility of the bidder to notify the sponsor in writing and before the bids are open, about what aspects of the solicitation the bidder is protesting. The sponsor shall send a

copy of the protest (or have the bidder do so) to the ADO or regional Airports office. The bid opening is to be delayed, if necessary, until the protest is satisfied (including rejection) or to allow time for the sponsor to issue an addendum, as appropriate. Since the most common occurrence in the grant program under this category is the use of proprietary specifications, the project manager should review the solicitation, especially if the sponsor has certified that the plans and specifications meet FAA standards, are nonproprietary, and are in accord with Section18.36. The fact that FAA may have approved the specification or accepted the sponsor's certification is obviated by the receipt of the bid protest. Because of the complexity of some of the equipment being used by sponsors today, it may be necessary to seek the advice of headquarters personnel, such as found in AAS-100 and 200, on technical or design issues. If the sponsor insists on opening the bids when there is a protest outstanding, they should be advised that FAA will not approve awarding of a contract and that Federal funds may not be used.

(3) If a protest of this nature is made after bid opening (and assuming that the bid package has been available for more than 10 working days) and if local procurement regulations allow, the sponsor may have the option of rejecting the protest without action, even if, in fact, the protest is valid. This is based on a General Accounting Office principle that a bidder normally has sufficient time to protest a defective solicitation prior to bid opening and not after bid opening.

(4) There are times when it is not practical to have a 30 or 45-day solicitation period for all bids. Sometimes a sponsor may be able to justify a shorter period of time. If the sponsor allows 10 days or less for bid proposals, then the prospective bidders should be allowed to protest a defective specification up to contract award.

d. Improper Evaluation of Bids. While protests pertaining to defective solicitations are made prior to bid opening, there is another type of protest that occurs after bid opening (the time period for filing is dependent upon the provisions of local law). This involves an improper bid evaluation. A bidder may be improperly disqualified or the sponsor may fail to disqualify the apparent low bidder for a defective bid. Here, the most common question deals with bid responsiveness and the responsibility of the bidder. If the apparent low bidder is determined by the sponsor to be non-responsive or not responsible, FAA must concur in the determination (See Paragraph 912). If an unsuccessful bidder protests that the low bidder was either non-responsive or not responsible, FAA must ask the sponsor to provide information on how it made its determination. In view of the protester's complaint, FAA must also concur in this determination.

915. SPECIFIC SITUATIONS.

Because procurement regulations vary from locale to locale, it can be extremely difficult for FAA project manager to keep track of all the procurements in progress. Below are outlined several scenarios which are not uncommon and which provide appropriate guidance:

a. A Contractor uses Quote from Supplier "A" and is Apparent Low Bidder. After Awarded the Contract, the Contractor Obtains the Equipment from Supplier "B."

There is no Federal requirement preventing a contractor from switching suppliers as long as there is no change in the bid. This is also true in the case of using subcontractors. While this is probably not a good business practice, FAA has no control over this situation. The assumption here is that there has been no influence, either overtly or covertly, from the sponsor. However, when a protest is filed and to ensure the sponsor has not been exerting pressure, FAA project manager may request that the sponsor supply the names of the suppliers/manufacturers from the prospective bidders. FAA Airports Office should review such submittals to confirm that all the contractors are not using the same suppliers and distributors.

b. A Contractor uses a Quote from Supplier "A" and is Apparent Low Bidder. After Awarded the Contract, the Sponsor's Engineer Refuses to Accept the Material from Supplier "A" and Makes Arrangements for the Contractor to Obtain the Material from Supplier "B" at the Same Price.

This type of action is not acceptable and would be in violation of, Title 49 CFR, Part 18. The sponsor is interfering with the open and competitive market. As long as the material from supplier "A" meets the standards and specifications, the sponsor may not specify with whom the contractor shall do business.

c. A Contractor uses Quote from Supplier "A" and is Apparent Low Bidder. After Awarded the Contract, the Contractor is Told by the Sponsor to Furnish Material from Another Supplier at a Higher Cost. The Sponsor will Pay the Additional from its Own Funds. There has been a long-standing policy by OMB that this is not acceptable**.** This is an obvious attempt to circumvent the procurement regulations and is not to be allowed.

Sponsor Category Plans to Procure Equipment under the Grant Program. Can He or Should He Break Up the Order to Accommodate Several Suppliers/Manufacturers or Should He Purchase as a Complete Usable Unit, E.G. Lighting Fixtures and Cans.This practice is left up to the discretion of the sponsor. By breaking up the order, the sponsor may be able to meet its overall Disadvantaged Business Enterprise goals more easily. However, there may be inherent problems using this technique, such as delivery dates, compatibility of equipment, having to deal with more than one vendor or contractor, etc. Normally, FAA project manager should not get involved in this type of decision unless there are extenuating circumstances.

916. - 919. RESERVED.

Section 2. TRADITIONAL CONTRACTS

920. GENERAL.

a. The type of contract (e.g. fixed-price contract and cost-reimbursement contract) shall be appropriate for the particular procurement and for promoting the best interest of the project involved. Discussion about other less traditional contracting methods, commonly referred to as alternative delivery methods contrtacting (or "Design-Build") is contained in section 3 of this chapter. Contracts should be sound and complete agreements and include, to the extent appropriate, provisions defining:

(1) The scope and extent of the contract work;

(2) The time for completion of the contract work, including, where appropriate, dates for completion of significant tasks;

(3) The contract price and method of payment;

(4) Identification of key personnel and facilities necessary to accomplish the work within the required time;

(5) The extent of consulting contracts and subcontracting to be performed;

(6) Changes by the sponsor within the general scope of the contract in the services or work to be performed; and

(7) Contractor conformance with the terms, provisions, conditions, and specifications.

b. FAA should carry out pre-award contract review in accordance with Paragraph 901.

921. NONALLOWABLE PRACTICES.

a. Cost-Plus-a-Percentage-of-Cost. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

b. Contract bonus for expedited construction completion. Contracts sometimes provide for payment of a bonus to the contractor for completing construction ahead of schedule. Under airport aid grants, this is not an item to be considered in determining reasonableness of construction costs. Therefore, such bonus payments are ineligible.

c. Escalator Clauses. Unless otherwise authorized by APP-1, FAA will not participate in any costs in a contract that are subject to an escalator clause. For example, during periods of rising crude oil prices occasionally a contractor will request a clause providing for an increase in the cost of bitumen be inserted into a paving project contract. Such authorization will only be provided in instances where short-term price fluctuations in the market indicate that expected costs cannot be accurately estimated.

922. REQUIRED FEDERAL PROVISIONS.

a. In addition to the general requirements above, Federal laws and regulations prescribe that certain provisions be included in federally funded contracts, as specified below. For purposes of this paragraph, the term, “contract", includes subcontracts. For specific wording of contract clauses and solicitation provisions, please see the FAA Airports website at http://www.faa.gov/arp/financial/procurement/ .**All Contracts.**

(1) Civil Rights - Title VI. Appropriate clauses from the Standard DOT Title VI Assurances must be included in all contracts. The clauses can be found in Appendix 2 in Advisory Circular 150/5100-15, Civil Rights Requirements in the Airport Improvement Program.

(2) Disadvantaged Business Enterprises. Appropriate clauses from Title 49 CFR, Part 26 must be included in all contracts.

(3) State Energy Conservation Plans. The contracts shall recognize mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201). Sponsors should be advised to include their State’s plans in contracts issued as a result of AIP grants.

(4) Record Availability. Contracts must include a provision to the effect that the sponsor, FAA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contact for the purpose of making audit, examination, excerpts, and transcriptions. Sponsors shall require contractors to maintain all required records for three years after the sponsor makes the final payment and all other pending matters are closed.

(5) Remedies. Contracts must allow for administrative, contractual, and legal remedies to instances in which contractors violate or breach contract terms and providing such appropriate sanctions and penalties.

(6) Foreign Trade Restriction. All solicitations, contracts, and subcontracts resulting from projects funded under the AIP must contain the foreign trade restriction required by Title 49 CFR, Part 30, Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors. See the Standard Solicitation and Contract Language provided on the FAA Airports web site.

b. All Contracts over $10,000. These contracts must contain provisions or conditions for termination for cause or convenience by the sponsor including the procedure and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated because of circumstances beyond the control of the contractor.

c. All Contracts over $25,000. All solicitations, contracts, and subcontracts that exceed $25,000, shall contain the required provision from Title 49 CFR, Part 29, Government Debarment and Suspension (Non-procurement). Further, this provision will be inserted in all solicitations and contracts when the

solicitation or contract is for auditing services regardless of amount. See the Standard Solicitation and Contract Language provided on the FAA Airports web site.

d. All Contracts over $100,000. Contracts in amounts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 7602, et seq.)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15), and Title 49 CFR, Part 20.

e. All Construction Contracts. All contracts involving labor must contain provisions necessary to ensure that in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to qualified individuals who are Vietnam era veterans or disabled veterans, who have been honorably discharged from such service. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. The clause can be found in Advisory Circular, AC 150/5100-6, Labor Requirements for the Airport Improvement Program.

f. All Construction Contracts over $2,000.

(1) Davis-Bacon Requirements. All construction contracts over $2,000 need to include a provision for compliance with prevailing wage rate requirements of the Davis-Bacon Act (40 USC 3701 et seq. to a-7) and the Department of Labor (DOL) implementing regulations (29 CFR Part 5). Under this Act, contractors are required to include the contract provisions in Section 5.5(a) of 29 CFR Part 5, and to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in the wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The sponsor shall place a copy of the current prevailing wage determination in each solicitation, and the award of a contract shall be conditioned upon the acceptance of the wage determination. The sponsor shall report all suspected or reported violations to FAA. (AC 150/5100-6 contains detailed guidance in this area along with the appropriate clauses.)

(2) Contract Work Hours and Safety Standards Act Requirements. The contracts must include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (formerly 40 USC 327-330) as supplemented by the Department of Labor regulations (29 CFR Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies, materials, or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. Appropriate clauses can be found in AC 150/5100-6, Appendix 2.

(3) Copeland "Anti-Kickback" Act Requirements. All construction contracts over $2,000 must include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This act provides that each contractor shall be prohibited from inducing, by any means, persons employed in the construction, completion, or repair of public work to give up any part of their compensation. The sponsor must report all suspected or reported violations to FAA. .

g. All Construction Contracts over $10,000. Executive Order 11246, Equal Employment Opportunity, applies to all construction contracts over $10,000. Appropriate clauses from 41 CFR Part 60 must be included in all applicable contracts.

h. Contracts for Steel or Manufactured Products. Buy-American preferences established within Title 49 U.S.C., Section 50101 require that the steel and manufactured products used for AIP-assisted projects must be produced in the United States. This provision may be subject to the following four exceptions:

(1) applying the provision is not in the public interest. This is reserved for significant public interest determinations;

(2) the steel or manufactured product is not available in sufficient quantity or quality in the United States; this refers to the manufacturing capability of the United States and whether it can meet demand;

(3) the cost of components and subcomponents produced in the United States is more than 60 percent of the total components of a facility or equipment, and final assembly has taken place in the United States. (The term "final assembly" for purposes of this provision should be substantial rather than a light bulb put in a vehicle.) The application of this subsection is determined after bid opening. FAA Airports Offices should use the cost of the facility being constructed in determining the cost of the components. For example, if a project is to construct a runway, the components would cover things such as rebar, lights, etc. If a project is for runway lights only, the components would be the lenses, etc. Depending on the project scope, therefore, a piece of equipment may be found to not comply with this section in one instance and be acceptable in another; or

(4) applying this provision would increase the cost of the overall project by more than 25 percent.

The FAA project manager is responsible for assuring that the sponsor inserts the appropriate Federal clauses into its contracts and solicitations. A special condition to be used in grants is found in Appendix 7.

923. - 929. RESERVED.

Section 3. ALTERNATIVE DELIVERY METHODS

930. GENERAL.

In 2000, a pilot program was established to test design-build contracting and other forms of alternative delivery methods. Such methods are gaining popularity in local and state governments. The philosophy behind these new types of delivery methods is generally that delivery time can be reduced and change orders are minimized resulting in overall lower costs and higher quality. Although this is the philosophy, conditions for the project must be evaluated to determine if traditional design-bid-build methods in section 2 is more appropriate before undertaking an alternative delivery method. Contract clauses shown in section 2 would still apply to procurement action that seek alternative delivery methods under this section.

Title 49, United States Code was amended to add Section 47142, which established design-build contracting as an approvable form of contracting under AIP. Under the statute, design-build contracting is defined as an agreement that provides for both design and construction of a project by a contractor. Since different laws affect the contracting for the design portion of a project and the construction portion, there were infrequent opportunities to use design-build contracting under AIP until the pilot program and subsequent permanent inclusion.

Other alternative delivery methods, however, have not been as hampered. Although not intended to be restrictive and all-inclusive, two other methods are described below.

a. Construction Manager-At-Risk (CM-A-R). Under forms of CM-A-R, the sponsor would engage a design firm for the design of the project. At an early stage of design, a contract is let for CM-A-R in

which the contractor reviews designs as they evolve to provide expertise for the construction phase. The CM-A-R and the sponsor also negotiate a ceiling amount for the construction beyond which the CM is "at-risk."

b. Task Order Contracting. In many procurement systems, these are sometimes referred to as indefinite quantity/indefinite delivery contracts and other similar contracting instruments. Under the most common approach to this type of contracting, the sponsor would procure an annual need such as paving or floor finishing (there could be many areas adaptable to this form of contracting.) The sponsor would estimate a ceiling amount and most frequently a maximum per order amount. The contract is also procured on the basis of criteria such as standard fees or unit rates and provides the standard contract clauses. When a contractor is needed for a relatively small job within the category, the contractor and sponsor will negotiate by applying the basic agreed upon fee against the scope of the specific project. No further competition is necessary if the task order contract was competed within the same year. If a sponsor wishes to use this tool beyond a 12-month period, regions and ADO's should advise sponsors that such action would require agreement with FAA in order for the cost to be found allowable. The most important factor is a determination that there is no necessity to recompete the agreement due to similar economic conditions, stability of wages and fringe benefits under Davis-Bacon determination and similar cost areas.

931. DESIGN BUILD.

a. Design-build is a method of contracting in which two distinct phases of project accomplishment, design phase and construction phase, are combined into a seamless process performed by one contractor who retains single-source responsibility for that entire process. Due to timesavings in the contracting process as well as earlier commencement of construction, design-build may provide cost savings. There are many recognized forms of design-build and the following is a brief description. There may be hybrid types of design-build that use variations of the basic philosophies.

b. Design-build project delivery can be performed by a single company with both design and construction capability in-house, or by a team of design firms and contracting firms, working under a single design-build contract. The design-build firm/team contracts to design and build the facility, and retains the risk for overall project completion, budget, and schedule. There is no division of responsibility to the Sponsor between the design organization and the construction organization.

c. Design-build services can be performed under all of the contractual methods used for construction including lump sum, cost plus (excluding cost-plus- percentage-of-costs which is unauthorized), cost with a guaranteed maximum, etc. Design fees can be included in the overall contract price or separated as a subset of the price.

d. Contracting for design-build services can be done by either of two basic methods:

(1) Qualifications Based Selection (QBS) - In this method, contracting for design-build services is nearly identical to selection procedures commonly used for professional design services. The Sponsor solicits proposals for the project, and design-build firms and teams respond with qualification information as prescribed in the solicitation. The sponsor chooses a short list of the most qualified firms/teams, and presentations/interviews are made by those firms/teams. The sponsor then selects the most qualified firm/team and negotiates a contract for professional services that also provides for subsequent establishment of a guaranteed maximum price (or lump sum, or cost plus fee, or another form of pricing) and guaranteed completion date for the entire project at an agreed level of completion of the preliminary design work.

(2) Competitive Proposal Selection (CPS) - The contracting process for design-build services is accomplished in two steps. The Sponsor first prepares a design criteria package for the project using in-house staff or a retained design firm (often a firm with an existing retainer contract.) Design-build firms/teams respond to a solicitation, and are short-listed in the same process used for QBS. In the second step, a design criteria package is issued to the short listed firms/teams, who respond with

separate technical and price proposals. Technical proposals are evaluated first, using a numerical "points earned" system. Then, price proposals are opened and prices are factored into the "points earned" system to determine the final selection. A common method of "scoring" price information is to divide the price by the technical points score, and the resulting low score wins.

(3) Note that the CPS process may have more costs than the QBS method. Under the CPS, the Sponsor must bear the cost of design criteria package preparation. Further each short listed design-build firm/team must bear the considerable cost of preparing a technical proposal with preliminary drawings and outline specifications, along with a conceptual cost estimate to establish a price. To control this substantial submittal cost, Sponsors should avoid short lists longer than 3-4 firms/teams. Sponsors should also consider granting a stipend to each unsuccessful firm/team in return for the right to use any concepts from the unsuccessful teams/firms' technical proposals for the project.

e. Limitations. The following are some limitations on the approval of projects for design-build contracting:

(1) The selection process must be permitted under State or local law;

(2) FAA must approve the use of design-build in advance;

(3) FAA must approve the method of design-build used;

(4) Sponsors must provide a schematic design adequate for FAA to approve the grant and assure that the contract will be executed after competitive procedures;

(5) Sponsors must demonstrate that the use of the contracting method will be cost-effective and will expedite the project;

(6) Sponsors must show that the contracting method will safeguard against conflict of interest;

(7) The selection must be as open, fair and objective as the competitive bid system and at least 3 or more bids will be submitted.

f. Airport District Offices or regional offices, as appropriate, should advise airport sponsors that to be considered, the sponsor should, as a minimum, submit the following:

(1) A full description of the project together with general sketches of proposed work;

(2) A description of the contracting process to be utilized as well as steps to be taken to assure that 3 or more companies will bid on the proposed project, including a statement that the type of project has an adequate number of firms involved regularly in the execution of design-build contracts;

(3) An analysis of the cost-savings and/or time savings that will be gained by the use of the design-build construction method;

(4) A statement describing what safeguards are in place to prevent conflicts of interest and that the process will be as open, fair and objective as the normal contracting process;

(5) A statement citing specific references to the state or local law that permits the use of design-build contracting methods.

932. - 939. RESERVED.

Section 4. CHANGE ORDERS AND SUPPLEMENTAL AGREEMENTS

940. CHANGE ORDERS AND SUPPLEMENTAL AGREEMENTS.

Most contracts will incorporate AC 150/5370-10, Standards for Specifying Construction of Airports, as part of the standards and specifications. This AC addresses both change orders and supplemental agreements. In contracts not incorporating the AC, procedures for change orders and supplemental agreements that are as close as feasible to those in the AC should be followed.

a. Change Orders. A change order is a written order by the sponsor to the contractor, given pursuant to a recognized right or rights reserved in the contract, which makes a change in the design, drawings, or specifications of the contract within the general scope. No new wage rate decision will be required to cover the work involved in the change order. Any change that exceeds an increase or decrease of 25% of the estimated cost of the contract or of a major item (as defined in the AC) must normally be accomplished through a supplemental agreement.

b. Supplemental Agreements. A supplemental agreement covers work that is not within the general scope of the existing contract and which the contractor is not obligated to perform under the terms of the contract, or is work which exceeds the 25% limitation, covered in “a.” above. Thus, a supplemental agreement is a separate contract and requires execution by both parties with the same formality as any other contract. A new wage rate decision will be required for each supplemental agreement involving more than $2,000 unless it involves work under a project for which a wage determination decision was issued and such decision has not expired at the time of award of the supplemental agreement.

c. FAA Approval. The sponsor must get prior FAA approval for any change orders and supplemental agreements, which will result in a grant amendment. In other cases and in emergency situations, the region may choose to establish procedures and levels of changes in cost and scope below which the sponsor need not obtain prior approval. The region must ensure that the sponsor understands what these procedures and levels are. The sponsor should also be made aware of the statutory limitation on the increase in grant amount.

d. Eliminating Items of Work. A change order is used to eliminate items of work from the plans and specifications of a construction contract. If the item to be eliminated is of such magnitude as to change the scope of the project as described in the grant agreement, there must be a formal amendment of the grant agreement prior to issuance of the change order.

941. - 949. RESERVED.

Section 5. SUSPENSION AND DEBARMENT

950. GENERAL.

Title 49 CFR, Part 29, Governmentwide Debarment and Suspension (Nonprocurement), was revised and became effective October 1, 1988. The suspension or debarment of an individual or a company by one Federal agency now has Governmentwide effect. All departments within the Executive Branch of the Federal Government have adopted GSA and OMB’s common rule on debarment and suspension.

951. APPLICABILITY OF TITLE 49 CFR, PART 29.

The procedures are applicable to contractors and subcontractors at any level, including suppliers, fee appraisers, inspectors, real estate agents and brokers, consultants, architects, engineers, attorneys, and to affiliates of these contractors when the procurement contract for goods or services equals or exceeds the Federal procurement small purchase threshold, currently set at $100,000 (this limit does not apply to auditors under OMB Circular A-133).

952. NONPROCUREMENT LIST.

The "Nonprocurement List" is that portion of the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs" compiled, maintained, and distributed by GSA which contains the names and other information about persons or companies who have been debarred, suspended, or voluntarily excluded from participation in Federal programs. An individual or company named in the "Nonprocurement List" may not be awarded a grant, a contract, or a subcontract except as provided in Title 49 CFR, Part 29. Sponsors may gain access to this list on the web by using http://epls.arnet.gov/.

953. DESIGNATIONS.

a. Debarring/Suspending Official. The Administrator has designated the Airports Division Managers as debarring and suspending officials. This designation may not be delegated.

b. Coordinator. APP-520 will serve as the national coordination point and should be notified when a party has been suspended, debarred, or voluntarily excluded from contracts under AIP. They, in turn, will notify all regions and the Assistant Secretary for Administration (OST) for the purposes of inclusion on the Non-procurement List.

954. PROCEDURES FOR SUSPENSION AND DEBARMENT.

Regions should consult and carefully follow the procedures for suspension and debarment contained in Title 49 CFR, Part 29.

955. - 999. RESERVED.

Chapter 10. PROJECT FORMULATION, REQUESTS FOR AID, AND LETTERS OF INTENT

Section 1. PROJECT FORMULATION

1000. GENERAL.

The project formulation stage begins with the sponsor's identification of planning and development needs for an airport. Needs may be identified as a result of a master planning study, systems planning study, Part 150 study, Part 139 inspection, master record inspection, runway safety action team recommendations, security recommendation, planning conference, an FAA Facilities and Equipment project, or the implementation of a new approach procedure. Project formulation continues through the development of a concept; preparation of technical and cost information, including benefit/cost analyses (BCA) if appropriate; development of a financial plan; accomplishment of engineering and design; and the review by the FAA of the project description, justification, and other supporting documentation. It may also include the required environmental actions, coordination processes, airspace analysis, and an overall project development schedule. Consideration may be given to multi-year funding at this stage (See Paragraph 1102). Project formulation is normally conducted through the preparation of a Capital Improvement Program (CIP). The CIP, which represents the five-year plan of development of an airport, is prepared in close cooperation with the applicable FAA field office. The formulation stage is completed when the project application is prepared and submitted to the FAA. Timing of CIP development and transmission to the FAA is noted in FAA Order 5100.39.

1001. PROJECT FILE.

A project file is a collection of files and records on a particular project that is kept by the Regional office or by the various field offices, as decided by the Airports Division. The Division is left to its own discretion as to what type of information, the format the information is to be provided in, and what is to be included in the project file except for that information required by this Chapter or other Orders. However, there should be enough information to be able to track a project from project formulation to closeout and audit or, for disapproved projects, a narrative statement supporting the disapproval.

1002. PROJECT ENGINEERING.

a. The sponsor is responsible for providing all project engineering including the preparation of plans and specifications, construction supervision, and the conducting of inspections and testing needed for project control. Proposals for engineering services will normally be submitted to the FAA for approval unless a certification has been submitted in accordance with Chapter 10, Section 3. Engineering services may be provided through contract with a qualified engineer or engineering firm or by the sponsor's own personnel (force account).

b. Separate funding for the preparation of plans and specifications may be provided in accordance with Paragraphs 300 and 310d.

1003. CONTRACT ENGINEERING SERVICES.

If the sponsor engages the services of a qualified engineer or an engineering firm, the engineering agreement becomes the basis for FAA determination of adequate engineering services and reasonable costs. Chapter 9 of this Order and AC 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects, provides guidance for selection, review, and approval for engineering services. If deemed necessary by the FAA, a draft of the agreement will be submitted to ensure that:

a. The scope of the engineering is described completely;

b. The fees or reimbursements are reasonable and eligible as shown by a cost/price analysis;

c. The type of contract is appropriate; and

d. The engineering/consultant firm and the proposed contract terms are acceptable.

Section 47105(d) of the Act authorizes the Secretary to require certifications from sponsors that they will comply with statutory and administrative requirements. Use of sponsor certifications for selection of engineering, architectural, professional services, and planning consultants is encouraged. A copy of the certification form is contained in Appendix 25. Acceptance by the FAA of the sponsor's certification does not limit the FAA's ability to request and review documentation to ensure the accuracy of the certification.

1004. FORCE ACCOUNT ENGINEERING SERVICES.

Proposals to accomplish airport engineering with the sponsor's own personnel or by its agent must be approved by the FAA. Proposals shall be submitted in writing and subjected to a review similar to that for engineering contracts. The guidelines and procedures for force account engineering services are the same as for force account construction work discussed in Chapter 12. It should be noted that most of the factors considered in the selection of a consultant would be applicable to approval of services to be done by force account. Field offices should exercise diligence in reviewing force account engineering costs. The sponsor's proposal to use force account rather than contract-engineering services must be fully documented and should contain as a minimum:

a. Justification for doing the work by force account rather than by contract;

b. Estimate of costs, including detailed data on estimated work hours, hourly rates, non salary expenses, and indirect costs;

c. Names and engineering qualifications of personnel that will be accomplishing specific tasks;

d. Statements concerning the capability of the Sponsor to perform the various tasks of design, supervision, inspections, testing, etc., as applicable to the project with arguments to support the decision to use force account;

e. Summary of Sponsor's experience with airport engineering pertaining to projects with similar design scopes; and

f. Statement by the Sponsor on the ability of its personnel to integrate the project into their workload, with a schedule of accomplishment of tasks, date by which the work will be complete, or dates within which it will take place.

1005. COORDINATION AND APPROVAL OF PLANS AND SPECIFICATIONS.

All AIP construction projects shall be coordinated with other FAA operating offices and Government agencies, as appropriate. Examples of such coordination include obtaining recommendations from the appropriate operating divisions with respect to designation of instrument runways, adequacy of approach lights, airport marking, air traffic notification procedures, security requirements, and the location of underground facilities in the work area. In addition, projects must comply with local ordinances and other applicable requirements. Generally, FAA Airports personnel shall be responsible for coordination within FAA while the sponsor maintains the responsibility for all other coordination.

a. Approval of Plans and Specifications. Sponsors may submit certification of plans and specifications consistent with the requirements in Chapter 10. If certifications are not received, the FAA must review the plans and specifications to assure that they are in accordance with applicable standards and, if acceptable, approve them for use. If a sponsor submits plans and specifications, which contain

proprietary items, the FAA Airports Office must review the sponsor's justification for sole source procurement to determine if the project warrants such authority.

b. Sponsor's Engineer's Report. A sponsor's engineer's report, setting forth the general analysis and explanation of reasons for design choices by the engineer, must be submitted with the plans and specifications unless deemed inappropriate by the field office. The report should, at a minimum, provide the following information:

(1) Design Computations. The report should include a summary of the design computations used in the design of major development items. Use of FAA Form 5100-1 for the design pavement thickness is required. A summary of computations and a description of the method used to conduct the drainage design must be presented. The engineer is not required to submit earthwork cross-sections or mathematical calculations for designs but should have them available for review by FAA representatives if requested.

(2) Reasons for Selections of Design Materials and Equipment and Modifications to Standards. The engineer's choices and recommended modifications will, in most cases, be influenced by service records for comparable construction and by cost comparisons. The report should include concise statements and cost comparisons that justify selections made and modifications to standards proposed in the project. See Order 5300.1, Approval Level for Modification of Agency Airport Design and Construction Standards for additional information on modifications to design and construction standards.

(3) Other Elements. The engineer must outline related project work elements to be done without AIP assistance, including details on how the work is to be accomplished, and how it relates to the AIP work. Work to be done by utility companies must be described in sufficient detail to verify adequate funding for the work.

(4) Support Data. The report should also include supporting data and itemized project cost estimates with source information. Any unique circumstances that may influence adjustments of existing project cost estimates should be explained.

c. Conditional Approval. If the certification of plans and specifications is not received from the sponsor, the FAA may conditionally approve plans and specifications to permit initial advertising of bids, even though the plans and specifications may require minor revisions. The FAA Airports Office should use the conditional approval procedure only when the revisions are non-controversial and do not significantly affect the design and engineer's estimate. The FAA Airports Office should, with the signature giving conditional approval, make a note of reference to the letter that discusses the conditions. Removal of the conditions after acceptable revisions will require a subsequent notation canceling the condition. Receipt of revisions and cancellation of the conditions should occur prior to issuance of the grant offer. (See Appendix 9, Paragraph 14 for special condition on preliminary plans and specifications.)

1006. INTERGOVERNMENTAL PROJECT REVIEW.

a. State and Local Review of Grants. Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, as supplemented, establishes procedures that replace the procedure in OMB Circular A-95. E.O. 12372 allows States, in consultation with local elected officials, to establish their own process for reviewing and commenting on Federal programs and activities. It requires Federal agencies to accept State and local views or explain why the views are not accepted.

(1) Regulations implementing E.O. 12372 are contained in Title 49 CFR, Part 17, Intergovernmental Review of Department of Transportation (DOT) Programs and Activities. Additional guidance is contained in FAA Order 1200.21, Intergovernmental Review of FAA Programs and Activities. APP-520 can provide information on documenting a State's intergovernmental project review process or single points of contact.

(2) The intergovernmental review process is supplemented by provisions of 49 USC 47106(c)(1)(A). It requires that, upon request, a large or medium hub must provide airport layout plan amendments (and an associated master plan) to the relevant Metropolitan Planning Organization (MPO) for airport development projects if the work involves location of an airport, runway or major runway extension. Certification by the airport that the requirement was met may be satisfied in grant agreement or other appropriate documents.

b. FAA Responsibilities.

(1) Sponsor Notification. The FAA is responsible for informing potential sponsors of AIP grants of the required intergovernmental project review process. This process normally allows 60 days for State and local agencies to complete the review. Sponsors should be notified of the name and address for single points of contact or other entities to be contacted prior to grant application submittal. The planning projects or other channels of information may be used to inform potential sponsors.

(2) Treatment of Comments. When the intergovernmental project review process results in comments, the FAA should pursue one of the following options:

(a) Accept the Comments. That is, do as the State or local agency recommends;

(b) Reach a Mutually Agreeable Solution with the State or Local Agency. This solution may differ from the original State or local agency position on the matter; or

(c) Reject the Comments. While the FAA is not required to accept comments or discuss another solution, a written explanation of the final decision should be provided as a courtesy to the single point of contact. The explanation should be provided at a minimum of 15 days before beginning work on a project. If no single point of contact exists, the explanation should be sent to other parties that initially provided comments. Where 49 USC 47106(c)(1)(A) is involved, the MPO should receive the explanation. An informational copy of the explanations should be sent to the DOT Assistant Secretary for Administration.

(3) Early Project Review. Sponsors regularly engage environmental consultants to prepare environmental assessments as part of the FAA's National Environmental Policy Act (NEPA) process. State agencies reviewing the assessments, capital improvement programs, or other planning studies use the State's review and comment process.

(a) The intergovernmental project review should be accomplished as early as feasible. The early project review in Order 1200.21 is incorporated into Order 5050.4 and other NEPA guidance.

(b) When the reviews are accomplished as described in subparagraph b(3)(a), intergovernmental project review does not need to be repeated during the implementation stage unless the scope of work changed, substantial new information has become available, or significant time lapsed.

(4) Exempt Projects. Projects that do not significantly affect State or local governments beyond airport boundaries are exempt from intergovernmental review, unless coordination is requested under a State's review and comment process or 49 USC 47106(c)(1)(A).

(5) Process Changes. Formal changes in a State's intergovernmental project review process shall be forwarded to the DOT Assistant Secretary for Administration and implemented within 90 days of receipt from the State.

1007. PUBLIC HEARING.

a. General. Any airport development project involving airport location, a new runway, or a major extension of an existing runway cannot be approved unless the opportunity for a public hearing has

been offered, in accordance with Section 47106(c) of the Act. In addition, there may be other occasions when either the opportunity for a public hearing or a public hearing itself may be appropriate. Section 1506.6 of the CEQ Regulations established procedures for public involvement in projects affecting the environment. Appendix 6 of FAA Order 1050.1 and FAA Order 5050.4 prescribe environmental requirements in detail. These orders are controlling and should be consulted regarding public hearing requirements. In cases where the opportunity for a public hearing was accomplished during advanced planning, it does not need to be repeated at the implementation stage unless the scope of work has changed, substantial new information became available, or significant time elapsed.

b. Form of Notice. The notice of opportunity for public hearing must include a concise statement of the proposed development and be published in a newspaper of general circulation in the communities in or near the proposed development. The notice must specify that the hearing is for the purpose of considering the economic, environmental, and social effects of the airport location or development and its consistency with the goals and objectives of such urban planning as has been carried out by the community. The notice must provide a minimum of 30 days from the date of the first required publication in accordance with local law, for submission of requests for a hearing by persons having an interest in the project, and state the manner in which a hearing may be requested. The notice must further state that a copy of the sponsor's environmental documentation will be available at the sponsor's place of business for examination by the public for a minimum of 30 days, from the date of the notice. This 30-day minimum should commence from the date the notice is first required to be published, if published more than once.

c. Request for Hearing. A public hearing must be provided if requested. When a public hearing is to be held pursuant to receipt of a request, the sponsor must publish a notice of that fact in the same newspaper in which the notice of opportunity for a hearing was published. The last notice required by local law must be published at least 15 days before the date set for the hearing. The notice must specify the date, time, place of the hearing, a concise description of the proposed project, and indicate where and at what times more detailed information may be obtained.

d. Report of Hearing. If a public hearing is held, the sponsor must provide the FAA with a summary of the issues raised, the alternatives considered, the conclusion reached, and the reasons for that conclusion. The sponsor must also keep a recording or other records covering the hearing and, upon FAA request, prepare a verbatim transcript of such hearing.

e. Lack of Interest. A hearing need not be held if, after adequate public notice of opportunity for a public hearing, no person or group having an interest in the project's economic, social, and environmental effects requests a hearing. In such a case, the sponsor must submit written statement that adequate notice of opportunity for a hearing had been provided, and that no request for a public hearing was received. Upon request, proof of publication of the notice must be submitted.

1008. ALP REVIEW.

During the project formulation, the sponsor and the FAA should review the approved ALP to ensure that it is current and contains the proposed project as required in Section 47107(a)(16) of the Act.

1009. VALUE ENGINEERING (VE).

VE is the systematic application of recognized techniques that identify the function of a project or service and provide the best function reliably at the lowest overall cost. Cost-benefit studies, present worth analysis, the study of alternatives, tactical planning, or other forms of technical evaluation may substitute for VE in most airport grant projects.

a. Required VE: VE will be required at some point in project formulation for new primary airports. Use of a formal VE task team during planning, project formulation, or construction design may also be required by the region for the following work:

(1) Substantially changed airfield configurations at a hub airport that annually enplanes 0.25 percent or more of U.S. passengers (medium and large hubs);

(2) Modifications of design standards proposed by an airport that would result in significantly increased cost;

(3) The preparation of State-wide system standards proposed to be approved by the FAA and used for development at nonprimary airports;

(4) Multi-year projects; and

(5) Similar projects exceeding $10 million Federal share, unless this work is part of a larger unit such as a new airport where the VE was already considered or completed.

b. VE Procedures: Specific concurrence on the scope of work by the region is required prior to the use of VE by local or State agencies in AIP projects. The cost of work performed on VE will not be allowed unless incurred after the date of the FAA concurrence on the scope. VE guidance is contained in Advisory Circular 150/5300-15.

Section 2. REQUESTS FOR AID

1010. GENERAL.

a. Capital Improvement Program (CIP): A sponsor's five-year program of development is included in its CIP. The CIP is prepared on an annual basis and it identifies the airport, it's proposed development, funding requirements, source of funding, fiscal year, project description, and justification. The CIP submission may also include information on environmental, Exhibit "A" land and ALP status, and sketches. The CIP is developed in close coordination between the sponsor and the FAA Airports Office, with participation by state aviation officials and metropolitan planning organizations, as appropriate. For further information on CIP development and the ACIP process, including a discussion of the National Priority System (NPS), submission and approval dates, and notification of sponsors, refer to FAA Order 5100.39.

b. Preliminary Notice of Interest. The CIP also serves as a preliminary notice of the sponsor's interest and intent without actually obligating the sponsor to perform any work or expend any funds. Acceptance of the CIP by the FAA does not imply that the proposed project will be programmed under the AIP. When a project need is identified subsequent to the annual ACIP process, the sponsor may submit an updated CIP.

c. Form Preparation. An application for Federal assistance, Standard Form (SF) 424, together with FAA Form 5100-100 (Appendices 3 and 4), must be submitted for any of the projects programmed under AIP to the appropriate FAA Airports Office before issuance of a grant. The original and two copies of the SF 424 must be completed in accordance with the instructions on the reverse side of the form and submitted to the FAA with all supporting documentation, sponsor assurances, and certifications. The appropriate FAA Airports Office is responsible for furnishing guidance about the proper completion of the form and the required supplemental supporting documentation, sponsor assurances, and certification.

1011. SUPPORTING DOCUMENTS.

The completed SF 424 must be accompanied by the supporting documents listed below, as appropriate. The FAA may request on a case-by-case basis additional supplemental information to support other Federal and local requirements.

a. Program Narrative and Cost Estimates. A narrative summary statement of each project must be provided. The summary shall include a description and justification for each of the projects to be

accomplished. Additionally, estimates showing the basis for the project budget must be furnished in sufficient detail to determine whether the project costs appear to be reasonable.

b. Sketch. A sketch, at least 8 ½" x 11", must be provided, that depicts and identifies the limits of the proposed project, and distinguishes other airport development from the development proposed in the grant. For land acquisition projects, the sketch should show the boundaries of currently owned land and the boundaries and proposed property rights of each parcel of land or easement to be acquired.

c. Identification of Environmental Requirements. All AIP projects must be either categorically excluded or accompanied by an environmental assessment that resulted in a finding of no significant impact (FONSI) or an environmental impact statement prepared in accordance with the current version of FAA Order 5050.4.

d. Public Hearing. For projects that are subject to public hearing requirements, if a public hearing has been held, a summary of the issues raised, alternatives considered, and conclusions reached must be provided. In cases where a hearing has not been held, a certification that no request for public hearing had been received must be provided. (See Paragraph 1007d. and e.)

1012. TIMING OF SUBMISSION.

The FAA may accept sponsors' applications at any time. Special directions are published annually in the Federal Register that provide a deadline for submission of applications under the AIP. This announcement is for the upcoming fiscal year and covers only sponsor entitlement and cargo funds. Sponsors should be advised, as appropriate, to comply with the schedule in the Federal Register. However, regions may request sponsors' submissions at an earlier date to meet regional needs.

1013. - 1019. RESERVED.

Section 3. SPONSOR CERTIFICATION

1020. GENERAL CERTIFICATION REQUIREMENTS.

Title 49 U.S.C., Section 47105(d) authorizes the Secretary to require certification from sponsors that they will comply with statutory and administrative requirements in carrying out a project. The standard airport sponsor assurances described within Paragraph 1010c contain "Sponsor Certification" in item C as a significant aspect of this.

1021. RELATION OF ASSURANCES AND CERTIFICATION.

A primary means of legally binding the sponsor to statutes, regulations, and policies is the standard assurances. The part of the assurances titled "Sponsor Certification" is also the subject of a focused process outlined in this section to ensure sponsors make adequate certifications.

a. Standard Assurances. The sponsor certification process within this section in no way replaces, abrogates, or diminishes the sponsor's legal obligations to carry out all of the requirements contained in the grant agreement, including the standard assurances. The grant agreement and standard assurances adequately represent legal requirements without the need for supplementary obligations from the sponsor certification process.

b. Sponsor's Certification Process. The sponsor's certification process is a means of focusing sponsor attention on requirements to make them more knowledgeable and diligent in assuring their grant obligations will be satisfied. Paragraph 1025 identifies forms that are used as education tools to clarify "Sponsor Certification" within the assurances in the context of AIP procedures.

c. Sponsor Certification Policy. Regions will obtain and rely on sponsor certification forms consistent with program goals or the need to protect the Federal investment in airports.

1022. REQUIRED SPONSOR CERTIFICATION FORMS.

The completion of sponsor certification forms using procedures below will be required unless in the judgment of the region the sponsor has become knowledgeable and diligent in assuring their grant obligations.

a. Sponsor Responsibility. Airport planning and development projects are administered based on the philosophy that responsibility for assuring compliance with program requirements rests primarily with the sponsor.

(1) The signing by a sponsor of an AIP project application and the grant agreement by a sponsor establishes the sponsor's obligation to comply with all grant terms and conditions.

(2) The sponsor is responsible for the preparation, adequacy, and correctness of required project documents.

(3) The sponsor is responsible for carrying out the project.

b. Mandatory Sponsor Certification Procedures. To use resources effectively in administration of the AIP, reliance for satisfying grant assurances will be placed on sponsors through mandatory sponsor certification procedures.

(1) All new sponsors, changes in the sponsor's administrator, or infrequent grantees will normally be required to submit the necessary certification forms. At the discretion of the FAA Airports Office, based of the FAA's opinion as to the sponsor's understanding and ability to carry out the actions required by the certifications, any sponsor may be required to complete any and all actions satisfied by certifications. Block grant states are not required to use the sponsor certification procedures for their individual airport projects.

(2) Acceptance of the certification forms by the FAA is not appropriate in cases where an inadequate or incomplete form has been submitted. See Paragraph 1027.

c. FAA Responsibility. The FAA is responsible for providing guidance and leadership in matters concerning airport planning or development projects and for instructing the sponsor on project requirements. Use of sponsor certification procedures does not relieve FAA personnel from their responsibility to maintain a broad overview of AIP projects and be reasonably assured that the sponsor is meeting all of its obligations.

d. Appropriate FAA Oversight. Acceptance of sponsor certifications does not inhibit or limit FAA's ability to request and review appropriate documentation to ensure the accuracy of a certification form. These certifications should be questioned when information becomes available indicating the sponsor may be in noncompliance with requirements or lacks the knowledge and capability to complete an accurate certification. Under these circumstances, a more detailed oversight review by FAA together with an increased emphasis on educational activities is appropriate and should be performed.

e. Required FAA Actions. Regions retain responsibility for aviation safety issues and the coordination of project plans, safety phasing plans, and other required coordination with organizational elements within FAA. A construction safety/phasing plan covering all aspects of safety during construction must be provided by the sponsor to the FAA. The FAA cannot accept the certification of project safety/phasing plans. All safety phasing plans must be received, reviewed, coordinated with other FAA operating administrations, airspaced (if necessary), and approved for use prior to the start of all construction projects. Early submission of safety/phasing plans will permit the timely start of construction projects. See Paragraph1026.

f. Supplemental Certification Forms. Regions may use judgment to rely on the original certification or require re-certification as described in Paragraph 1024. Regions may supplement these

standard certification procedures to reflect special conditions or assurances in the grant. In addition, regions may use their checklists, forms, or certification procedures for areas other than those described in this section.

1023. TIMING OF SPONSOR CERTIFICATION PROCESS.

The sponsor certification process should begin in the early steps of project formulation by making the standard forms available to sponsors and consultants so that they are aware of specific Federal requirements that must be met. However, execution of the certification forms can be required by the region at selected points in the grant process to best suit regional procedures. When practicable, certification forms should be timed to require that sponsors certify actions and conditions the sponsor has already completed or met.

1024. SPONSOR CERTIFICATION FORMS AND PROCEDURES.

Paragraph 1025 describes standard sponsor certification forms for which the procedures below apply.

a. Sponsor Completion of Forms. Each standard certification form contains a basic certifying statement, a checklist to be attested in meeting the requirements, and a signature line to be completed by the sponsor. It also contains reference to the statute, regulation, or advisory circular that describes the requirements.

(1) The sponsor should read the requirements and determine actions needed to comply with the grant agreement.

(2) Each checklist item must be reviewed by the sponsor and completed.

(3) An explanation or additional information shall accompany any question with “no” checked. This added information becomes part of the certification.

(4) The sponsor should provide the forms and attachments to the FAA together or separately in accordance with the timing required by the region. See Paragraph 1023.

(5) If the sponsor has been requested by the FAA to provide full project documentation, it should be submitted with the forms.

b. FAA Review of Forms. The appropriate FAA Airports Office should review the sponsor, airport, project number, work description, checklist items, authorized representative, typed name, as well as attachments to ensure they are correct and complete.

(1) Incomplete forms shall be returned for further action.

(2) The FAA Airports Office should review any checklist item marked “not applicable” to confirm non-applicability for the project.

c. Re-Certification. If the sponsor has been found to be inaccurate in making certifications, regions should require the sponsor to routinely submit full documentation in support of the forms. FAA review of this documentation and monitoring of the project implementation will need to be more comprehensive than relying on certification forms for any such sponsor. See Paragraph 1027.

d. Project Files. The executed certification forms and attachments shall be included in the project files. Any checklist items not meeting full compliance should be clarified with the sponsor and documented in the file.

e. Acceptance of Forms. When the sponsor has properly executed a certification form, no further routine or detailed conformance reviews of that area on the project will be necessary by regions unless exceptional circumstances arise. Acceptance by the FAA is considered complete when the forms are filed.

1025. AREAS WITH STANDARD FORMS.

Appendix 25 contains standard sponsor certification forms for the following areas:

a. Selection of consultants;

b. Project plans and specifications;

c. Construction or equipment project contracts;

d. Real property acquisition;

e. Construction project final acceptance; and

f. Drug-free work place.

1026. AREAS EXCLUDED FROM ROUTINE CERTIFICATION FORMS.

The following are examples of areas involving Federal responsibilities under the law that would normally be inappropriate for the routine sponsor certification procedures described in Paragraph 1024 since they require more complete FAA review:

a. Content of the National Airspace System Architecture and National Plan of Integrated Airport Systems;

b. Matters directly involving Part 139, commissioning or decommissioning of airfield facilities, and other safety considerations;

c. Determinations of project eligibility or justification under the AIP;

d. Coordination with the Facilities and Equipment program;

e. Modification of design standards for airport location, layout, site preparation, paving, lighting, and safety of approaches;

f. Procedures for handling airspace determinations and the designation of instrument runways;

g. Matters involving Part 150 and environmental impact determinations;

h. Determinations on the reasonableness and necessity of project cost in the expenditure of AIP funds as well as costs incurred subsequent to the execution of the grant agreement, where required; and

i. Disadvantaged Business Enterprise compliance.

1027. FALSE AND INACCURATE CERTIFICATIONS.

The region may rescind the acceptance of sponsor certification forms at any time. Where fraud or criminal action and intent is suspected, the U.S. Justice Department shall be immediately notified through regional counsel.

a. Sponsor Notice. Sponsors shall be immediately notified in writing when certifications submitted are discovered to be false, inaccurate, or incomplete. The notification should state the nature of the

problem, remind the sponsor of its responsibilities in submitting accurate certifications, and specify actions necessary to remedy the situation.

b. Sponsor Education. Most inaccuracies discovered in certifications will probably occur as a result of the sponsor or its consultant's lack of knowledge with respect to requirements rather than being deliberately incomplete or making false statements. In such cases, the emphasis should be placed on correcting the deficiencies and educating the sponsor as to the responsibilities incurred with the signing of the assurances and certifications rather than invoking penalties. The most current assurances and certifications should be provided to a sponsor with a recommendation that the sponsor's revised submission address the deficiencies.

c. Other Corrective Actions. Negotiations with the sponsor may be necessary where inaccurate certifications are discovered in on-going or finished projects. Such negotiations shall address corrective actions and may involve action to suspend the grant as described in Chapter 11, Section 6, or withhold/readjust Federal funds in accordance with Chapter 13.

1028. - 1029. RESERVED.

Section 4. CIP AND APPLICATION REVIEW AND EVALUATION

1030. GENERAL.

The initial review is an important phase in the development of an AIP project. This is the time to verify the justification, eligibility, and reasonableness of the project, to determine the reasonableness of project timing, to assign priorities, to identify information deficiencies, to select candidate projects for discretionary funding, and to approve, disapprove, or defer projects. Proposals that would require special adaptation of standards and problem areas that may later require the use of special conditions in the grant agreement should be carefully evaluated. To avoid project delays, every effort should be made to resolve programming and technical problems prior to recommending a project for approval.

1031. PROJECT EVALUATION REPORT AND DEVELOPMENT ANALYSIS.

A Project Evaluation Report and Development Analysis (PERADA) Checklist, FAA Form 5100-109 (7-01), (Appendix 8) must be prepared, by the FAA Airports Office, for each project intended to be programmed. FAA Form 5100-109 (7-01) should not be confused with similar forms previously distributed, including FAA Form 5100-109 (10-89), which may omit or incorrectly identify the minimum statutory, regulatory, and policy requirements for a project contained in this paragraph. The PERADA report should be completed during sponsor and FAA Airports Office development of each annual CIP element. This report must support the recommendations made with respect to the programming action. The report shall be prepared on FAA Form 5100-109 and shall concentrate on a concise discussion of problem areas. The data to be included in each section is described below:

a. HEADING. Self-explanatory.

b. Part I - Checklist. The checklist must be completed for each item. Items on the checklist, which do not obviously pertain to the project, should be marked "N/A." All other items should be checked in either the "Meets Requirements" column or the "See Part III" column. A "Meets Requirements" reply is the FAA Airports Office's affirmation that the item has been scrutinized and determined to require no further action. Each item checked under the "See Part III" column will require a short narrative, which will be included in that part and documented in the project file, as appropriate. The following is a brief discussion of each item:

(1) ACIP Project Evaluation Checklist. Problems foreseen for project approval upon completing Airports Capital Improvement Plan Project Evaluation Checklist must be explained. (See FAA Order 5100.39.)

(2) Sponsor Eligibility. Give status of the sponsor's legal ability to carry out its obligations. State whether a tentative determination has been made on sponsor eligibility when a written opinion of regional counsel is pending. (See Chapter 2.)

(3) Consistent with Local Plans. The airport project must be consistent with the plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport. (See Title 49 U.S.C., Section 47106(a)(1).)

(4) Designation of Instrument Runway for the Airport. An explanation is necessary only if the project is not on the approved ALP or an instrument runway improved by the project requires further coordination for work required to establish an approach procedure. (See Paragraphs 300c, 428d, 500b, 554, and FAA Order 7400.2.)

(5) Status of Prior Grant(s). If there are any projects over three years old or that have had no draw down for the proceeding 18 months and have not been closed out, give reasons for delays and schedules established for closing the projects. The maximum time for an AIP project, from date of grant acceptance to financial completion, is four years. In the case of a multi-year project, the maximum time for completion is four years from the date of the final multi-year amendment.

(6) Runway Marking. If airfield marking is not contained within the project and existing markings will be obliterated, an explanation should be made. (See Paragraph 500e.)

(7) Runway Safety Areas, Protection Zones, and Approaches. Explanation should be added where the work is related to a runway safety area, runway protection zone, or airport approach that is non-standard and not improved by the project. See Paragraphs 513 and 581 as well as Advisory Circular 5300-13.

(8) Runway Lighting. If the airport has inadequate lighting, an explanation should be added. See Paragraph 500c.

(9) Navigation Aid Requirements. If the requirements for landing aids are not included in the project, an explanation should be made. Any problems caused by the sponsor's lack of action in providing these facilities at the airport will be described with possible solutions. See Chapter 5, Section 6.

(10) Good Title and Property Inventory Map (Exhibit A). If the airport does not hold good title, an explanation should be added. See Paragraph 500a and Title 49 U.S.C., Section 47106(b)(1). A property inventory map (Exhibit A) in accordance with Order 5190.6 on the airport compliance requirements should be approved if it is not part of the airport layout plan.

(11) Donations. All donations will be identified with information on the manner in which the value has been established for programming purposes. (See Chapter 3, Section 4.)

(12) Force Account. Identify work proposed for force account. Comments will also include the method used in establishing costs for program purposes. (See Chapter 12, Section 3.)

(13) Unreasonable Cost. Identify any unusual or unreasonable cost shown in the grant application. (See Paragraphs 310 and 311.)

(14) Runway Surface Treatment. For all airports having turbojet operations, provide a detailed statement on the circumstances involved if surface treatment requirements have not been met. (See Paragraph 520d.)

(15) Intergovernmental Review. Explain any problem areas associated with coordination through the appropriate state single point of contact. (See Paragraph 1006.)

(16) Compatible Land Use. Identify any known non-compatible land use problems relating to the use of property adjoining the airport and the sponsor's actions to assure compatible land use. Include enactment date(s) of local ordinances and/or zoning restrictions. (See Paragraph 1005 and Title 49 U.S.C., Section 47107(a)(10).)

(17) Public Hearing. State whether the public hearing requirements have been satisfied. Provide the date(s) of public hearings. (See Paragraph 1007 and Title 49 U.S.C., Section 47106(c).)

(18) Useable Unit of Work. Identify problems if a useable unit of work will not result from the project. (See Paragraph 500d.)

(19) Information on Specific Opposition. Identify any opposition or controversy received regarding the project and the disposition of such opposition. Controversial aspects other than specific opposition should be discussed in sufficient detail to insure that programming actions are appropriate.

(20) Flood Insurance. Identify whether the sponsor has adequately satisfied this condition. (See AC 150/5100-16, AIP Grant Assurance 1 - General Federal Requirements.)

(21) Consultation with Airport Users. Identify when and what type of consultation took place with the airport users and identify any unresolved issues raised by airport users. (See Title 49 U.S.C., Section 47105(a)(2).)

(22) Uniform Acquisition and Relocation Requirements (Uniform Act). Identify any controversial aspects or failure to meet the requirements of the Uniform Act or Order 5100.37.

(23) Terminal Development/Bond Retirement. Identify any requirements for this type of project and whether the sponsor has satisfied them. (See Paragraph 614.)

(24) Noise Compatibility Projects. Provide the date of approval of a Part 150 program for any project in an approved Part 150. If any project is not contained in an approved Part 150 program, an explanation/justification for the project is required.

(25) Pavement Reconstruction. For any projects to replace or reconstruct pavement, describe the sponsor's pavement maintenance management program. See Paragraph 520a.

(26) Sponsor Certifications. If the sponsor certification process has not been followed, explanation is needed. See Section 3 of this chapter.

(27) Washington Approval Required. See Paragraph 31 for a list of projects requiring Washington approval. In addition, any coordination with Washington headquarters to determine eligibility as required within this directive should be described.

c. Part II, Description and Justification of Work Items. Include a clear description of each work item and a brief statement of justification for each item recommended for programming. The statement of justification shall include a concise discussion of the aeronautical justification with respect to necessity and timing and shall not include detailed design information unless pertinent to the programming decision. See Paragraphs 402b and 505. The priority assigned to each development item shall be included. For development not recommended for programming, the report should contain a brief description of the analysis leading to that conclusion.

d. Part III, Explanation. Explain any item from the Part I, Checklist, marked "See Part III."

1032. - 1039. RESERVED.

Section 5. PROJECT APPROVAL/DISAPPROVAL AND ALLOCATION

1040. PROJECT APPROVAL.

This paragraph outlines procedures for processing AIP projects.

a. Projects submitted to the FAA will be evaluated as they are received. Each project file will contain the following documents:

(1) Project Evaluation Report and Development Analysis (PERADA), FAA Form 5100-109 (Appendix 8);

(2) Application for Federal Assistance, SF 424 (Appendix 3);

(3) Current FAA-Airport Master Record, FAA Form 5010-1;

(4) Program narrative consisting of a list of the projects, justification for the projects, and a detailed cost estimate of the projects.

(5) A sketch, preferably 8 ½" x 11", drawn to scale and identifying projects requested and recommended. Number items requested by the sponsor to match items in the grant application. Larger sketches should be fastened to the folder in a manner that will readily permit unfolding;

(6) For projects requiring an environmental impact statement, the public record of decision required by CEQ Regulations, Section 1505.2 (43 F.R. 55978) shall also be included;

(7) Airport Improvement Program Action, FAA Form 5100-107 (See Appendix 28).

b. A decision on a project must be made at the field level in a timely manner. Should a sponsor fail to respond to FAA Airports Office requests for information necessary for project consideration, the application should be returned to the sponsor with no action taken.

1041. NOTICE OF DISAPPROVAL OR DEFERRAL.

When a project contained in a CIP is not approved or is deferred for inclusion in the program, the sponsor shall be advised of such action and the reasons therefore. A copy of such notice shall be sent to the appropriate state agency. (See Paragraph 1150.) If disapproval is based on the violation by the sponsor of an assurance or other requirement of the grant program and the project is to be funded from passenger or cargo entitlement (or special Alaska entitlement) funds, the procedures in 14 CFR Part 16 should be followed.

1042. WASHINGTON COORDINATION.

a. APP-520 will review regional recommendations and approvals to assure consistency in application of policies, programming criteria, guidelines, and national uniformity in the application of priorities. The regional programs will be monitored to determine at what priority level discretionary funds are being used. The Regional Airports Division, Planning/Programming Branch will be alerted of any obvious problems or deficiencies disclosed in this review and may be requested to provide additional information. (See Paragraph 31.)

b. Upon receipt of notification of the approval of an AIP allocation, including increases in excess of $1,000,000 to an existing allocation by the Regional Airports Division Manager or the Administrator, as appropriate, APP-520 will provide the Office of Government and Industry Affairs (AGI) with the Notification of Allocation for Airport Development for delivery to the Office of the Secretary of Transportation (OST) Office of Congressional Affairs.

c. OST will notify the congressional delegation and advise APP-520 when the project is cleared for release to the sponsor.

d. APP-520 enters the project release information into the AIP system daily. The following day the system updates the web based reports.

e. The regions can obtain computerized OST Congressional release information from the AIP system the day the release is entered into the system or the next day from the FAA web site at: http://www.faa.gov/arp/arphome.htm.

f. The FAA Airports Office will notify sponsors in accordance with the provisions of Paragraphs 1043 and 1044 of the action taken on their proposal.

1043. NOTICE OF ALLOCATION.

When a project has been approved, the appropriate FAA Airports Office shall notify the sponsor following receipt of notice of congressional release. Copies of such notice will be sent to the appropriate state aviation agency or as agreed upon between the sponsor and its state aviation agency. Each notice should include the following:

a. The amount of the allocation;

b. A list of programmed projects. Any deletions or reductions from the sponsor's proposal must be explained;

c. A statement that the allocation may be used only for the programmed items; and

d. A statement explaining that the allocation is the first step leading to the issuance of a grant offer, and is made within the amounts authorized under the terms of the Act and that the issuance of a grant offer is contingent upon all applicable Federal requirements being met, including:

(1) Approval of the project as finally formulated; and

(2) The limits of obligating authority for the current fiscal year;

e. A statement that the allocation is in consideration of the sponsor's representations shown on the application and that the FAA Airports Office will discuss these matters with the sponsor.

f. A statement that failure to establish an acceptable schedule or delay in conforming to the schedule will result in prompt withdrawal of the allocation.

g. A statement that copies of the AC's on labor, civil rights, and relocation assistance, as applicable are available from the U.S. Government Printing Office or, if there is no charge, the U.S. Department of Transportation, General Services Section, M-443.2, Washington, D.C. 20590.

1044. SCHEDULE FOR SPONSOR DEVELOPMENT OF THE PROJECT.

a. Establishment of Schedule.

(1) Immediately after an allocation is made, a meeting should, if deemed necessary, be arranged with the sponsor to establish a schedule for the development of the project. This meeting should include all representatives of the sponsor who will participate in the project, including, where/when appropriate, any state officials, sponsor's engineers, and the sponsor's attorney. The FAA Airports Office representative will provide the sponsor with an estimated date for tendering the grant offer. This date will take into consideration any limitation on obligational authority for the current fiscal year. The schedule will prescribe a definite date for each step of the project and will identify the

individual responsible for each step. Emphasis will be placed on the fact that the allocation will be withdrawn unless the sponsor develops the project in accordance with the schedule.

(2) Where appropriate, realistic deadline dates for each of the following steps, if applicable, of the project development should be set:

(a) Submission of Certification of Plans and Specifications;

(b) Designation of sponsor's engineer;

(c) Submission of preliminary plans;

(d) Request for state air and water quality standards compliance assurances;

(e) Submission of final plans and specifications and engineer's report;

(f) Completion of necessary land acquisition and Relocation of displaced persons;

(g) Adoption of a zoning ordinance or other compatible land use measures;

(h) Submission of title evidence;

(i) Coordination with planning agencies;

(j) Receipt of current wage rates;

(k) Advertising for bids;

(l) Award of contract;

(m) Pre-construction conference;

(n) Submission of Application for Federal Assistance (SF-424 and FAA Form 5100-100);

(o) Issuance of grant offer; and

(p) Acceptance of grant offer;

(3) The schedule will be realistic from the standpoint of both the sponsor and the FAA in anticipating problems and causes for delays. Scheduling of actions required to develop the application, including engineering work and acquisition of property interests, should permit the issuance of a grant offer with a minimum of special conditions.

(4) Regardless of project priority, every effort should be made to schedule projects for grant agreement during the same fiscal year for which an allocation is made unless advance-programming action is involved. The agreed scheduled dates shall be considered deadline dates, and the sponsor will be advised that failure to meet them may result in action to withdraw the allocation. This procedure is considered necessary to insure that sponsors will complete all preparatory work for entering into a grant agreement and will be prepared to proceed immediately with project development, as funds are made available.

b. Monitoring Conformance to the Schedule. The Federal Airports Office should monitor programs in accordance with the agreed upon schedule and take appropriate action when delays occur. Sponsors should be queried on projects that have not begun within 6 months of grant award to

determine reasons for the delay and appropriate follow-up action. Appropriate documentation will be placed in the project file to support later decisions to extend or withdraw the allocation.

1045. - 1049. RESERVED.

Section 6. APPLICATION REVIEW AND APPROVAL

1050. GENERAL.

The application and supporting documents should be reviewed for accuracy and completeness and the sponsor requested to furnish any supplemental information. Upon completion of the review, the appropriate field office should forward the application along with necessary documentation to the approving official for action. The issuance of a grant offer by the FAA constitutes approval of the application. The field office may adjust the depth and intensity of the review of various supporting material in Section 1 above in accordance with the complexity of the project, the amount of the grant, the size of the sponsor, and past experience with that sponsor.

1051. PROJECT SUMMARY.

Preparing a detailed report of the project and a recommended action for use by the approving official is no longer mandatory, but the regional Airports Divisions may continue to do so.

1052. DETERMINATION OF REASONABLENESS OF COSTS.

To be allowable, a cost must be reasonable. Where a project cost appears excessive, close attention should be paid to the plans and specifications to determine whether the excessive cost is due to over design. Projects for which there are no FAA specifications may require redesign so that the project benefits will justify the costs. FAA field personnel should determine during the review of the application that the amount of funds requested by the sponsor is reasonable. Issuance of a grant offer effectively constitutes a determination that the costs on which the grant offer is based are reasonable. The determination should be made in accordance with one of the following guidelines:

a. Application amounts based upon estimated costs:

(1) Requested amounts should be compared to the costs of similar type work included in other recently awarded grants, taking into account such factors as inflation and geographical differences;

(2) Estimated cost of land acquisition should be based on appraisals of the parcels to be acquired as well as appropriate relocation assistance and administrative costs.

b. Application amounts based upon competitive bids:

(1) The sponsor is required to submit an itemized abstract of bids and a copy of the engineer's estimate, both to be included in the project file. The low bid should be compared to the engineer's estimate, as well as costs for similar type work in other projects. If there are several bids, it may not be necessary to compare the low bids to costs in other projects since experience has shown that the greater the number of bidders, the lower the price;

(2) If only one bid is received, the FAA should encourage the sponsor to negotiate with the sole bidder to obtain lower prices if such negotiation is permitted by state or local law;

(3) If there are less than five bidders and the low bid exceeds the engineer's estimate by 10%, the grant should not be issued unless the FAA satisfies itself that the costs are reasonable.

1053. REVIEW FOR BID IMPROPRIETIES.

a. In reviewing the abstract of bids to determine the reasonableness of costs, field offices should be alert to possibilities of improprieties in the procurement process such as bid rigging and collusion. Field offices should notify the Office of Inspector General (OIG) Regional Special Agent-in-Charge of Investigations when:

(1) There are five or fewer bidders on a construction project and the low bid is 95% or more of the engineer's estimate and the bid is $500,000 or more;

(4) There is only a single bidder on a construction contract and the bid is $250,000 or more;

(5) Any bid package that FAA field personnel feel contains any unusual or suspicious bid patterns or activities.

b. The bid package shall not be submitted to the OIG unless requested, and the grant award should not be delayed unless the Special Agent-in-Charge indicates otherwise.

1054. - 1059. RESERVED.

Section 7. MODIFICATION OF APPROVED PROGRAMS

1060. PROGRAM CHANGES.

Program changes are major changes to the scope of a project by deletion, revision or additions of work items or adjusting allocations for which notices of allocation have been issued. Program changes may be made by the FAA anytime after the tentative allocation and prior to grant acceptance by the sponsor. Field offices may make program changes involving work items so long as the new project is at least the same priority as the one being replaced. All proposed projects receiving a lower priority rating must be submitted to APP-520 for review and approval. After approval, any grant offers must reflect the corrected description. Such program changes should not be used indiscriminately or as a substitute for careful planning and estimating for initial programming.

1061. PROCEDURES.

a. Timing. A sponsor should request a program change as soon as the need becomes evident.

b. Sponsor Submission.

(1) Deletions or Reductions in Projects. Deletion or reduction of development items from approved projects may affect the operational capability of the airport involved or prevent the construction of a safe, useful, and usable project. Consequently, such action should be undertaken with caution to assure that the operating capability of the airport or unit of development is not adversely affected.

(2) Increase in Funds or Additions to Programmed Development Items. The sponsor must submit a request with the same type of information and documentation required within this chapter. This must, in all cases, include a revised project estimate and assurance of availability of sponsor funds if a request for the modification of funds has been submitted after application. Changes in development items will normally require a revised project sketch.

(3) Decrease in Allocation. Where the change involves only a reduction in the amount of the allocation, a revised project estimate is sufficient basis for decreasing the allocation.

c. Regional Determination. Regions will approve or deny requests for program changes except for those projects approved at the headquarters level.

d. Headquarters Determination. For any changes that cannot be approved in the region, the region will submit the request to APP-520. Documentation may be requested by APP-520 for an evaluation of the request. (See Paragraph 31.)

1062. ANNOUNCEMENT OF CHANGES TO APPROVED PROGRAM.

Changes made under Regional authority should be announced to congressional offices in accordance with procedures in Order 5100.20, Program Control and Reporting Procedures.

1063. - 1069. RESERVED.

Section 8. LETTERS OF INTENT

1070. GENERAL.

The FAA is authorized to issue a letter of intent (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 may proceed with a project without waiting for an AIP grant. The Sponsor is assured that all allowable costs related to the approved project remain eligible for reimbursement.

1071. ELIGIBILITY.

a. Airport. LOIs may be issued to cover work only at primary and reliever airports.

b. Airfield Project. The project must enhance airfield capacity or be supporting development directly related to the primary project to be eligible for a letter of intent. Any development directly related to the primary project, to be included in the LOI, is also subject to the review factors and conditions of the primary project of the LOI. An example of a directly related project includes an extension of a taxiway to match a runway extension. An example of a project that is not directly related would be the construction of a public roadway serving a terminal building in an LOI for a new runway or extension.

c. Payment of Interest. The payment of interest from bonds or other forms of indebtedness under an LOI is not allowable. Accordingly, in submitting an LOI application, interest costs may not be included in project costs and will not be covered as part of an approved LOI. Additionally, the FAA will not recognize the cost of interest as an allowable expense in processing a request for payment of grant funds under a grant agreement executed pursuant to an LOI.

However, once allowable expenses have been incurred by the sponsor for approved LOI project capital costs, amounts paid to the sponsor by the FAA under the LOI constitute reimbursements. The FAA does not generally track or monitor airport sponsors' uses of payments under grant agreements after receipt of those payments by the sponsor. Therefore, the FAA has no objection to the use of reimbursement payments, upon receipt by the sponsor, for any lawful airport purpose, including the payment of interest on airport obligations.

1072. FACTORS IN CONSIDERING LOIS:

The FAA will consider these factors in reviewing requests for LOIs:

a. For projects at large and medium hub airports, the project's effect on the overall national air transportation system capacity. The FAA will determine the current annual hours of flight delay for and reduced annual aircraft and passenger delays at current and future airport activity levels. Data required for FAA analysis includes: the approved Airport Layout Plan, fleet mix, type of operation, peak hour airfield mix by class, runway occupancy times, taxiway exit percentages, noise, obstructions, terrain,

aircraft departure and arrival constraints, minimum vectoring altitudes, aircraft separations, length of and approach speeds on typical approach by aircraft type, weather conditions, runway dependencies, and the different runway use configurations in the various wind and weather conditions. Also, required for analysis is the enplanement forecast for the period of construction and the growth rate of enplanements for out years beyond construction.

b. A Positive Benefit/Cost Ratio: A project Benefit/Cost Analysis (BCA) 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 consider benefits in terms of annual cost savings attributable to reduced delays, and the monetary value of saved passenger time. In addition, the net value to the airlines, the airport, and the public from additional airline service made possible by the project will be considered. Total costs attributed to the project include, but are not limited to, land acquisition, site preparation, environmental and noise mitigation, engineering, and construction. The FAA recommends all benefit/cost analysis be conducted in accordance with the guidance issued on December 15, 1999. The guidance may be downloaded from the FAA Airports web site at http://www.faa.gov/arp/bca.htm.

c. Sponsor Financial Commitment, (LOI Finance Template). The FAA will determine the sponsor's financial commitment in the analysis of an airport's financial plan. The FAA has established a Finance Template (See Appendix 29) for the purpose of standardizing the submittal of an airport's financial plans. Historically, FAA has requested supplemental or modified financial data from airports during the LOI review process. By standardizing the financial plan submittals, the LOI review process will permit FAA personnel to efficiently and effectively perform the financial analysis.

In addition to the LOI finance template, the sponsor should provide the entire capital improvement plan that covers the life of the LOI request. This list of projects, both within the LOI and outside the LOI, should contain the total project costs, and a cost breakdown by source of funds. The FAA will utilize this supplemental information to consider other sponsor commitments that may impact the sponsor's ability to pledge specific sources of funds. Also, this information may highlight a sponsor's use of entitlement funds to other higher priority projects. Finally, FAA will consider the sponsor's contribution from non-federal funding sources, airport revenue diversion, grand-fathered payments to other governmental offices, and whether or not 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 reimbursement for advance expenditures. The FAA will not consider an LOI payment schedule that directly matches an airport's capital drawdown schedule.

1073. ISSUANCE OF LOI.

FAA will issue the LOI to the sponsor when the congressional notification is complete. The same official who normally signs a grant offer for the FAA will be the official who signs the LOI. The LOI should include the following:

a. LOI number and airport name (the number should be based on the region's three letter code, the fiscal year of issuance, and a sequential number, e.g., AGL-88-02, the second LOI issued by AGL in FY 1988);

b. A brief, but complete, project description;

c. The maximum amount of Federal funds which will be made available for the project;

d. A schedule of reimbursements by fiscal year and type of funds, (apportionment and/or discretionary);

e. A statement that the sponsor must comply with all statutory and administrative requirements;

f. A statement that the LOI is not considered to be an obligation of the United States, shall not be deemed an administrative commitment for funding, but shall be regarded as an intention to obligate from future budget authority as such funds become available; and

g. A statement that the LOI, with sufficient justification, may be amended to adjust the maximum Federal obligation, the payment schedule, or both. When entitlement funds (includes cargo and primary) are more than the amount scheduled in a year, the discretionary funds in the same year may be reduced by an amount equal to the increase in entitlement funds over the amount scheduled in the LOI. In this case, no adjustments have to be made to the future funding years in the original LOI allocation project. Conversely, however, if entitlement funds are less than that projected, discretionary funds will not be increased to compensate for the lower entitlement funds. The accurate projection of entitlement funds is very important to both parties.

1074. PROCEDURES.

A principal goal in establishing the LOI procedures is that projects to be funded in this way be treated as much like conventionally funded grant projects as possible. In order to ensure that all statutory and administrative requirements attendant to the normal grant process are satisfied, the FAA will evaluate sponsor CIP's, grant applications, and review proposed projects as is done for a normally funded AIP project. At the point where an Federal Airports Office would issue a notice of allocation to the sponsor, subject to APP-500 review, that office will instead issue a LOI. Grant applications and offers will follow as set forth in the LOI payment schedule, subject to the availability of funds. Actions should occur as outlined below:

a. Early FAA/Sponsor Coordination. An airport sponsor may initiate consideration of an LOI for a large capacity-enhancing project. The sponsor should be briefed early on the general features of LOI provisions and on actions that the sponsor should take to obtain an LOI. The FAA Airports Office will be the primary contact for the sponsor regarding an LOI. It may be desirable, from the sponsor's point of view, as well as the FAA's, to hold a joint meeting so that all parties understand the purpose and scope of the project, FAA authority and policy, and sponsor financial needs, schedules, and responsibilities. Since all LOIs require a BCA, and given the length of time required to review the BCA, the review of the BCA should be started upon receipt of the BCA not after LOI submittal. As a minimum, the FAA and the sponsor should meet to discuss the following points:

(1) A sponsor must notify the FAA of their intention to proceed with a project without federal funds through a request for a letter of intent. LOI applications must be submitted to the FAA no later than **March 1** of the fiscal year in which the LOI approval is being requested. Applications received after March 1 will be considered for the following fiscal year. The application should include all relevant support material such as the status of the federal environmental finding, ALP approval, BCA, and requested LOI payment schedule. The applicant should also note the source(s) and amount(s) of other financing for the project. If the sponsor receives an LOI and then proceeds without the aid of Federal funds, the sponsor may later be reimbursed under the terms of the LOI. The sponsor notice to proceed with a project without federal funds and request a letter of intent should be submitted during project formulation or with the CIP and should specify the forecast dates for implementing the project or stages of the project and the estimated costs associated with each stage of the project.

(2) A project under an LOI must satisfy all statutory and administrative programming requirements for an AIP project. Sponsors should be advised to proceed as though they had received Federal funds and should fulfill all environmental, civil rights, bidding, procurement, and contracting requirements associated with an AIP grant, even though no Federal funds have been received at the time the project was initiated.

(3) All documents normally submitted with a grant application should be submitted in support of a request for an LOI.

(4) The sponsor should agree to commit all, except to the extent that the FAA agrees funds may go to other projects of equal or greater priority, entitlements over the life of the LOI to the project. An exception may be made if entitlement funds are already committed for other urgent needs. In such a case, the payment schedule in the LOI may have no funds or reduced entitlements under the apportionment heading.

(5) An LOI may be issued with payments scheduled beyond the statutory expiration of the AIP, as authorized by the FY 1989 Department of Transportation and Related Agencies Appropriations Act (Public Law 100-457).

(6) The total of discretionary funds in all LOIs subject to future obligation is limited to approximately 50 percent of the forecast discretionary funds available for that purpose.

(7) Issuance of an LOI is considered a Federal action subject to the requirements of the National Environmental Policy Act. Consequently, all environmental actions must be complete before issuance of a letter of intent.

(8) An LOI may be amended in future years to adjust the total maximum Federal obligation, the schedule of payments, or both. Considerations that may lead to an amendment include, but are not limited to, a change in project cost, change in project timing or scope, or changes in future obligating authority.

(9) Alternative funding levels and schedules should be discussed. The FAA position is to use the LOI provision to encourage the maximum number of capacity-enhancing projects. Consequently, the FAA should ensure that sponsor resources are used to the maximum extent reasonable, and that Federal financial support should be the minimum amount needed to allow the project to proceed.

(10) Costs incurred prior to the issuance of an LOI, except project formulation costs, will not be reimbursed.

(11) Sponsors shall complete a BCA for LOI projects. The cost of preparing BCAs can be reimbursed as a project formulation cost when and if the project is approved for an AIP grant. The preparation of the BCA may also be part of a master plan project if such master plan effort is timely to the planned LOI project.

(12) LOIs are an important innovative financing tool. As such, an airport seeking an LOI must submit a financial plan that demonstrates how the LOI will leverage increased financial commitment from non-Federal sources and/or will cause the project to be accelerated. Financially superior LOI requests will be those that seek a greater percentage of the AIP funds later in the financial plan, divide the Federal participation over a longer time frame, and seek realistic overall Federal participation. Airports seeking earlier and larger AIP allocations should be encouraged to consider competing for funds through annual discretionary grants rather than LOIs.

b. FAA Actions to Approve the Project. Regions should notify APP-500 promptly when a sponsor expresses interest in obtaining a letter of intent. Preliminary information provided to APP-500 should include a general description of the project, the estimated cost, the proposed schedules for construction and reimbursement, and an indication of whether the project is a good candidate for an LOI.

All normal pre-application review and evaluation actions should be completed as if the project were being programmed for a grant. Similarly, the sponsor should be briefed on the importance of complying with all Federal procedures on bidding, civil rights, and contract award.

FAA has established a committee to review LOI proposals to insure all statutory requirements have been met and advise the Associate Administrator for Airports (ARP-1) on the selection of LOI proposals. The committee is composed of representatives from the Office of System Capacity (ASC), Office of

Aviation Policy and Plans (APO), and from the Associate Administrator for Airports (ARP). The committee is chaired by APP-500 and includes ARP representatives from APP-510, APP-520, and an airports regional division manager with no LOI candidate. This committee will review substantially complete LOI requests submitted by the March 1 deadline. The committee reviews the LOI proposal, system benefits, BCAs, and the financing package.

After ARP-1 selects the sponsors that will receive LOIs, APP-500 will complete the headquarters actions necessary to complete the approval process and initiate the OST/Congressional notification process. The Congressional notification will state the FAA's intention to grant funds, not to exceed the estimated total Federal share of allowable project costs, and any amounts that are approved for allocation in the current year.

1075. LOI FUNDS ALLOCATION.

At the beginning of each fiscal year, the FAA, in its administration of the AIP, sets aside the amount of discretionary funds to cover the LOI payment schedules. The sources of discretionary funds for existing and new LOIs are as follows:

a. Large and Medium Hub Primary Airports-up to 50 percent of the Capacity/Safety/Security/Noise set aside.

b. Small Hub Primary Airports-up to 50 percent of the "small hub" set-asides.

c. Nonhub Primary Airports-up to 50 percent of the nonhub portion of the small airport fund.

d. Air 21, Section 104(f), amended Title 49 U.S.C., Section 47117(e)(1), to establish a new reliever airport set-aside when the total annual amount made available for the AIP is $3.2 billion or more. The amount of the new reliever set-aside is 0.66 percent of discretionary funds.

e. Up to 50 percent of the undesignated discretionary (remaining discretionary) will be available for LOIs. Primary airports of all sizes and relievers may compete for these limited funds.

APP will ensure that, in any given fiscal year, FAA does not approve LOI payment schedules which would in future fiscal years exceed the 50 percent level in any category. It is important to stress to airport sponsors applying for LOIs that their requested payment schedules will have a significant impact on the review process and any unreasonable payment schedules may be cause for rejection of the application without further consideration of other factors.

Each fiscal year APP-500 will issue an analysis of existing LOIs and the impact of these LOIs on projected funding, including an estimate of projected availability of funding of new LOIs.

1076. POST-LOI ACTIONS.

All actions that would normally follow the notification of allocation, except those related to grant offer, acceptance and payments, must be completed as if a grant had been issued. If a sponsor proceeds without satisfying all of the "statutory and administrative requirements" associated with an actual grant, the commitment to reimburse the sponsor under the LOI may be voided. Sponsors should fully understand that failure to comply with all Federal requirements could jeopardize later reimbursements.

1077. LOI GRANT APPLICATION AND OFFER.

When the authority to obligate funds for a project under an LOI is received, the sponsor should be notified to submit a grant application and all additional documentation needed at that time. The SF-424 must provide the LOI project description. Additional documentation may include periodic construction progress reports, inspection reports, or other evidence of satisfactory progress. The grant application may be for costs already incurred or for prospective costs. If the application includes costs not yet

incurred however, the FAA should ensure that the costs are imminent, rather than anticipated at some unspecified date in the future.

Any grant issued for the same work as identified in an LOI will be considered in the LOI rather than as a separate action. This does not preclude the issuance of a separate grant for distinct work outside the scope of the LOI. No separate grants for projects covered within an LOI will be considered.

1078. ADMINISTRATION OF LETTERS OF INTENT.

There will be an ongoing need to maintain up-to-date records of outstanding commitments under the LOI provisions. In addition, projects constructed under LOIs are more likely to be complex and to require longer completion times than those initiated with current year allocations and grants. Consequently, there may be a need to periodically review the amount of funds originally agreed to in a letter of intent and adjust the estimate for funding needed in the out years. In any case, APP-500 must approve any changes in the amounts or status of such future funding agreements.

1079. AMENDMENTS TO LETTERS OF INTENT.

Because these projects will be administered in the same way as conventionally funded projects, there will be ongoing FAA field involvement as each project phase is completed, as subsequent phases come to bid, and as successive grants are issued under the LOI. In cases where significant changes in project scope or costs are apparent, the Federal Airports Office administering the project is authorized to issue an amended LOI, after APP-500 approval, revising the project description, increasing or decreasing the Government's maximum obligation, or revising the payment schedule. See Appendix 24 for a sample LOI amendment.

Substantial revision or abandonment of a project initiated under an LOI is not anticipated. In such an event, however, consult APP-500 to determine the appropriate course of action. Although the limitation on grant amendments (currently 15 percent) does not apply to LOIs, caution should be exercised in considering project changes that would substantially increase the cost.

1080. ADDITIONAL LETTER OF INTENT.

Should a sponsor seek to obtain another LOI for projects not covered by the first LOI, the sponsor's new proposal should be evaluated in the same way as the original.

1081. - 1089. RESERVED

Section 9. BLOCK GRANT PROCEDURES

1090. GENERAL.

This program consolidates funding to states for individual airport projects at selected locations and enhances State airport improvement responsibilities.

a. Authorization. Statutory authority exists for ten states to administer block grants on other than the primary airport projects.

b. Traditionally Federal Functions That States Will Perform. Block grant States perform some AIP administrative functions traditionally accomplished by the FAA, such as preparation of airport grant information for sponsors, reviewing of the sponsor's requests, and accounting for program expenditures. While various States have widely varying involvement in airport development, a State participating with block grants must accept the specific responsibilities of the program when it accepts the grant offer in writing. For purposes of the block grant program, states only assume functions related to the grant agreement.

c. State Channeling and Sponsorship of Airport Projects. State channeling of Federal airport grants occurs in various forms within numerous states. This is based on State enabling legislation rather than Federal law. Regions should administer the AIP to accommodate the State requirements. In addition, State sponsorship of airport projects also occurs with regularity based on provisions in Paragraph 209. The main difference between State sponsorship of airport projects and the block grant program (which is limited to nonprimary airports) is that in the latter states select each project rather than the FAA. State channeling and sponsorship of airport projects may be viewed as transitions to a block grant should the program allow new States, although they are not mutually exclusive provisions.

d. State Aviation Agency Application. If a State aviation agency is interested in the block grant program, only the State's initial application needs to be considered for participation. However, regions should request new applications from all current participants whenever the State, airport, or noise project sponsor assurances are changed. See Paragraph 1010. The selected State organizations must be capable of effectively administering a block grant. For the application forms, see Appendices 3 and 26 and block grant assurances.

e. Application Schedules. An application may be provided to regions from a State when notice has been given by APP-500 that the FAA will consider new applications. There is no set schedule for considering applications by states not currently participating in the program. Any schedule for new applications currently depends upon authorization for an expanded number of States or discontinuation by a current participant.

f. Airport/State Relationship. The relationship between airports and the State would be a factor in FAA oversight of the block grant program as well as selection of any additional states for it.

1091. CALCULATING AMOUNTS FOR GRANT AGREEMENTS.

A worksheet on the calculation of amounts in the block grants should be made available to states when the grant is offered. The funding categories should be specified in this worksheet, e.g. State apportionment or discretionary funds. Where nonprimary airport projects are to be administered by the FAA due to unusual circumstances in a block grant State for any fiscal year, the description of such a project and amount of funds should also be identified on the worksheet or separately. FAA is not involved in project selection under block grants. However, the FAA may reduce a participating State's funding and administer certain nonprimary airport projects the region selects outside of the State block grant. Title 49 U.S.C., Section 47116(c), specifically allows an airport in block grant states to receive grants with small airport funds as if the State were not within the program. (See Paragraph 1095.)

a. Annual Grant Agreement using State Apportionment. Normally, a single block grant for each fiscal year is issued to the State. However, it may be desirable to issue portions of the total, such as the State apportionment funds, for any fiscal year before the discretionary amount is known. In these cases, separate grants may be offered if the later increase would be greater than 15 percent of the initial block grant. An amendment may be made where the increase is 15 percent or less. All of the State apportionment should normally be included in block grants, and Condition 1 of the grant agreement in Appendix 27 limits use of these funds. If it is necessary for the FAA to administer all or part of the airport projects to benefit from such apportionment outside of a block grant, early consultation with the State is desirable.

b. Passenger and Cargo Entitlements. Where an amount of cargo funds is included in the block grant, the State distribution may be made without regard to this proportion. Use of any transferred passenger entitlements would be subject to the specific terms of the agreement of transfer in Appendix 16, which should be incorporated as a special condition of the block grant.

c. Discretionary and Returned Entitlement Funds. When amounts of discretionary or small airport funds are included in the block grant, the State distribution may be made without regard to these proportions. FAA may review the State's use of entitlement funds for any fiscal year in making determinations about additional discretionary funding for that fiscal year based on the Airport Capital

Improvement Plan. Where the FAA intends that the discretionary funds be used at a particular airport the block grant agreement should expressly provide for this use. States have flexibility to change the original projects. Documentation should be requested of states on how the specified discretionary amounts were used when such changes occur. See Paragraph 1094h.

d. Nonprimary Entitlements. When entitlements are permitted, current and future block grant states will be responsible for administering the individual nonprimary airport entitlement. These airports must be itemized within the block grant offer ensuring the State uses the specified funds at entitled locations. Lists of the associated city, airport, and amount of Federal share should be added in a new condition 9 with the preface: "Entitlements for nonprimary airports must be utilized as follows: …". Regions shall request states to report on how the specified entitlement amounts were used at the end of three years after such a block grant has been issued. See Paragraph 1094h.

1092. MAXIMUM STATE FLEXIBILITY.

Regions should administer the block grants to encourage State innovation as well as allow maximum flexibility for them to carry out the program effectively and efficiently. States may use either FAA forms and procedures or their own as they choose, except for those procedures that are mandatory as noted in Paragraph 1095.

a. Pre-Project State Planning Process. State participants have considerable flexibility in using their pre-project planning process to determine airport development requirements. States are responsible for approval of airport layout plans (ALPs). Complete ALPs should be submitted to the region. Block grant funds may be used for airport master planning. In addition, States must undertake airport system planning determined as satisfactory to the FAA. That planning process must provide for meeting the critical safety and security needs of the national airport system. AIP grants administered by the FAA may be used for system planning.

b. Programming Process. States have substantial flexibility and may use their own airport project programming process, although the State must use a programming process that has been determined to be acceptable to the FAA. The State programming process must provide for critical safety and security requirements and ensure the needs of the national airport system will be addressed in deciding which projects will receive AIP funds. AIP grants administered by the FAA may be used for preparing State capital improvement programs through a system-planning project.

c. State Priority System for Entitlements. States have complete flexibility to use their priority system in selecting projects for any fiscal year using State apportionment funds as well as entitlements. See Paragraphs 1091c and 1092d for priority system requirements applicable to the use of discretionary and small airport funds.

d. State Priority System for Discretionary Funds. The priority system of the State may be used to select projects for any fiscal year using discretionary funds or returned entitlements provided the FAA has previously determined that the State's system is not inconsistent with the national priority system. While none of the States has been approved at the present time to use their priority system for discretionary or small airport funds, the FAA considers State priorities when applying the national priority system. State coordination and adoption of the priority system would be necessary before achieving the FAA determination allowing use of its priorities for discretionary and small airport funds. In an effort to treat each State the same (whether in the block grant program or not), states that wish to be considered for this option must forward a description of their priority system and any coordination of such with the FAA Airports Office through the region to APP-520. Regions should allow three months before any fiscal year in which the priority system is to be used for the necessary review and coordination. No guidelines have been established on amounts of funds that would be made available for this purpose.

e. State/Local Matching Share. States have the flexibility to fund individual airport projects using any United States Government share of allowable project costs that is not greater than 90 percent in accordance with Title 49 U.S.C., Section 47109 (a)(2). The United States share for the total block grant

work accomplished during each fiscal year shall be that amount or the higher amounts provided within states for public lands under Title 49 U.S.C., Section 47109(b). The potential for a reduced Federal share, from that allowed within states without block grants, requires the State or airports contribute a higher percentage of project costs. This leverages Federal funds to allow more work and may contribute to better project monitoring on the part of the airports. State block grant matching shares may vary from year to year depending upon their identification of individual airport project contributions.

f. Environmental Requirements. Environmental impact assessment responsibilities, except as described in Paragraph 1096, have been passed to States receiving block grant funds. Block grant funds may be used for airport studies including environmental assessments and environmental impact statements. Since the block grant States are responsible for selecting the individual airport projects within block grants, environmental analysis and the definition of the alternatives are the responsibility of the State. Block grant States are allowed to follow their own environmental requirements if comparable to the National Environmental Policy Act as defined in the U.S. Council on Environmental Quality (CEQ) regulation. States that have no such requirements shall follow the CEQ regulation. CEQ may ask to review the State agreement or procedures on these requirements. Contact APP-600 if there are questions on these or related airport environmental issues identified in Order 5050.4.

g. Form of Agreements. Block grant States have wide latitude in the form of agreements used for the program. States will have standard AIP block grant agreements with the FAA. In addition, the State may decide to enter into FAA regional agreements due to variations in State law or procedures. The form of the regional agreement should be determined between the region and State. States must also have individual airport agreements for projects, and the form of these is left to the State, provided it is acceptable to the FAA. See Paragraph 1095.

h. Examples of State Flexibility. To illustrate other allowable variations, several examples have been documented of the flexibility States may use that FAA cannot in administering AIP grants:

(1) One State has allowed a contingency amount of 2 percent of the construction cost for calculating airport grants that may cover unforeseen work without issuing amendments.

(2) Several of the States have used AIP funds for program administration costs under an exemption from the provisions of FAR Part 156 that prohibit use of AIP funds to supplement State aviation agency resources for management of the program.

i. State Activities Unrelated to Block Grants. States have flexibility to incorporate various activities unrelated to block grants into their State aviation program. These activities need to be considered separately from grant requirements, especially where the authority is other than for the AIP within Title 49 U.S.C., Sections 47101 to 47137. Block grant programs should exclude any elements other than those directly related to the AIP if questions arise about the adequacy of such activities. For instance, certain portions of coordination on obstruction evaluation and airport airspace analysis may be delegated to the states by mutual agreement between the FAA and the State. Any such evaluation or analysis is unrelated to block grants, and Order 7400.2 does not provide for the State to make the final determination. States that have been delegated airspace duties except final determinations by the regional Airports division manager should contact AAS-100 for assistance with access to databases.

j. Conflicting Policies. State aviation agencies may have views or policies that conflict with those of the FAA on various subjects. However, every effort should be made by regions to ensure that airport sponsors receive consistent AIP information and guidance from FAA/State sources. If significantly different positions have been taken that may cause an airport problem, contact APP-520 for assistance in resolving or accommodating the conflicts.

1093. AIRPORT ELIGIBILITY AND ALLOWABLE COST.

AIP requirements for airport project eligibility and allowable cost are the same for States receiving a block grant as they would be if the FAA were administering the project.

a. National Plan of Integrated Airport Systems. Regions must ensure that airports benefiting from block grant projects are included in the NPIAS. States have system plans and may provide NPIAS information. However, the States do not have authority to change airports in the NPIAS.

b. Eligible Airport Projects. Regions must ensure the participating block grant States use AIP funds for eligible airport planning and development projects or to carry out an FAA-approved noise compatibility program. States must use the block grant funds to accomplish projects that are eligible under the statute as interpreted by the FAA.

c. Ineligible Airport Projects. Regions should identify ineligible projects contained in the Block Grant State's program using the AIP eligibility criteria. Where the region may be uncertain about eligibility, contact APP-520.

d. AIP Project Costs. Regions must ensure that States not use AIP block grant funds for project costs that would be ineligible under a grant administered by the FAA. Project costs must be necessary and reasonable to be allowable. Except for the land acquisition, project formulation, and certain costs with prior FAA approval, all other items must be incurred after the date of the airport agreement.

e. Project Administration Costs. Project administration costs that would otherwise be eligible for a grant should be allowed under the same terms as other AIP projects.

f. Program Administration Costs. State program administration costs are ineligible under FAR Part 156, although some states have been given a limited exemption from this requirement. These are costs that would be incurred by the region if the FAA were administering the airport project.

1094. ACCOMPLISHMENT OF AIRPORT PROJECTS.

States are allowed to use many of their own programs and procedures for accomplishing airport projects. However, the minimum of uniformity described below within each Block Grant State is required to achieve AIP program objectives.

a. General. In any case, where the region is unsure about allowing any aspect of the State's administration of the airport planning or development process, contact APP-520.

b. National Airspace System Requirements. Block grant construction and equipment projects must be consistent with the NAS Architecture as described in Paragraph 502.

c. Project Changes Due to Satellite Navigation. Changes in airports and airport activity levels may result from the transition to satellite navigation. Regions and states need to question the applicability of obsolete project items, airport design, standards, or equipment, as well as the suitability of new technology. See Paragraphs 503 and 504.

d. Project Standards. With the exception to the use of State highway specifications for airfield pavement at nonprimary airports with runways of 5,000 feet or shorter serving aircraft that do not exceed 60,000 pounds gross weight, the application of State standards to block grant projects requires approval of the FAA. The use of State highway specifications will prohibit the sponsor from seeking AIP grant funds for the rehabilitation or reconstruction of any such airfield pavement for a period of 10 years after construction is completed unless the Secretary determines that the rehabilitation or reconstruction is required for safety reasons. The requirements of Paragraph 506 apply to block grants.

e. Disadvantaged Business Enterprises (DBE). The block grant program recipients are covered by DBE requirements in Paragraph 1422 regardless of the amounts made available to individual airport projects. States may submit a single overall goal for contracts funded by the block grant during a fiscal year or it may propose separate goals covering one or more projects. States should submit their goal or goals to the regional Civil Rights offices.

f. Grant Payments and Closeout. Normally payments to block grant states will be by letter of credit. After a period of three years within this program, block grant closeouts should be accomplished at approximately the same rate as the FAA closes individual airport projects. Starting with block grants issued during FY 2002, regions should forward the State's airport project information to APP-500 as described within Paragraph 1097a.

g. Commissioning and Decommissioning Airport Facilities. Regions should ensure that commissioning and decommissioning of the block grant airfield facilities will be accomplished to achieve a comparable level of safety as provided in Paragraph 507.

h. Recoveries. For the funds states do not obligate in airport projects before block grant close out, the FAA must recover that amount. For the funds that were obligated and later recovered by the State from an airport project, the block grant policy allows either the FAA to recover the amount (and include it in succeeding block grants) or the State's re-obligation of it for new airport projects on a continuing basis. (The FAA has not usually limited State recovery of airport project funds beginning in FY 1993.) This practice includes discretionary funds. The adjustments are based on actual airport project payments except as described in Paragraph 1095i. Regions should oversee State recoveries from airport projects to ensure the funds are used for nonprimary airports eligible under the AIP, although it is unnecessary to track such after completion of an initial airport project benefiting from recovered funds. When nonprimary entitlements are granted, if use of AIP funds for the location after four years does not meet the entitlement, regions should ensure states provide entitled airports with amounts identified within block grants or return the funds to FAA. (See Paragraph 1091d.)

i. Expired Carryovers. At the end of each fiscal year, regions should coordinate with the states and report to APP-520 the amount of unused entitlement funds not obligated by a State for an airport project to be recovered by the FAA and converted into discretionary projects at airports, if any. APP-520 will then provide instructions on transferring these expired carryovers. See Paragraph 1097 and Order 5100.20.

j. Accounting and Audits. Regions should ensure states have an accounting system that accurately reflects expenditures of block grants. Block grants and airport projects under them are subject to the same audit requirements as any other AIP grant.

1095. STANDARD ASSURANCES AND REGIONAL AGREEMENTS.

The standard block grant agreement in Appendix 27 will be used for FAA grant offers.

a. Mandatory Program Features. The mandatory block grant program features are identified in the standard block grant assurances. These Federal requirements are not waived by Title 49 U.S.C., Section 47128. The FAA does not have authority to exempt the States from compliance with these requirements. However, there may be a means for States to comply in a manner different from FAA's procedures. States are not required to follow FAA directives. Refer to standard airport sponsor and noise project sponsor assurances (Section C.1, General Federal Requirements) for the list of laws and regulations States must follow, which are incorporated by reference in block grant agreements.

b. Regional Agreements. Regions are encouraged to enter into written agreements with participating states to supplement the block grant agreement on the issues below that may need to be tailored for a State or region. If any nonprimary airport within the State will receive a grant administered by the FAA, the regional agreement (or a separate letter to the State) should identify those airports and the terms of this funding arrangement for such locations. (See Paragraph 1091.)

Environmental impact assessment may differ in each State due to the application of local laws or requirements. Some of the issues that need to be addressed in the regional agreement may not be related to the National Environmental Policy Act, but are covered in Order 5050.4, such as historic preservation.

Monitoring airport compliance requirements from grant assurances is described in Order 5190.6. The U.S. Departments of Labor, Transportation, or FAA regions may participate in investigations.

Airport layout plans under block grants are to be coordinated with all interested parties in accordance with existing procedures established within the region. Since the states have different system plans, coordination of master planning may also vary with each State.

The form for project monitoring and reporting information may be somewhat different within each State. Requirements are described in Paragraph 1097. Reports may also include project justification, eligibility, priority, allowable costs, programming, airport agreements, layout plans, modification of standards, coordination, environmental status, procurement, land or relocation topics, labor requirements, civil rights, safety during construction, compliance problems, administrative costs, and other issues.

Other topics directly related to the AIP may be in regional agreements. However, care should be exercised to ensure the agreements are limited to AIP considerations and do not address unrelated issues of a State. Any existing regional agreement that contains issues unrelated to AIP grant agreements should be revised to delete inappropriate considerations, such as surplus Federal property responsibilities. See Paragraph 1092i.

c. Obligation to Standard Assurances. Regions must ensure that participating states obligate, if appropriate, each person or entity to which it distributes funds to any terms that the State block grant agreement requires be imposed on a recipient for airport projects funded under the program. Standard sponsor assurances in Appendix 1 may pass-through the State to the airport. The sponsor assurances must be the responsibility of the State, the airport, and/or both. An agreement between the State and the airport shall address any transfer and delegation of these obligations. The agreements between the State and airports are not necessarily required to be in the form of a sub-grant.

d. Standard Federal Requirements. States must agree to comply with United States Government standard requirements for administering the block grant. Where questions arise about the interpretation of standard Federal requirements applicable to block grants, contact APP-520.

e. Post-Project Compliance with Legislated Requirements. While regions ultimately have authority and responsibility to enforce airport sponsor assurances, the participating states are a first line of defense against non-compliance. Regions must ensure that the State does not delegate or relinquish its authority, rights, or power in a way that would interfere with the State's ability to comply with the terms of a block grant agreement.

1096. AUTHORITIES RETAINED BY FAA.

The flexibility afforded states in Paragraph 1092 are limited by various authorities or responsibilities retained by the FAA.

a. General. FAA approval will continue to be required for certain functions. For instance, airport sponsor compliance with Part 139 requirements is the responsibility of FAA where applicable.

b. System Planning and Airport Layout Plans. Regions retain responsibility for preparation of the NPIAS and administration of airport system planning grants for the block grant States or other eligible planning agencies. The FAA will provide an advisory opinion about the approved ALP submitted by block grant states. This advisory opinion will address the safety, utility, and efficiency of the ALP. Likewise, the runway safety area program is described in Order 5200.8, which identifies determinations to be made by the FAA. Block grant states should be given an advisory opinion about how to meet standards based on this directive. Advisory Circular 150/5100-13 identifies limitations on development of State standards for nonprimary airports.

c. FAR Part 150. Responsibility for approval of Part 150 studies, noise exposure maps, and noise compatibility plans have not been passed to states in the same way as other environmental responsibilities.

d. Examples of State Constraints. To illustrate other non-allowable variations, several examples of the constraints on State block grants have been documented.

Several block grant states have become involved with procedures for handling airspace matters that are not associated with a specific AIP airport planning or development project. Order 7400.2 does not provide for these states making the final FAA airspace determination, and nothing in the block grant agreement supercedes that directive. Likewise, the designation of instrument runways under that order should be accomplished primarily by the FAA.

Several of the States have delayed making payments to airports with block grant funds made available to the State. Timely project accomplishment and closeout should be comparable to that of the FAA.

One State has programmed the instrument landing system more liberally than the FAA. Due to the airport's statutory option allowing the Federal Government to take over ILS projects under the AIP and the magnitude of potential costs, states shall use the same criteria as FAA in approving such projects.

e. Enforcement. The FAA may take action in accordance with Order 5190.6 and 14 CFR Part 16 to enforce the terms of a State block grant agreement including any terms imposed upon subsequent recipients of block grant funds. The states may be successful in enforcing airport compliance obligations. However, in instances where a State is unsuccessful, the FAA cannot entirely delegate airport sponsor compliance enforcement actions to states.

1097. REPORTING AND FAA REGULATORY OVERSIGHT.

Except as noted below, reporting of the State should be determined by each region based on its requirements and need for oversight of the block grant program.

a. State Program Reports. States must agree to provide the airports and region with program information the region requires. Regions may require a quarterly report on each airport project. If the FAA needs information on a location for any reason, states shall provide the project approval status, work description, funding levels, standards, and procedures to obtain further State funding commitments for phased projects. Starting with block grants issued during FY 2002, regions should forward the reports on the State's airport projects, including projects with State-only funds if desired, in formats provided by APP-500. The data may be included as an appendix for the State in the annual AIP report of accomplishments.

b. Program Review by FAA. The FAA is responsible for continuous oversight of the block grant program, especially for issues involving airport safety and security as well as potential waste, fraud, or abuse of AIP funds.

c. Evaluation of Funds Utilized. Regions should track the utilization rate of AIP funds where it is suspected that State actions are not occurring in a timely manner. Sub-grants issued, or agreements with sponsors for airport projects, are adequate measures of performance for any State that is new to the program. After a period of three years, States should also be making payments to airports at approximately the same rate as the FAA.

d. FAR Part 156 and FAA's Advisory Role. FAR Part 156 identifies specific regulations applicable to the block grant states. Regions should be prepared to provide advice or furnish any additional documents requested by the State. FAA orders may be provided to a State to indicate how regions administer the grant program, although these internal directives, including Program Guidance Letters, are not binding on states.

e. Program Administrative Cost Petitions. The FAA has previously reviewed certain limited petitions for exemption from the requirements of FAR Part 156 prohibiting AIP funds from being used for program administrative costs. Contact APP-520 prior to the State sending any such petition.

f. Consultation with Headquarters. If the region has questions about the reporting or oversight relationship between the State and FAA, contact APP-500.

1098. SUSPENSION OF BLOCK GRANT.

Block grant suspension may be necessary where the State fails to comply with mandatory requirements. The criteria for the findings and determinations about suspension are the same as those used in selection of states to participate in the block grant program under 49 USC 47128(b)-(c). Regions should consider block grant conditions, regional agreements, and any comments from airports or other interested parties prior to issuing a notice suspending a block grant.

Regions should enforce airport compliance requirements involving AIP funds that were administered by the State under a block grant. Prior to suspension, regions should obtain copies of the State/airport agreements under block grants for funded airport projects whether closed out or incomplete. Corrective actions by the State/airport must be taken at the earliest practical time or on a schedule as otherwise may be agreed by the region and State. (See Paragraphs 1150-1151.)

1099. TERMINATION OF STATE BLOCK GRANT OR PROGRAM.

States may voluntarily terminate a block grant or the program. In addition, failure of states to comply with block grant conditions or regional agreements may ultimately result in FAA termination of the State's grant(s) or program. The suspension criteria and procedures within Paragraph 1098 should be used when terminating a block grant or program. (See Paragraphs 1152-56.)

a. Contacts on Block Grant or Program Termination. The concurrence of APP-500 is needed prior to discussing with the State final arrangements terminating the grant(s) or transferring block grant program responsibilities.

b. Negotiations on Extent and Duration of State Participation. If a State block grant or program is to be terminated, the extent and duration of the State's participation may be the subject of negotiations. When it is known that the State will no longer participate with grants or its program, regions should notify APP-520. The regions and states might agree to phase out participation in a program starting with selected categories of airports or projects. Region should encourage such states to continue administering its open airport projects. However, the State will be subject to the limitations on airport project closeout after four years, which would discontinue its block grant program participation at the end of that period.

c. Regional Agreements and Termination. The regional agreements with a State for block grants described in Paragraph 1095b should be amended or voided to transfer program responsibilities. Regions should clarify immediate and long-term obligations of the State to the United States in writing establishing mutual agreement on grant or program termination as described in subparagraphs 1099d-g. The clarification may become part of the existing regional agreements.

d. Obligations for Closed Out Airport Projects. Regions should identify requirements for each airport project that has been closed out in the grant or the program. At minimum, project lists should itemize documents that specify State and airport obligations as described in Appendix 30, Obligations in Block Grant Suspension or Termination. The lists may be summarized by categories of the airports or projects if appropriate. This is a summary to facilitate communicating the compliance information. It does not add legal requirements. The concurrence of AAS-400 is needed prior to providing the State with an approved summary of obligations in the block grant agreements and airport project agreements.

e. Obligations for Incomplete Airport Projects. Regions should identify requirements for each incomplete airport project within a grant or the program in accordance with this subparagraph. At minimum, project lists should reflect State and region views of block grant work as described in Appendix 30. This is a summary to facilitate recognition of airport project obligations. It does not add legal requirements. APP-500 concurrence is necessary prior to providing the State with an approved summation of the required actions or obligations in the block grant agreements and airport project agreements ensuring adequate transition of projects not closed out.

States should provide a status report on construction or equipment projects underway, processes requiring FAA action, and airport project safety. The region may annotate the report to identify nonstandard conditions.

States should provide a status report on land acquisition or relocation projects underway and processes requiring FAA action. FAA may annotate the report.

States should provide a status report on planning or environmental projects, processes that may require FAA action, and public opposition affected by proposed termination. The region may annotate the report to identify FAA positions on known problems.

States and regions should jointly decide outstanding eligibility questions and agree upon the documents that specify State or airport obligations for each project. If joint decisions cannot be reached, FAA should provide documentation and/or enforce terms of agreements.

States and regions should jointly agree upon procurement, audit, and the allowable Federal share of project cost requirements for each project. If joint agreement cannot be reached, FAA should identify requirements and/or enforce terms of agreements.

Regions should determine the impact of terminating a grant or program on the airports, airport agreements, the State, and overall AIP accomplishments.

f. Continuing Responsibilities of State. States have continuing obligations for closed out and incomplete projects. The obligations may be altered in accordance with this section. State responsibilities for providing airports with AIP information may continue at the discretion of the region. The states having a terminated block grant or program will not have control over selection of the affected airport projects. States must provide at the request of FAA such block grant program information and status reports as requested.

g. Responsibilities Assumed by FAA. Regions should exercise care to oversee matters related to closed out airport projects in terminated block grant agreements that may require action. Regions should assume responsibilities for incomplete airport projects in terminated block grant agreements that were a State's responsibility where the State is no longer involved with the work. If the State funded unusable units of work in closed out or incomplete projects, the region should evaluate the situation and determine the best use of the project on a case-by-case basis.

h. Unilateral Termination. When the FAA might unilaterally terminate the block grant(s) or the program, the region should notify APP-1/500 at the earliest possible time. A copy of obligations on airport projects as listed in Appendix 30 should be forwarded to APP-520.

i. Conditions for State to Reapply. At such time as a terminated State program is no longer administering incomplete AIP funded airport projects and it is discontinued, that State's option to reapply is based on the same conditions as other states.

Chapter 11. GRANT OFFER, AGREEMENT, AND AMENDMENT

Section 1. GRANT OFFER

1100. GENERAL.

A grant offer is a legal document prepared and signed by the FAA and delivered to the sponsor for acceptance in which the FAA formally makes an offer to pay a portion of the allowable costs of an AIP project for which a project application has been determined eligible. The signature of the sponsor accepting the grant offer constitutes a grant agreement which is a binding agreement obligating the sponsor and the United States in accordance with the terms and conditions of the grant document. Part I of the Grant Agreement, FAA Form 5100-37 (Appendix 8) is the standard form to be used in preparing the grant offer.

a. Project Grant. No changes or modifications shall be made to the standard terms and provisions of the grant agreement unless approved by FAA headquarters. Part 1-Offer of the grant agreement must be consistent with the approved project application. The grant agreement should be dated and signed by the FAA official authorized to approve the project and sent to the sponsor. At the option of the FAA Airports Office this may be the standard grant offer or the modified one page grant offer, see Section 2 and Appendices 6, 14 and 27.

b. Block Grant. In addition to the requirements of Paragraph 1100(a), for State block grant agreements, see Paragraph 961 and Appendix 27.

1101. PROJECT DESCRIPTION.

The project must be carefully described in Part 1-Offer of the grant agreement in sufficient detail to identify each item of the project. Runways being developed or improved under the project should be identified by direction or number and by the length and width. Taxiways or aprons being constructed or improved should be specifically identified. A general term such as “construction of taxiway” should not be used. Runway protection zone acquisition and improvements such as approach clearing should be described in connection with the particular runway end being protected and/or the objects to be removed or lowered. All construction work must be shown in detail in the approved project plans. It is also essential that a grant offer for the acquisition of land be specific as to areas, tracts, or parcels of land. All work eligible under Title 49 U.S.C., Section 47501, formerly known as the Aviation Safety and Noise Abatement (ASNA) Act, should be clearly identified. The project description should be in sufficient detail to allow calculation of the possible differing Federal shares of individual work item(s), as applicable.

1102. MULTI-YEAR GRANTS.

Under this type of grant, the FAA agrees with the sponsor to commit the sponsor’s future years entitlement funds to a project. However, the FAA cannot commit to a multi-year project that extends beyond the current program authorization. The initial grant offer contains a current year obligation as well as the total U.S. share of the estimated cost of completion of the project. The initial year of a multi-year grant must include entitlement funds and may include discretionary funds. Each year of the project, the grant must be amended to include additional obligations. This can be achieved through a formal grant amendment or through a letter of amendment sent to the sponsor to obligate the new entitlement funds. Each procedure has its own special condition format in the initial grant agreement.

a. Applicability. This type of grant may be issued for a project that meets the following conditions:

(1) The project is funded with the entitlement funds under Sections 47114(c) and 47114(d)(3)(A) of the Act (except as noted above);

(1) The project will not be completed in one fiscal year. See Section 47108(a) of the Act; and

(2) The commitment does not exceed the current program authorization.

b. Grant Agreement Format.

(1) The following clause should be inserted after the words "Project Application" at the bottom of page 1 of FAA Form 5100-37: "Whereas this project will not be completed during fiscal year 20XX, and the total U.S. share of the estimated cost of completion will be $XXX,XXX."

(2) See Appendix 7 for the Special Condition that should be added on page 4 of FAA Form 5100-37.

c. Establishment of U.S. Share.

(1) The cost of the eligible work in the total project may be estimated. However, it is generally preferred that the U.S. share for construction projects be based on actual bids. If possible, sponsors should be encouraged to obtain signed purchase agreements for land to be acquired in the project. The U.S. share is calculated using the applicable participation rates for the type of work.

(2) The amount calculated in c(1) may not exceed the sum of the sponsor's current entitlement funds, the entitlement funds expected to be received through the duration of the project, and the amount of discretionary funds that can be committed to the project in the initial year.

(3) If the amount calculated within c(1) exceeds the amount estimated to be available in c(2), then the scope of the project should be reduced until the two amounts are equal.

d. Initial Year. The U.S. share established in subparagraph c above is stated in the grant agreement (see b(1) above) and represents the total U.S. share of the cost of the project. The initial grant also specifies a current year obligation consisting of the sponsor's current entitlement funds and available discretionary funds, if any.

e. Follow-On Years. The grant may be formally amended each fiscal year (see Section 4 of this chapter) or continued through a letter of amendment (Appendix 17) through the duration of the project to include additional obligations for the new fiscal year with the sponsor's entitlement funds. However, the sum of the yearly obligations under the multi-year grant may not exceed the total U.S. share of the estimated cost of completion established in subparagraph c above.

f. Increasing the Total U.S. Share of the Estimated Cost of Completion. Once established in the initial grant agreement, the total U.S. share of the estimated cost of completion may be increased in accordance with Section 5 of this chapter.

g. Change in Participation Rate. If in subsequent years following the award of a multi-year grant the sponsor's participation rate changes, the Federal share is at their current year rate and not the rate of the initial multi-year grant. For instance, airports may change from a medium hub to a small hub and the rate changes from 75 percent to 95 percent. A grant amendment increase limit of 15 percent (for grants executed after September 30, 1987) will still apply.

1103. STANDARD CONDITIONS.

The standard conditions are listed on the grant agreement (FAA Form 5100-37 (Appendix 8)) and apply to all grants. They are self-explanatory, except for the following:

a. Condition #1. Since the Act provides that the maximum obligation of the United States may be increased by 15 percent except for planning, it is necessary to identify, as part of the grant agreement, the amount included in the agreement for planning.

b. Condition #6. This condition provides for the insertion of a stipulated number of days within which the sponsor must accept the offer. Ordinarily, a 60-day period is sufficient for acceptance of the offer and in any case, when the stipulated time will exceed 90 days, then APP-500 shall be consulted. In some instances, a period less than 60 days for acceptance may be necessary. Since all grant offers must be accepted in the fiscal year in which they are made, the period of acceptance should be adjusted for all offers made after August 1.

1104. FINAL CLEARANCE OF GRANT OFFER.

The grant offer may not be issued unless the approving FAA official is satisfied to the best of his/her knowledge the project application and supporting documents meet all the requirements of the Act and the FAA regulations and are in accordance with current national policies.

1105. LETTER OF INTENT.

See Section 8 of chapter 10.

1106. - 1109. RESERVED.

Section 2. VARIATIONS AND TRANSITION TO ELECTRONIC GRANTS

1110. GENERAL.

a. The FAA Airports Office may elect to use variations in lieu of procedures described in Section 1 of this Chapter. The region will submit alternative grant agreement formats, standard conditions, and related procedures to APP-500 for approval. See Paragraph 31.

b. The standard assurances, certifications, conditions, and grant offer forms are currently undergoing revision in anticipation of electronic grant making. Therefore, we do not expect the Washington review of alternative grant offers would require more than 30 days for any region.

1111. - 1119. RESERVED.

Section 3. SPECIAL CONDITIONS

1120. GENERAL.

a. Special conditions are used to accommodate particular circumstances needed in a grant agreement, which are not satisfied by the standard conditions. Special conditions may be unique to a sponsor or required for a certain type of project (e.g., a project with a proration of Federal share of building and utility costs).

b. Failure to meet any special condition, which incorporates a deadline date, can be grounds for withholding grant payment. Therefore, any special condition requiring a deadline date should contain that specific deadline.

1121. SPECIAL CONDITIONS TO BE INCLUDED IN GRANT AGREEMENTS.

Special conditions to be used, as required, in grant agreements can be found in Appendix 7. Special conditions for Instrument Landing System (ILS) grants awarded under the current precision instrument system policy can also be found in Appendix 7. Special conditions for projects on privately owned public use airports can be found in Appendix 7 and are referenced in the appropriate paragraphs in this Order.

1122. OTHER SUBJECTS WHICH MAY REQUIRE SPECIAL CONDITIONS.

In addition to special conditions in Appendix 9, other special conditions may be required to meet statutory requirements or to comply with circumstances unique to the project. Examples of subjects covered are:

a. State channeling and/or agency agreement;

b. Correction of deficiencies in property identification or title representations;

c. Identification of specific land acquisition;

d. Airport zoning;

e. Identification of development excluded from Federal participation;

f. Environmental impact mitigation commitments; and

g. Other Federal Funds. Where other Federal funds are used to supplement AIP funds, the grant offer should include a special condition, which shows clearly.

(1) The amount available from each Federal grant program;

(2) Conditions pertaining to the use of such funds, including the applicable methodology of determining the share of each grantor agency in case of changing project costs; and

(3) For those Federal grant programs permitted by law to be used as matching funds, an acknowledgement of the program and funds should be inserted as a special condition.

1123. - 1129. RESERVED.

Section 4. ACCEPTANCE OF GRANT OFFER

1130. GENERAL.

After signature by the FAA approving official, sufficient copies of the grant offer to satisfy regional requirements shall be sent to the sponsor for execution. If in agreement with the grant offer, the sponsor will sign Part II of the grant agreement. The sponsor's attorney must certify that the sponsor's acceptance complies with local and state law and constitutes a legal and binding obligation of the sponsor. The sponsor will return the executed documents to the appropriate FAA Airports Office.

1131. TIME LIMIT FOR ACCEPTANCE OF OFFER.

Normally, as stated in Paragraph 1103(b), a 60-day period is sufficient time for the sponsor to accept or reject the grant offer.

1132. DISTRIBUTION AND NOTIFICATION OF GRANT AGREEMENT.

a. The FAA Airports Office immediately upon receipt of the grant agreement from the sponsor will enter a Phase 5 (Grant Agreement Acceptance) into the AIP automation system.

b. Distribution of copies of the executed grant agreement shall be in accordance with regional practice.

1133. REVISION OF GRANT OFFER.

Occasionally, the sponsor or the FAA may wish to modify the offer before it is accepted. Generally, such revisions are limited to a change in the scope, description, maximum obligation for the project, or an extension of the time for acceptance by the sponsor. All grant offers must be returned unsigned to the FAA for any changes. The Sponsor may not alter or change the grant offer documents. Also, the FAA, at its discretion, may withdraw the grant offer at any time before the sponsor accepts it.

a. Change in Scope of Project. Where such action is in the interest of the United States, the scope of the project may be changed.

b. Reducing Maximum Obligation. It is current FAA policy to issue all grants based on bids to the greatest extent possible. However, if it appears from the receipt of bids or other causes, that the amount of the offer is in excess of the amount required to pay the United States share of the latest estimated cost of the project, the maximum amount stated in the offer should be reduced accordingly. If the sponsor has already accepted the grant, the grant must be amended utilizing the amendment process in Section 5 of this chapter.

c. Increasing Maximum Obligation.

(1) Request for Increase. If the sponsor determines that the maximum obligation of the United States under the offer is insufficient, it may request an increase. This determination may come from various sources including a recheck of the project estimate or, more conclusively, the receipt of bids indicating the need for a higher maximum amount.

(2) Justification for Increase. The sponsor must give complete justification for the request, setting forth the amount of the increase requested, together with a statement of the facts surrounding the unforeseen contingency or circumstances necessitating the increase. The FAA shall review the justification and may issue a revised grant offer if the justification is deemed adequate.

d. Withdrawal of Offer. If it appears that Federal funds are insufficient to permit participation in the increased amounts requested, the project cannot be completed at a reasonable cost, or other circumstances warrant, the FAA may withdraw the offer at any time before the offer is accepted.

1134. - 1139. RESERVED.

Section 5. GRANT AMENDMENTS

1140. GENERAL.

Subject to the conditions in the following paragraphs, a grant agreement may be amended after its execution.

1141. AMENDMENTS INVOLVING A CHANGE IN THE WORK DESCRIPTION.

FAA Airports Offices are authorized to amend AIP grant agreements to change the work description. This may involve adding work items, deleting work items, or a combination of both. However, new work should not be added to an existing grant for the sole purpose of using excess grant funds. New development items that are added to an existing grant should be closely related to the existing project. Issuance of a new grant for a new project or unrelated work items will permit the closeout of the original grant at the earliest possible date.

a. Adding Work Items. Before amending a grant to add an item of work, regional offices must ensure that:

(1) It is advantageous to the Government to accomplish the new development items under an amendment to an existing grant agreement rather than by issuance of a new grant agreement.

(2) Funds are available within the existing grant to cover the cost of the new work item.

(a) If funds in the existing grant are insufficient to cover the cost of the new work, funds may be added in accordance with Paragraph 1142(b) and Paragraph 1142(c).

(b) Items of work shall not be added to a grant solely because funds are available. The need for additional work items must be closely related to work contained in the grant description to be amended, fully justified, and documented.

(3) Costs incurred for work undertaken on a new development item prior to execution of the amendment are ineligible for reimbursement (except for costs allowed under Paragraph 310(a)(4)).

(4) All other statutory and regulatory requirements (airspace, ALP, and etc.) that may apply to the project or work item to be added to the grant agreement that were not satisfied by the original grant agreement have been or will be complied with at the appropriate time (e.g., environmental or labor).

b. Deleting Work Items. Grant agreements may be amended to delete items of work. The amendment shall be supported by documents indicating the purpose, nature, and effect of the amendment, the resulting advantages to the United States, and a finding that the amendment does not prejudice the interests of the United States. In deleting items from the grant, the conditions below must be observed:

(1) Normally, the maximum obligation of the United States should be reduced by the U.S. share of the deleted item as calculated from the application amount. If the funds are not reduced, the project file shall be fully documented to explain why the action is not prejudicial to the interests of the United States. The project file must identify which work items increased and the justification for the increase in project costs. If a change in the scope of the grant agreement is approved (project deleted), and the funds are not reduced (it is in the best interest of the U.S. not to reduce the U.S. share), the Regional Airports Division Manager must be contacted for approval of the amendment. See Paragraph 31 for limitations on regional authority.

(2) In grants that contain land acquisition, land parcels for which costs have been incurred during the grant period may be deleted but cannot be reprogrammed in another grant. If costs have not been incurred for the land during the grant period, it may be deleted and then later reprogrammed.

c. Substitution of Work Items. In some cases, it is in the best interest of the United States and the sponsor to delete items of work and replace them with new items. If the substituted items are not of equal value to the deleted items, then the obligation of the United States should be adjusted accordingly. As a minimum, the project file shall be documented to include:

(1) An explanation as to why the originally programmed items are no longer justified at this time. The deletion must be shown to be in the best interest of the Government. The amount for the deleted items included in the grant must also be indicated;

(2) An explanation as to why substituted work elements or projects are justified at this time and their estimated costs. It must be shown that programming the new items is in the best interest of the Government. Items may not be added solely because there will be excess funds in the grant as a result of deleting items.

1142. AMENDMENTS INVOLVING A CHANGE IN THE U.S. OBLIGATION.

FAA Airports Offices may amend a grant agreement to change the maximum obligation of the United States as follows:

a. Decreases in the Maximum U.S. Obligation. The maximum obligation should be decreased when there are excess funds in the grant unless additional work items are to be included in accordance with Paragraph 1141. Excess funds may result from the deletion of work items (decrease in the obligation should be made simultaneously with the amendment to delete) or actual bids being less than estimates when the grant amount is based upon estimates. Either the sponsor or the FAA Airports Office may initiate a decrease in the U.S. obligation. The FAA Airports Office may initiate a grant

amendment any time after the excess is identified, otherwise the adjustment may be made at grant closeout.

b. Increases in the Maximum U.S. Obligation for Grants Executed prior to October 1, 1987. If total actual allowable project costs exceed the total maximum obligation specified in the grant agreement, the maximum obligation of the U.S. specified in the grant agreement may be increased using only amounts the Government recovers from other grants as follows:

(1) Airport Development or Noise Implementation Programs. If the increase in total project costs is attributable solely to an increase in airport development or noise implementation program costs other than land acquisition, then the maximum obligation may be increased by the applicable U.S. share of the total allowable excess project costs, not to exceed 10 percent of the maximum obligation.

(2) Land Acquisition. If the increase in total project costs is attributable solely to the increase in land acquisition costs, the maximum U.S. obligation may be increased by 50 percent of the total allowable excess project costs.

(3) Combination of Airport Development, Noise Implementation programs and Land Acquisition. If the increase in total project costs is attributable to both (1) and (2) above, then the maximum obligation of the United States may be increased by the total of:

(a) The U.S. share of the increased airport development and/or noise implementation costs (other than land acquisition costs) not to exceed 10 percent of the maximum obligation of the grant (minus the land costs); and

(b) 50 percent of the difference between the total actual allowable land acquisition costs and the sum of the land cost base and the sponsor's share applicable to such base. The land cost base is the figure shown in the original grant agreement under Condition 1 for Land Acquisition (See Paragraph 1103 and Appendix 13).

(4) For grants executed prior to October 1, 1987, the amendment will not exceed the 60 percent/$200,000 limitation when the increase involves terminal work (See Paragraph 551);

(5) A determination is made that the amendment is advantageous to the Government. The basis for the amendment shall be documented in the project folder. A general statement that the increase is for cost overruns is not acceptable. Instead, the documentation should contain specific justification such as:

(a) Increases necessitated by work under Change Orders (specific change);

(b) Increase due to actual excavation quantities being greater than original estimate;

(c) Increase due to increased land acquisition costs for parcels (identify specific parcel or parcels) over original estimate; and/or

(d) Grant issue based on estimates; increase to cover actual construction bid that was higher than estimate.

c. Increases in the Maximum U.S. Obligation for Grants Approved after September 30, 1987. If total actual allowable project costs for airport development or noise implementation projects or land acquisition exceed the total estimated project costs upon which the maximum obligation is based, the maximum obligation of the U.S. specified in the grant agreement may be increased by 15 percent.

d. Increases in the Maximum U.S. Obligation for Grants Approved after September 30, 1992. Grants to acquire an interest in land for an airport (except a primary airport), may be increased by not

more than the greater of the following, based on current creditable appraisals or a court award in a condemnation proceeding:

(1) 15 percent; or

(1) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

e. Planning Items. If the increase in project costs is attributable to planning items, the maximum U.S. obligation may not be increased. Supplemental planning grants may be issued after determining that requirements for a new project have been met.

f. Multi-Year Project. A multi-year grant may be amended each fiscal year through the duration of the project to increase the actual U.S. obligation provided that the total project cost does not exceed the U.S. obligational commitment stated in the grant plus any increase allowed in this paragraph. (See Paragraph 1102.)

g. Request for Amendment.

(1) Any amendment involving an increase in the maximum U.S. obligation must be requested by the sponsor in writing.

(2) The request must state the purpose, justification, and amount of the amendment and be supported by whatever documentation (e.g. plans and specifications, cost information, etc.) that the FAA project manager considers necessary.

(3) The foregoing request and documentation is not necessary if the project is a multi-year grant and the amount of the amendment will not make the U.S. obligation exceed the maximum obligational commitment.

h. Approval of Increases to the Maximum U.S. Obligation. For approval of increases, the FAA Airports Offices shall review the sponsor's request and supporting documentation and may approve increases to the maximum U.S. obligation if:

(1) The funds are available;

(2) The increased costs appear to be allowable; and

(3) The amendment will result in a change to the maximum U.S. Obligation that is otherwise consistent with this paragraph.

1143. ACCEPTANCE OF AMENDMENT.

In accepting an amendment to the grant agreement, the sponsor will follow the same procedure for grant acceptance. Distribution of the amendment shall be the same as for the original agreement. It is imperative that a copy be furnished the Accounting Office to comply with fund control procedures. (See Appendix 18.)

1144. NUMBERING AMENDMENTS.

Each amendment to a grant agreement shall be numbered in consecutive order. The number will be placed in the heading of the document as follows: "Amendment No. 1 to Grant Agreement for Project No. 3-36-0009-01."

1145. INFORMAL LETTER AMENDMENTS.

At grant closeout, regions are encouraged to determine whether a letter request from the sponsor will suffice for changing the grant final closeout amount. Any project scope change is not a candidate for an informal letter amendment and will require a formal amendment. In cases where only the final grant amount is to be amended, a letter signed by the sponsor's representative identifying the final project closeout amount is required. Approval of any requested change(s) may be accomplished by the FAA project managers concurrence in pen and ink on the face of the letter, which shall be retained in the project files. The sponsor shall be notified of FAA acceptance of the requested amendment. Before an informal letter amendment request can be considered the following conditions must be met:

a. The special condition permitting the use of the informal letter amendment must be in the original grant agreement (See Appendix 7);

b. The sponsor's officially designated representative must sign all letters requesting the informal amendment;

c. All amendments to cover cost overruns in the grant must be within the statutory allowable limit (currently 15%); and

d. Planning project increased costs cannot be included in the amendment.

1146. - 1149. RESERVED.

Section 6. SUSPENSION AND TERMINATION OF THE GRANT

1150. GENERAL.

Failure to comply with grant conditions, other than civil rights, may result in suspension or termination of the grant. FAR Part 16, *FAA Rules of Practice for Federally-Assisted Airport Proceedings* [3], 14 CFR Part 16 (Part 16 or Rules of Practice) provides detailed procedures for investigating and adjudicating exclusively airport-related complaints under the applicable Federal statutes and the obligations imposed on the FAA-Airport Sponsor relationship by those statutes. There are three civil rights statutory provisions that contain their own enforcement procedures and do not use 14 CFR Part 16. They are Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; and Title 49 U.S.C., Section 47123. Part 16 provides the only available vehicle for obtaining a final FAA decision in airport-related compliance matters except for the three civil rights statutory provisions noted above. (See Paragraph 1305 for withholding of payment.)

1151. SUSPENSION OF THE GRANT.

If the sponsor fails to comply with conditions of the grant, the FAA Airports Office may, by written notice to the sponsor, suspend the grant in whole or in part. Additional obligations incurred during the period of suspension after receipt of the notice will not be eligible, unless specifically authorized in writing by the FAA. However, the FAA may allow costs, which are otherwise allowable and could not be avoided during the period of suspension. The notice of suspension shall contain the following:

a. The reasons for the suspension and the corrective action necessary to lift the suspension;

b. A date by which the corrective action must be taken; and

c. Notification that consideration will be given to terminating the grant after that date.

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[3] FAA Rules of Practice for Federally-Assisted Airport Proceedings, 61 FR 53998-54012, effective December 16, 1996.

1152. TERMINATION FOR CAUSE.

If the sponsor fails to comply with the conditions of the grant, the FAA Airports Office may, by written notice to the sponsor, unilaterally terminate the grant for cause. In all correspondence, which may lead to termination for cause, care should be taken to use only factual and objective language. FAA Airports Offices shall use the following procedures:

a. The grant shall first be suspended in accordance with Paragraph 1151;

b. APP-1 shall be notified, at the earliest possible opportunity and also in writing, of the proposed termination. A copy of the notice of suspension and the FAA Airports Office assessment of the action taken by the sponsor to remedy the situation shall also be forwarded to APP-500;

c. Upon receipt, APP-500 will acknowledge the proposed termination via telephone or e-mail. Within 30 days of APP-500's acknowledgement, the FAA Airports Office will be notified, in writing, of the procedures to be followed;

d. The sponsor shall be notified, in writing, of the termination. The notice shall include the reasons for the termination. Payments to be made to the sponsor or recoveries of payment by the FAA under the grant shall be in accordance with the legal rights and liabilities of the parties; and

e. Termination for cause may require further action in accordance with Order 5190.6 and 14 CFR Part 16 on airport compliance requirements.

1153. TERMINATION FOR CONVENIENCE.

When the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds, the grant may be terminated, in whole or in part, upon mutual agreement of the regional Airports Division Manager and the sponsor. Agreement will be made upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. In such cases, the sponsor may not incur new obligations for the terminated portion after the effective date and shall cancel as many obligations relating to the terminated portion as possible. The sponsor will, however, be allowed full credit for the Federal share of those obligations that cannot be canceled which were properly incurred by the sponsor prior to the effective termination date.

1154. REQUEST FOR RECONSIDERATION.

Subject to the provisions of 14 CFR Part 16, if applicable, in any case of suspension or termination, the sponsor may request the Associate Administrator (ARP-1) to reconsider the suspension or termination. Such request for reconsideration shall be made within 45 days after receipt of the notice of suspension or termination. All notices of suspension or termination must inform the sponsor of this appeal process.

1155. FUNDS RECOVERY.

Immediately following the 45-day appeal period a Phase 9 shall be put into the AIP system and a Form 1413 forwarded to the region to deobligate and recover the funds.

1156. DISTRIBUTION.

Copies of suspension and termination documents shall be distributed in the same manner as the distribution of the original agreement and any amendments.

Suggested (minimum) Distribution:

APP-520

APP-500

APP-1

ARP-1

1157. - 1199. RESERVED.

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Chapter 12. PROJECT ACCOMPLISHMENT

Section 1. PRE-CONSTRUCTION ACTIVITIES

1200. GENERAL.

It is the FAA Airports Financial Assistance Division policy to accept certification of plans and specifications for AIP projects. However, if a first-time sponsor or if unusual circumstances exist and certifications of compliance are not requested, and the proposed contract to be awarded under the procurement procedures outlined in Chapter 9 has not been reviewed with the bid tabulation before the grant offer, it should be reviewed to insure compliance with all requirements after the grant agreement. Since certifications are normally received from sponsors, they are briefly addressed in this chapter, as there has already been a more comprehensive discussion in Chapter 10. For block grants, requirements on accomplishment of airport projects are described in Chapter 10, Section 8.

1201. SPONSOR CERTIFICATION.

Title 49 U.S.C., Section 47105(d), authorizes the Secretary to require certifications from sponsors that they will comply with statutory and administrative requirements. Use of sponsor certifications is permitted in the following areas; “Project Plans and Specifications”, “Equipment and Construction Contracts”, “Real Property Acquisition”, “Construction Project Final Acceptance” and “Drug-Free Workplace Act of 1988”. Copies of the certification forms are contained in Appendix 25. Acceptance by the FAA of a sponsor certification does not limit the FAA’s ability to request and review documentation to ensure the accuracy of a certification. (See Chapter 10, Section 3.)

1202. ASSURANCES AND CERTIFICATIONS.

Sponsor certification, as authorized by Title 49 U.S.C., Section 47105(d), allows the FAA Airports Office to obtain adequate assurance that an airport sponsor has complied with the statutory and administrative requirements imposed through grant agreements. Equipment and construction contracts are considered appropriate for obtaining sponsor certifications and a standard format for the certification has been developed (See Appendix 25). However, the use of sponsor certifications does not relieve the FAA Airports personnel from their responsibility to maintain a broad overview of AIP projects and be reasonably assured that the sponsor is meeting all of its obligations. (See Chapter 10, Section 3) In addition, FAA Airports personnel retain responsibility for coordination of the proposed development with the appropriate organizational elements within the FAA.

1203. LAND TITLE REQUIREMENT.

Authorization for the sponsor to issue a notice to proceed with construction work generally must not be given until it has been determined that the required property interests have been acquired in the land on which construction is to be performed. In some cases, the deferral of a notice to proceed until this determination is made may unduly delay project construction and result in increased project costs. In cases where the FAA Airports Office is satisfied that good title will be forthcoming and where the sponsor has obtained a right to enter upon the land to commence construction and certifies that it will acquire adequate title, a notice to proceed may be authorized.

1204. AUTHORIZATION OF NOTICE TO PROCEED.

Where plans and specifications conform to the general scope and design concepts agreed upon, project costs are considered reasonable, and the appropriate engineering and construction standards will be complied with, the FAA Airports Office, when satisfied all of the pre-construction requirements have been met, may authorize the sponsor to issue a notice to proceed to the contractor.

1205. DELAY IN CONSTRUCTION START.

If construction is delayed beyond the approved schedule, appropriate action must be taken. (See Chapter 11, Section 6.)

1206. PRE-CONSTRUCTION CONFERENCE.

a. Purpose for pre-construction conference. Where appropriate, the FAA Airports Office should request that the sponsor hold a pre-construction conference to familiarize all interested parties with the various requirements of the project. One major advantage of the conference is that, through a discussion of each requirement, the responsibility of parties may be determined. For airport grant projects AC 150/5300-9, "Pre-design, Pre-bid, and Pre-construction Conferences," provides additional guidance on conducting pre-construction conferences.

b. Participation.

The participants will vary with the nature of airport activities and work to be performed and may include:

(1) The sponsor's engineer and testing personnel;

(2) The airport manager;

(3) Other sponsor representatives as selected by the sponsor;

(4) The state agency representative, if applicable;

(5) The contractor and subcontractors;

(6) Fixed-base operators;

(7) A representative of the FAA Airports Office;

(8) Other FAA representatives, as appropriate;

(a) The Air Traffic Manager at towered airports; and

(b) The local Airway Facilities Representative;

c. Local managers for airlines;

d. Representatives of military organizations;

e. Air Transport Association and/or Regional Airline Association representatives; and

f. Others, as appropriate.

The FAA Airports Office should assure that all appropriate Federal Airports Offices, military installations, and Federal agencies that may have an interest in the project are notified so that they may have the opportunity to be represented at the conference.

1207. SCOPE AND AGENDA.

The scope and agenda of a pre-construction conference should be designed to address the requirements and special concerns of a particular project and participants. Safety during construction, grant assurances, and special conditions should be included at appropriate points throughout the

meeting. Advisory Circular, AC 150/5300-9, provides guidance on items to be considered in developing an agenda.

1208. LABOR AND CIVIL RIGHTS REQUIREMENTS.

If in attendance, the FAA representative should be prepared to discuss labor and civil rights requirements, as outlined in AC 150/5100-6, Labor Requirements for the Airport Improvement Program, and AC 150/5100-15, Civil Rights Requirements Under the Airport Improvement Program.

1209. - 1219. RESERVED.

Section 2. CONSTRUCTION PROCEDURES

1220. FAA RESPONSIBILITIES.

The FAA Airports Office has the responsibility to coordinate all grant construction activities with the other FAA operating offices. In addition, the FAA has a responsibility to ensure that the terms and conditions of the grant agreement are met and to maintain a broad overview of AIP construction projects. This can be achieved by:

a. Periodic Inspections. Periodic inspections may be scheduled by the FAA at a frequency that is dependent on the proposed construction schedule, the complexity of the project, the relative capability of the sponsor's engineer and inspection personnel, the availability of FAA personnel, and other considerations as appropriate. For paving projects with a cost greater than $250,000, one such inspection should be made during the early stages of construction. If an inspection cannot be made, the sponsor will be required to submit a summary of interim test results. During periodic inspections and at other times as appropriate, the FAA will inspect daily construction records to review past project activities and to evaluate the adequacy of sponsor's inspection activities. The FAA will also review the sponsor's construction management program, required by the special condition on Pavement Quality Control, to ensure elements such as contract administration, testing laboratories with quality control responsibilities, qualifications of inspection personnel, and testing procedures and results are properly addressed. In no case shall FAA personnel place themselves in the role of providing resident inspection services or issuing construction directions to the sponsor's contractors.

b. Requiring Construction Progress Reports. The FAA Airports Office may require a sponsor to submit FAA Form 5370-1, Construction Progress and Inspection Report, on a periodic basis. Requirement and frequency shall be determined based on the region's need for monitoring and control of the individual project.

c. Labor Provision Reviews and Investigations. Compliance with and enforcement of Federal labor provisions shall be in accordance with the procedures outlined in the Department of Labor regulations (29 CFR Part 5). (See Chapter 14.)

d. Civil Rights Review. FAA Airports Office personnel shall coordinate with regional civil rights personnel to carry out compliance with and enforcement of civil rights requirements in accordance with regional policy and Chapter 14.

e. Contact with the Sponsor and other Federal Airports Offices. FAA Airports Offices should ensure through periodic contact with the sponsor they are properly supervising the project. Coordination should be undertaken with other Federal Airports Offices or inter-division working groups whenever there is a concern that Federal requirements may be overlooked.

f. Final Inspections. Final inspections should be conducted in the presence of the sponsor and contractor representatives, and the results recorded on FAA Form 5100-17, AIP Final Inspection Report, (Appendix 10). The region may waive final inspection if there is full assurance that the work has been completed totally and satisfactorily. The rationale supporting such a waiver shall be fully documented.

g. Enforcement. Where an inspection, report, or other source reveals the sponsor is not providing satisfactory supervision and inspection of the construction, the sponsor will be immediately advised that adequate supervision is required under the terms of the grant agreement. Further, when any other discrepancy in civil rights, labor requirements, technical or engineering specification becomes evident, the region shall notify the sponsor and take follow-up action as necessary. If these actions fail to obtain satisfactory results, the sponsor will be advised that project payments will be suspended or other appropriate action taken until adequate supervision and inspection is provided to assure construction in accordance with approved plans and specifications. (See Paragraph 1305.)

1221. SPONSOR'S RESPONSIBILITIES.

FAA Airports Offices should advise the sponsor of the sponsor's direct responsibility for monitoring project accomplishment. The sponsor must ensure that the work is carried out in accordance with the plans and specifications; that time schedules are observed; that Federal labor and civil rights provisions are followed; and that all other terms and conditions in the contract documents and grant agreement are implemented. The following are also specific responsibilities during construction of which the sponsor must be advised:

a. Supervision and Inspection. The sponsor is required to provide adequate, competent, and qualified engineering supervision and construction inspection during all stages of the work. If so desired or deemed necessary, the FAA may require a sponsor to furnish a signed statement that it has reviewed the qualifications of personnel who will be performing engineering supervision and conducting inspections and is satisfied that they are qualified and competent to do so.

b. Construction Records. The FAA should advise the sponsor that the resident engineer must keep daily construction records. Some of the data that should be a part of these records include:

(1) Daily weather conditions and temperatures;

(2) Work in process and general location;

(3) Equipment in use;

(4) Adequacy and size of work force including supervision;

(5) Hours worked per day for contractor, subcontractor, testing laboratory and resident engineers;

(6) Quality and quantity of materials delivered;

(7) Tests performed and locations;

(8) Test results;

(9) Instructions to the contractor, such as minor changes to grade, work schedule, gradation of material or mix design, and alignment;

(10) Unsafe or unexpected hazardous conditions encountered;

(11) As-built drawings; and

(12) Documentation of each pay item quantity measurement.

c. Sponsor Quarterly Performance Report.

(1) The sponsor must be advised of the need to submit to the FAA Airports Office a performance report, on a quarterly basis, which includes:

(a) A comparison of actual accomplishments to the goals established for the period. When applicable, a comparison will be made on a quantitative basis related to cost data for computation of unit costs;

(b) Reasons for slippage in those cases where established goals are not met;

(c) Relationship, if any, to AIP projects not covered within this grant;

(d) Impact on PFC, F&E or other projects; and

(e) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(2) If any performance review conducted by the sponsor discloses a need for a grant amendment, the sponsor should be required to submit a request for an amendment on FAA Form 5100-100, Section B. The sponsor makes such a request whenever:

(a) The revision results from changes in the scope or objective of the project; or

(b) The revision increases or decreases the amount of Federal funds needed to complete the project.

d. Construction Progress and Inspection Report. The sponsor may be required by the FAA Airports Office to submit FAA Form 5370-1, Construction Progress and Inspection Report, (Appendix 13) periodically, but no less than quarterly, on a case-by-case basis.

e. Special Reports. Regardless of the performance-reporting schedule, sponsors are to be advised to notify FAA immediately whenever problems, events, or deficiencies occur that will require a major change in the scope of the project, or significantly affect the construction schedule or increase the total funds needed to complete the project by an amount that the FAA Airports Office considers significant. The sponsor will be notified by the FAA Airports Office of the amount that will trigger the special report.

1222. CHANGE ORDERS AND SUPPLEMENTAL AGREEMENTS.

See Chapter 9, Section 4.

1223. - 1229. RESERVED.

Section 3. SPONSOR'S FORCE ACCOUNT

1230. GENERAL.

a. Force Account. Force account construction work is construction that is accomplished through the use of material, equipment, labor, and supervision provided by the sponsor or by another public agency pursuant to an agreement with the sponsor.

b. Force Account Standards. A project, or any part of a project, accomplished by force account must meet the same engineering and construction standards that are required for contract construction (See Paragraph 904). The FAA will apply the same requirements in review of plans and specifications as in conducting construction inspections. Construction reporting standards in Paragraph 1221 shall

also apply, as appropriate. The sponsor of force account construction must keep records on costs of materials, hourly operation of equipment, payrolls, and all other costs to avoid disallowance of costs that cannot be verified in an audit.

1231. JUSTIFICATION AND APPROVAL.

Generally, construction should be accomplished through the competitive bidding process. Therefore, a sponsor anticipating construction using force account must submit a written justification for approval by the FAA Airports Office early in the grant process, preferably before grant application. The FAA Airports Office may wish to withhold approval of force account construction until after review of the final plans and specifications. The sponsor's proposal to use force account rather than contract construction must be fully documented and should contain as a minimum:

a. Justification for doing the work by force account rather than by contract;

b. Estimate of costs with details as to wage rates, non-salary expenses, indirect costs, and comparison of costs between the sponsor's force account construction and contract construction;

c. Information on sponsor's resources (labor, material, equipment, and financing) and workload as they affect capacity to do the work, date by which the work will be complete, or dates within which the work will take place;

d. Adequate plans and specifications showing the nature and extent of the work to be performed using force account; and

e. The sponsor must clearly show that the benefits, including benefits to the Federal Government, of using force account override the Federal policy of competitive bidding.

1232. SPONSOR FUNDS.

Enough funds must be available to the sponsor to carry payrolls and any necessary purchases of materials and rental equipment for the first portion of construction or until the first partial grant payment is received. The total amount of the sponsor's share may also consist of rental value of equipment, cost of materials in stock, and the value of labor that will be used on the project, as well as cash.

1233. COST ALLOWABILITY.

a. Records. To ensure the allowability of cost, the sponsor must keep accurate records of the hours sponsor equipment and personnel are employed on the project. Such records should include time sheets reflecting a job or account number chargeable to the project and payroll records certified by a supervisor.

b. Equipment. Equipment rental rates applicable to the construction on force account development vary widely. Therefore, to facilitate a uniform method for evaluating these rates, the regions may use the District Offices of the United States Army Corps of Engineers "Construction Equipment Ownership and Operating Expense Schedule" (EP-1110-1-8) or the Associated General Contractors of America (AGCA) "Contractors Equipment Cost Guide," to evaluate the sponsor's rate. The Army Corps of Engineers "Construction Equipment Ownership and Operating Expense Schedule" can be found on the world wide web at: http://www.usace.army.mil/inet/usace-docs/eng-pamphlets/cecw.htm. The purchase price of equipment bought by the sponsor for use on a force account project is not allowable except to the extent that its amortization is included in the calculation of rental and operating rates.

c. Supplies and Materials. Any procurement of supplies and materials carried out for the purposes of the force account project must be in accordance with the procurement standards in chapter 8 to the extent possible.

d. Personnel. Cost of labor and supervision shall be in accordance with state and local standards.

1234. PERFORMANCE OF CONSTRUCTION.

a. Insurance. Sponsors are not required to carry any type of insurance unless mandated by local or state law. Sponsors should be advised that it is their responsibility to comply with state and local insurance requirements. (See Paragraph 311(l)). Where sponsors routinely include requirements for minimum liability insurance coverage in all public works projects of comparable scope, they may be considered as reasonable and necessary overhead costs and will be allowable under the AIP.

b. Project Changes. The sponsor must get prior FAA approval for any changes, which will result in a grant amendment. Where a change in construction is contemplated which is substantial in scope or design, or is a change in either the plans or specifications, the equivalent of a “change order” shall be issued. This will be in the form of written instructions from the sponsor or its authorized representative to the engineer in charge of supervision and inspection of construction.

c. FAA Inspections. The procedures for FAA periodic and final inspections of the construction work done by sponsor’s force account are similar to those procedures in Paragraph 1220 for construction by contract.

1235. - 1299. RESERVED.

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Chapter 13. PROJECT PAYMENT, CLOSEOUT, AND AUDIT

Section 1. PROJECT PAYMENT

1300. GENERAL.

The AIP program has drawn criticism that AIP funds under grant are idle while critical projects are not funded because of a shortage of funds. One measurement that a project is progressing acceptably is the regularity that grant payments are being made or drawn down to reimburse for project accomplishments. When grant funds are drawn down regularly, this would prove that the funds are not idle. To facilitate reaching this stage, the FAA Airports Office requests that each AIP grantee request or initiate a draw down grant payment for project accomplishments every 30 days during the course of the project life. This 30-day requirement can be waived when the accomplishments are not significant enough to warrant a grant payment, i.e., less than $10,000. However, a request for or a draw down of a grant payment will be required within 30 days after the end of each federal fiscal year to cover all accrued grant costs from the prior fiscal year that have not been reimbursed. This would give an accounting of the year-end status of each project.

Grant payment may be made to sponsors by letter of credit, electronic funds transfer, or Treasury check. The letter of credit as used in this program does not conform to the standard definition as used in the financial or banking communities. The letter of credit as used here is a draw down of funds against the grant obligation and is used to conform to the terminology on the approved Standard Form 272 and Order 2700.33. The letter of credit will be used unless the sponsor is ineligible or specifically requests payment by Treasury check or electronic funds transfer. Payments totaling not more than 90 percent of the United States Government's share of the project's estimated allowable costs may be made before the project is completed if the sponsor certifies to the FAA Airports Office that the total amount expended from the payments at any time will not be more than the cost of the airport development work completed on the project at that time (See 49 USC Section 47111). Payments cannot be made in advance of grant work being completed. The FAA Airports Office may require documentation from the sponsor to support any costs claimed. FAA Airports Offices should encourage sponsors to use the letter of credit to reduce paperwork.

1301. LETTER OF CREDIT.

Payment by letter of credit is currently the subject of a working draft replacement for this paragraph within Program Guidance Letter 05-2 dated April 29, 2005, pending revision of related directives and reorganization of the Regional Accounting Offices.

1302. PAYMENT BY TREASURY CHECK OR ELECTRONIC FUNDS TRANSFER - GENERAL.

Payment by Treasury check or electronic funds transfer is the method to be used when the sponsor does not meet the letter of credit requirements. Payment of costs claimed by electronic funds transfer is processed the same as a payment by Treasury check, except that the sponsor receives the funds by a fund transfer to its bank rather than by receiving a paper check. Payments should be made on a reimbursable basis for actual work completed, material delivered to site, or land acquired. These requests for reimbursement should not be more frequently than monthly. A sponsor shall not be reimbursed for amounts that are to be withheld from contractors to ensure satisfactory completion of the work. These amounts will be paid when the sponsor releases these funds to the contractor.

1303. PAYMENT BY TREASURY CHECK OR ELECTRONIC FUNDS TRANSFER - FORMS.

a. Request for Advance or Reimbursement, SF-270. Form SF-270 is prepared by the sponsor and submitted to the FAA Airports Office to request progress or final payment for non-construction

projects. It may be used for construction programs if the region believes that the form provides sufficient information.

b. The Outlay Report and Request for Reimbursement, SF-271. Form SF-271 is prepared by the sponsor to request progress or final payment for construction projects or any other project for which the region feels a need for more detailed information than provided on SF-270.

c. Distribution of Forms. The sponsor shall submit the original plus two copies of the necessary forms. After approval by the FAA Airports Office, the original and a copy shall be forwarded to the Regional Accounting Office.

1304. PAYMENT BY TREASURY CHECK OR ELECTRONIC FUNDS TRANSFER - APPROVAL.

a. Before approving a payment request, the FAA Airports Office should establish that:

(1) The cost is reasonable and allowable;

(2) The payment request does not exceed the outstanding balance in the grant;

(3) The work covered by the payment is in line with the project schedule; and

(4) In cases involving land, the sponsor has submitted evidence satisfactory to the FAA the sponsor has received good title to land acquired or to be acquired.

b. Where the FAA Airports Office determines that the amount requested is not justified, a lesser amount should be approved and the sponsor notified of the adjustment and the reason for the adjustment. The FAA Airports Office may not withhold payment for proper charges for more than 180 days unless the sponsor has failed to comply with grant conditions and has been notified and given an opportunity for a hearing. Also, payment may be withheld if a sponsor is indebted to the U.S. Government and collection of the indebtedness will not significantly impair accomplishment of the objectives of the grant program. All such action will be coordinated with the Regional Accounting Office.

c. FAA Airports Office will indicate approval of the payment request by affixing and signing the following on the payment request form:

"I find $ _____ of the amount requested for reimbursement to be an allowable project cost based on the representations and certifications of the sponsor as contained in the payment request. I further find this cost has not previously been reimbursed, and hereby approve payment of such amount."

*Name*_____ *Date:* _____

d. Before forwarding the request for payment to the regional accounting office, the FAA Airports Office should ensure the sponsor's name, project number, partial payment request number, and the DOT contract number are included on the form.

e. If the request is for final payment associated with project closeout, see Section 2 of this chapter.

1305. WITHHOLDING PAYMENT.

Payment may be withheld by the FAA Airports Office pending the determination of reasonableness, allowability, and necessity of the claimed costs or for noncompliance with a grant condition. Title 49 U.S.C., Section 47111(d) contains certain requirements that must be followed when withholding payments for noncompliance with grant conditions. Thus, if any determination of noncompliance is to be made that requires withholding of payment, contact the FAA Airports Office of Compliance, AAS-400, for specific procedures. If it is also necessary to suspend the letter of credit, see Order 2700.33, Letter of Credit - Treasury Financial Communications system (TFSC), Paragraph 19. If the grant is suspended or

terminated, see Paragraph 1150. Where there is a dispute between the sponsor and the contractor, see Paragraph 1314.

1306. - 1309. RESERVED.

Section 2. GRANT CLOSEOUT PROCEDURES

1310. GENERAL.

The closeout of a grant is the process by which the FAA Airports Office and the sponsor perform the necessary final administrative actions to complete all requirements of the grant agreement. It is important that all parties involved fulfill these requirements promptly so that unnecessary delays in closing a grant can be avoided. The closeout process will usually require an examination of three areas - project work completion, administrative requirements, and financial requirements - to ensure that the required steps have been taken or conditions met.

1311. AUDIT RELATIONSHIP TO CLOSEOUT.

The single audit required by OMB Circular A-133-Revised June 24, 1997, will not usually coincide with the project accomplishment period; nor is a single audit likely to contain sufficient information on the project to show all grant requirements have been met. If the project manager believes it necessary to audit the project more closely, see Paragraph 1320. Otherwise, FAA Airports Offices may close out projects before the audit cycle is completed. The project may be reopened later to resolve subsequent audit findings.

1312. WORK COMPLETION REQUIREMENTS FOR CLOSEOUT.

Conditions to be met before work completion can be determined will vary according to the type of work in the grant, i.e. planning, land acquisition, equipment acquisition, or construction.

a. Planning. The conditions are met when the sponsor has completed the work elements identified in the program narrative and the FAA has reviewed and accepted the final report. Acceptance does not require that the FAA agree with the conclusions or recommendations in the plan. It should be kept in mind that the plan has been developed in part for the purpose of providing local and state governments with a planning tool to assist them in making airport development decisions. When significant differences of opinion exist, a letter should be sent to the sponsor, which outlines the FAA position. See Paragraph 428.

b. Land Acquisition. Conditions are met when the sponsor obtains satisfactory property interest in all parcels included in the grant description, has submitted adequate title evidence or appropriate certification for all the parcels, and the FAA Airports Office has accepted such evidence. In addition, the FAA Airports Office is satisfied that the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, requirements have been met. See Paragraph 713.

c. Equipment Acquisition. Conditions are met when the equipment is delivered, installed, and tested in accordance with approved plans and specifications. At the option of the FAA Airports Office, the FAA or the sponsor may make final inspection.

d. Construction. Conditions are met when all work items in the grant description have been completed in accordance with the approved or certified plans and specifications and the final inspection completed as stated in Paragraph 1220(f). Correction of noted discrepancies (punch list items) should be completed, or the FAA Airports Office should have assurance that arrangements are made for their completion. Sponsor certification may be accepted or required for both work items and punch list completion.

e. Combination of the above. Regions may close out portions of projects that involve combinations of the preceding four categories when each specific portion meets its requirements for closeout.

1313. ADMINISTRATIVE REQUIREMENTS FOR CLOSEOUT.

Sponsors shall be required to submit the following items as part of the administrative closeout of the project:

a. As-Built Plans. "As-built" plans for airport development projects involving construction must be submitted. At the FAA Airports Office's discretion, certification from the sponsor that as-built plans have been received and will be retained for future use may be accepted. Another option, at the discretion of the FAA Airports Office, is to accept an electronic version of the as-built plans;

b. Exhibit A, Property Map. Revised "Exhibit A" if any changes were made from the one submitted with the project application;

c. Property Accountability. A sponsor rarely acquires equipment expressly to carry out a grant. However, if a sponsor does, an inventory of all equipment with a current per unit fair market value in excess of $5,000, acquired with Federal funds and used to carry out the grant, must be submitted as part of the closeout package. Equipment no longer needed for airport purposes may be sold or retained by the sponsor. The Federal share of the current fair market value shall be deducted from the grant amount or reimbursed to FAA.

d. Block Grants. Forward information to the region on airport projects as described in Paragraph 1097a.

1314. FINANCIAL REQUIREMENTS FOR CLOSEOUT.

a. Final Financial Report. The sponsor shall be required to submit a final financial report to the FAA in accordance with Title 49 CFR, Parts 18.41 and 18.50. This report is required even if the sponsor has already received payments equal to the maximum obligation of the United States stated in the grant agreement. For construction and non-construction projects, the final report shall be made on the form the sponsor normally uses to request payment (SF-270 or SF-271) in cases of reimbursement by Treasury check, or on SF-272 if the letter of credit has been used. The final financial report may also serve as the request for final payment when 100% progress payment has not been made or when an adjustment to the 100% progress payment is required.

b. Form Preparation. On the appropriate line of these forms or in the "Remarks" section, if the line does not exist, the following information must be included, if applicable:

(1) Identification of any Interest Earned on Federal Funds. Except for sponsors that are state agencies, all such interest must be returned to the Federal Government;

(2) Identification of Credit for Non-expendable Personal Property (See Paragraph 1313(c)); and

(3) Identification of Any Disputed Costs. Where there is a dispute between the contractor and the sponsor as to the amount of compensation due the contractor, which may have to be settled by litigation, the contractor should furnish the sponsor an estimate of the total amount allegedly due from the sponsor. The sponsor should only recognize the undisputed portion of the contractor's claim and include that amount in the final financial report. However, in the "Remarks" section, the sponsor should point out that there is a certain disputed amount that the contractor claims and which may be the subject of litigation. Following review of the Sponsor's closeout documentation the region may choose to continue with the project closeout or leave the grant open until all litigation is completed.

c. Excess Payments. If the final financial report indicates that payments have been made which exceed the Federal share of the estimated allowable costs or the sponsor has received interest on Federal funds to which it is not entitled, this amount constitutes a debt to the Federal Government. The accounting office should be informed of the amount and asked to send a notice to the sponsor that the debt should be paid within 30 days or a charge for interest and penalties in accordance with the Federal Claims Collection Standards will be assessed. See Paragraph 1304(b) for guidance regarding offset against another grant.

d. Fiscal Adjustments. It may be necessary to make upward or downward adjustments as a result of an audit, grant amendments, or resolution of disputed costs.

1315. FINAL PROJECT REPORT.

a. Preparation. After the requirements of Paragraphs 1312, 1313, and 1314 have been met, a final project review shall be made resulting in a final project report. The report shall contain information deemed necessary for any subsequent examination or evaluation of the project.

b. Approval of Final Project Report. The report will normally be prepared by the FAA project manager and be reviewed and approved by the Airports Division Manager. This authority may be delegated but must remain at one level higher than the project manager in the chain of command. This constitutes a routine element of program checks and balances as required by OMB Circular A-123.

1316. FINANCIAL SETTLEMENT.

Upon approval of the final project report, payment for the allowable costs up to the maximum obligation of the United States may be made. Financial settlement may also involve recovering any overpayments or interest (See Paragraph 1314(c)). The sponsor shall be notified in writing with a copy to the project file when the final financial settlement is being made that the grant is considered closed out. Any differences in the amount of funds requested by the sponsor and the amounts paid out should be explained. If the amount requested in the sponsor's final financial report exceeds the balance of the maximum U.S. obligation remaining in the grant, either the excess must be denied or a grant amendment made in accordance with Chapter 11, Section 5.

1317. REPORTS TO FAA HEADQUARTERS.

One copy of the Airports Division final project report is required by APP-520 when Economic Development Act or Appalachian Regional Commission funds are included in the project, or on an "as requested basis" for other projects.

1318. RECLAIM FOR SUSPENDED COSTS AFTER FINAL SETTLEMENT.

There will be instances where final payment will be made to the sponsor with certain project costs being suspended for lack of substantiating evidence or for other reasons. The sponsor may reclaim such costs after final payment provided the sponsor has submitted evidence that is satisfactory to justify a determination that the costs are reasonable and necessary to the project. However, if the sponsor does not file for such reclaim within 90 days after final payment, the project may be closed out.

1319. RESERVED.

Section 3. AUDITS

1320. GENERAL.

OMB Circular A-133-Revised June 24, 1997, Audits of States, Local Governments, and Non-Profit Organizations implements the Single Audit Act of 1984, P.L. 98-502 and Single Audit Act Amendments of 1996, P.L. 104-156, and establishes audit requirements for States, local governments, and non-profit organizations expending Federal awards. It requires that any States, local governments, and non-profit organizations that expend $300,000 or more a year in Federal funds shall have an audit made in

accordance with OMB Circular A-133-Revised June 24, 1997. Operating Administrations (OAs) and Secretarial Offices (SOs) are also responsible for ensuring appropriate audit coverage for other types of assistance recipients not covered by the A-133 circular. Where DOT has been designated to serve as the cognizant agency, the responsibilities shall be divided between the OA's and SOs, and the Office of the Inspector General (OIG). The audit shall be made by an independent auditor and cover the entire financial and compliance operations of that government body. Audits will be conducted annually unless State or local law requires biennial audits. When the OA's, SOs, or the OIG determine that additional audits are necessary, such audits shall build on the results of independent auditors if the audits meet the criteria contained in OMB Circular A-133. Recipients that expend less than $300,000 a year in Federal assistance funds are exempt from single audit requirements; however, they must retain appropriate records to document their compliance with the requirements of their Federal assistance awards. The single audit concept was established to:

a. Ensure that all Federal agencies rely on a single audit;

b. Provide consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards; and

c. Improve the financial management of Federal assistance programs.

Since most sponsors receive grants from more than one Federal agency, cognizant agencies are assigned based on the Federal agency that provides the predominate amount of direct funding in accordance with Section 400 of OMB Circular A-133.

1321. AUDIT RESPONSIBILITIES - GENERAL.

There are four parties involved with the A-133 process - the FAA Airports Office, the public sponsor, the sponsor's auditor, and the DOT OIG (if a modal administration in DOT is the cognizant agency). Paragraph 1325 contains guidelines for private sponsor audits.

1322. AUDIT RESPONSIBILITY - FAA AIRPORTS OFFICE.

a. If DOT is the cognizant agency for a sponsor, and the FAA provides the most DOT funding, FAA would have administrative cognizance responsibility.

b. If FAA is assigned as cognizant agency, the FAA Airports Office shall:

(1) Ensure that audits are made and reports are issued and distributed in a timely manner in accordance with this section and that sponsors take corrective actions when audit reports are found by the OIG not to be in compliance with the requirements of Circular A-133-Revised June 24, 1997;

(2) Sponsors shall be instructed to submit an appropriate number of copies of audit reports directly to the Bureau of Census Federal Audit Clearinghouse;

(3) Establish and enforce appropriate audit coverage for recipients not covered under OMB Circular A-133. Audit requirements for these recipients shall be established and performed for the program in a manner that ensures the Federal interest is adequately protected;

(4) Refer deficient findings that relate to a single Federal agency to that agency for resolution. Negotiate with recipients to correct system deficiencies and resolve questioned costs for findings that affect two or more Operating Administrations (OA's)/Secretarial Offices (SOs). If agreed to by the cognizant agency and OA's/SOs, specific DOT-related deficiencies or questioned costs may be resolved by the affected OA/SO;

(5) Be responsible for approving sponsor cost allocation plans and negotiating and executing indirect cost rate agreements, if required, with respect to all assistance programs;

(6) Issue management decisions on audit findings within 6 months, and ensure that recipients take prompt corrective action. Copies shall be submitted to the OIG and other appropriate officials; and

(7) Consider auditor requests for extensions of report submission due date, with the advice and assistance of the OIG.

c. If FAA is not the cognizant agency, the FAA Airports Office responsibility is limited to responding to the audit findings and recommendations and to cooperating with the cognizant agency.

1323. AUDIT RESPONSIBILITY - PUBLIC SPONSOR.

The public sponsor (Auditee) is responsible for:

a. Ensuring it has a cognizant agency;

b. Selection of an auditor. This can be a private firm selected in accordance with the provisions of Title 49 CFR, Part 18.36 or an in-house auditor approved by the OIG;

c. Ensuring the audit is carried out in accordance with A-133;

d. Responding to audit findings and cooperation with the FAA in resolving any problems;

e. Keeping audit reports on file for three years from the date of their issuance;

f. Submitting copies of the audit report within 30 days after issuance to a central clearinghouse located at the Census Bureau, Department of Commerce. The clearinghouse will keep completed audits on file and follow up with State and local governments that have not submitted required audit reports. Audit reports should be sent to Bureau of the Census, Data Preparation Division, 1201 E. 10th Street, Jeffersonville, IN 47132, Attn: Single Audit Clearinghouse; and

g. Submitting a cost allocation plan and an indirect cost rate proposal, if required.

1324. AUDIT RESPONSIBILITY - OIG.

The OIG's responsibility is to:

a. Ensure that audits are in accordance with the requirements of OMB Circular A-133, and advise the recipient of audits that are deficient in meeting requirements. The OIG shall also notify the cognizant OA or SO of audits not meeting these requirements for follow-up action;

b. Provide technical advice and liaison to State and local governments and independent auditors;

c. Obtain or make quality control reviews of selected audits made by non-Federal auditors to ensure that audits are performed in compliance with OMB Circular A-133, generally accepted auditing standards and "Government Auditing Standards." Results will be provided to the OA or SO whose program or activities are subject to audit by the entities. When appropriate, results should be provided to other interested organizations;

d. Inform other affected Federal organizations and appropriate Federal law enforcement officials of any reported illegal acts or irregularities;

e. Advise the sponsor of audits that have been found not to meet the requirements of OMB Circular A-133. The OIG shall also notify the cognizant operating administration of sponsor audit reports that do not meet the requirements of OMB Circular A-133;

f. Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits required by OMB Circular A-133, so that the additional audits build upon such audits;

g. Provide audits to support approval of cost allocation plans and indirect cost rates. These audits should be completed by the OIG within 30 days of the receipt of the audit request;

h. Perform or arrange for special or supplemental audits at the request of the Federal Airports Office;

i. Coordinate audit work performed by or for Federal/non-Federal organizations that are in addition to the audits required by OMB Circular A-133 so that additional audits build upon such audits to achieve the most efficient and cost effective results;

j. Consider auditee requests to qualify as a low-risk audit; and

k. Coordinate the management decisions for audit findings that affect the programs of more than one agency.

1325. PRIVATE SPONSOR AUDIT.

Since A-133 applies only to public sponsors and non-profit organizations, the FAA will require, if appropriate, that in a grant agreement with a private sponsor a project audit will be conducted and submitted to the FAA Airports Office. See Appendix 7 for the special condition on private sponsor audits, which is to be included in appropriate grants. These audits should be sent to the OIG. Where the FAA Airports Office determines that project transactions are so basic that a full audit is unnecessary (e.g. purchase of equipment, a small lump sum contract on a third party planning contract, etc.) a cost review without audit may be made in lieu of the audit.

1326. GRANTS LESS THAN $300,000.

Where the total funds for all Federal grants to a single public sponsor are less than $300,000 a year, the audit requirements shall be those prescribed by the State or local law or regulation.

1327. SUPPLEMENTAL AUDITS.

The FAA Airports Office may require audits in addition to the single audit where they feel a need exists, e.g. where there is evidence of discrepancy, where there is an unusual financial situation, or any other reason the project manager believes is needed. The OIG should be requested to arrange for these audits.

1328. AUDIT COSTS.

The cost of audits is allowable as either a direct cost or an allocated indirect cost, in accordance with Paragraph 35 of this Order. Generally, the percentage of costs charged to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds represent of total funds expended during the fiscal year. Higher actual costs must be documented.

1329. RELEASE OF AUDIT REPORTS.

The release to the public of any audit report prepared by the OIG shall be coordinated with the Regional Counsel to insure that it will be in accordance with the Trade Secrets Act (18 USC 1905) and the Freedom of Information Act (5 USC 552).

1330. - 1399. RESERVED.

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Chapter 14. ENFORCEMENT OF LABOR AND CIVIL RIGHTS REQUIREMENTS

Section 1. ENFORCEMENT OF LABOR REQUIREMENTS

1400. GENERAL.

A more detailed treatment of the labor requirements with which sponsors, contractors, and subcontractors must comply are contained in AC 150/5100-6 and are summarized below. The clauses required by these acts to be included in contracts and subcontracts are found in the appropriate appendices of the AC. Therefore, the AC should be used as a companion document in this area.

a. Davis-Bacon Act (DBA). All construction contracts and subcontracts awarded by the sponsor and contractor in excess of $2,000 shall include a provision for compliance with the applicable provisions of the Davis-Bacon Act (40 U.S.C. 3141 et seq.) and applicable provisions of the Department of Labor implementing regulations (29 CFR Part 5), as well as a provision to pay to mechanics and laborers wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The sponsor shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation, and the award of a contract shall be conditioned upon the acceptance of the wage determination. The sponsor shall report all suspected or reported violations to the FAA.

b. Contract Work Hours and Safety Standards Act (CWHSSA). Where applicable, all contracts awarded by sponsors and contractors in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.) as supplemented by the Department of Labor Regulations (29 CFR Part 5). Under the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate not less than one and one-half times their basic rate of pay for all hours worked in excess of 40 hours in the workweek. The Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market or contracts for transportation.

c. Copeland "Anti-Kickback" Act. This Act applies to construction contracts over $2,000 and declares it a criminal offense for any person to make unauthorized deductions, to exact rebates from wages paid to any person employed by any contractor or subcontractor engaged in the construction, prosecution, completion or repair financed in full or in part by loans or grants from a Federal agency. Contractors and subcontractors are required to submit weekly certifications of compliance. Some exceptions are made to the Act's requirements as detailed by the Secretary of Labor's regulations. Appropriate clauses are to be included in all contracts subject to the requirements of 29 CFR Parts 3 and 5.

d. Fair Labor Standards Act. Basically, the Fair Labor Standards Act (FLSA) requires payment of the Federal minimum wage to all employees engaged in interstate commerce or the production of goods for interstate commerce and includes most employees in the construction industry. While the DBA applies to prevailing wages paid to laborers and mechanics, and the CWHSSA to laborers, mechanics, watchmen, and guards, the FLSA covers almost all other employees in AIP construction, other than those exempted under Section 213 of the FLSA and certain State and local public employees.

e. Occupational Safety and Health Act of 1970. This Act is often referred to as the Williams-Steiger Act. It applies to all contracts funded in part by Federal grants and requires contractors to observe health and safety standards developed by the Department of Labor (See 29 CFR 1910).

1401. ENFORCEMENT RESPONSIBILITY.

a. General. The FAA is responsible for the administration and enforcement of the labor requirements of the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland Anti-Kickback Act. The DOL is also responsible for the enforcement of the CWHSSA, the FLSA, and the Occupational Safety and Health Act. Apparent violations of any of these acts should be brought to the attention of the FAA and the DOL, as appropriate.

b. Continuing FAA Responsibilities. The DOL Memorandum #76 dated May 31, 1968, sets forth procedures for coordinating investigation activities of Federal agencies relating to the enforcement of labor provisions. Construction contracts subject to these provisions are also subject to other laws for which the DOL has basic enforcement responsibility. The FAA is still responsible for the administration and enforcement of labor standards required under AIP. An investigation by DOL does not relieve FAA of this responsibility.

c. Contract Termination Report. When a contract is terminated by reason of violations of the labor standards provisions for which FAA is responsible, regions shall submit a report to the Secretary of Labor and the Comptroller General, giving the name and address of the contractor or subcontractor whose right to proceed has been terminated, the name of the contractor or subcontractor, if any, who is to complete the work, the amount and number of its contract and the description of the work it is to perform.

1402. FAA EXAMINATIONS AND INVESTIGATIONS.

Where there is evidence there may be compliance problems with labor requirements, FAA Airports Offices should examine payrolls and statements and conduct interviews as may be necessary to ensure compliance with the labor standards clauses. The DOL and the sponsor should be invited to participate. The results of the preliminary FAA interviews must be provided to the DOL for further action. The FAA Airports Office should then follow any recommendations made by the DOL concerning the alleged violation(s).

1403. INVESTIGATION REPORT.

Upon completion of the investigation, DOL will provide a copy of its report to the FAA Airports Office and the sponsor.

1404. REVIEW AND SPONSOR NOTIFICATION.

The FAA Airports Office shall review the DOL investigation report and its findings shall be affirmed or modified as appropriate.

1405. SPONSOR CORRECTIVE ACTION.

The sponsor shall be requested to have the contractor make restitution or furnish evidence to rebut the investigation findings. In addition, the contractor shall be required to furnish a signed statement or letter giving the reasons for the violations and evidence of restitution made such as hard copies, front and back, of canceled checks or employee receipts.

1406. WITHHOLDING GRANT PAYMENTS.

In the event the sponsor, the contractor, or the subcontractor do not take prompt action to correct any labor violations, the sponsor shall be informed that the amount of the underpayments will be withheld from the next partial payment, and all further payments may be suspended pending satisfactory correction of the violations. There may be instances where the violation is not discovered or the amount

of underpayment determined until after the construction work on the project has been completed. The project may be reopened and payment made in the amount of the restitution from whatever funds are then available. If any payment is to be withheld for more than 180 days, see chapter 13.

1407. ACTION ON INVESTIGATION REPORTS.

Final reports shall include a definite determination as to whether the violations were willful or nonwillful. If the violation was willful, a recommendation should be made whether the contractor or subcontractor should be placed on the list of ineligible contractors as contemplated by 29 CFR Part 5.

a. Where underpayments total less than $1000 and are nonwillful and satisfactory correction has been effected, no report need be made either to the U.S. Department of Labor or the FAA headquarters, except where the investigation was made at the request of the U.S. Department of Labor. In the latter case, the appropriate FAA Airports Office should write a letter to the U.S. Department of Labor summarizing the violations found, the number of employees involved, the amount of any restitution paid, the liquidated damages assessed, the reason why the violations are deemed to be nonwillful and recommending that the file be closed.

b. Where underpayments total less than $1000 and are nonwillful and where satisfactory restitution has not been made because of inability of the contractor to locate the employees involved after a reasonable effort, a letter shall be written to the U.S. Department of Labor with a recommendation that the file be closed. In addition, the letter should state the efforts made by the contractor, the sponsor, and the FAA to locate the employees involved.

c. Where underpayments total $1000 or more, or are willful, a copy of the investigation report, together with other information and data on which the determination that the violations are willful is based shall be furnished the U.S. Department of Labor except in those cases where a recommendation is made to place the contractor or subcontractor on the debarred bidders list. In the latter case, the recommendation to place the contractor or subcontractor on the list of ineligible contractors shall be sent to APP-500 for concurrence.

1408. DEPARTMENT OF LABOR INVESTIGATIONS.

The United States Department of Labor has the authority to make investigations as deemed desirable to obtain compliance with the Labor provisions. FAA personnel, contractors, and sponsors should cooperate in such investigations.

a. Department of Labor Request for Investigations. Because of an understanding between the FAA and DOL, complaints may be forwarded directly from DOL to the FAA regional office for investigation and corrective action.

b. Joint Investigations. When desirable, due to unusual or complex circumstances, the FAA regional office may participate in a joint investigation with the DOL.

1409. LIQUIDATED DAMAGES UNDER THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.

a. Liquidated Damages. The CWHSSA provides that the governmental agency to which the financial assistance for the work is provided may withhold or cause to be withheld from any monies payable on account of work performed by a (sub) contractor. Such sums may be determined administratively to be necessary to satisfy any liabilities of such (sub) contractor for unpaid wages and liquidated damages. Since the act uses the word “may", the FAA has the option of determining whether or not Federal funds will be withheld from the sponsor for unpaid wages and liquidated damages. For example, if there is an unintentional violation and the contractor, upon notice, corrects the action, it will not be necessary for the FAA to withhold such funds and report the violation. If, on the other hand, the contractor intentionally fails to correct the violation or disputes the same, then the FAA should withhold an amount representing unpaid wages and liquidated damages in order that the Comptroller General will

have a fund to pay wages due the contractor's laborers and mechanics in the event it is determined they are due these funds. If funds are to be withheld for more than 180 days, see Chapter 13.

b. Enforcement Procedures. The CWHSSA provides that Reorganization Plan Number 14 of 1950, as amended, shall be applicable with respect to the provisions of this Act. This Plan authorizes the Secretary of Labor to prescribe appropriate standards, regulations and procedures to be observed by the Federal agencies administering the labor standards provisions of various designated Acts, including the CWHSSA, as amended. The plan also authorizes the Secretary of Labor to cause such investigations to be made by DOL with respect to compliance with and enforcement of such standards, as he deems desirable. 29 CFR Part 5 covers the enforcement procedures applicable to the provisions of the Act. These enforcement procedures are summarized as follows:

(1) Findings and Recommendations of the FAA. Whenever the FAA finds that the sum of the liquidated damages administratively determined to be due under the CWHSSA is incorrect or that the contractor or subcontractor inadvertently violated the provisions of the CWHSSA, notwithstanding the exercise of due care:

(a) In Excess of $500. If the amount of the liquidated damages is in excess of $500, a recommendation may be made to the Secretary of Labor that an appropriate adjustment in liquidated damages will be made or that the contractors or subcontractors will be relieved of liability for such liquidated damages. Such findings with respect to liquidated damages necessarily include findings with respect to any wage underpayments for which liquidated damages are determined.

(b) $500 or Less. If the amount of liquidated damages is $500 or less, an appropriate adjustment may be made or the (sub) contractor may be relieved of the liability of such damages without submitting recommendations or a report to the Department of Labor.

(2) Findings by the Department of Labor. The recommendations of the FAA, submitted to the Department of Labor under Subparagraph (1) above, are reviewed initially by the appropriate office of DOL. Whenever DOL concurs in the findings and recommendations of the FAA, an order will be issued to that effect. If, however, DOL does not concur with the findings and recommendations of the FAA, the matter is transmitted to the second review level in DOL. The decision and order of the second level review with respect to the issues involved is their final action.

c. Limitations, Variances, and Tolerances. Upon the request of any Federal agency or upon his/her own initiative, the Secretary of Labor may provide, under the CWHSSA, reasonable limitations and allow variations, tolerances and exemptions to and from any or all provisions of that Act whenever the Secretary finds such action to be necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment of the conduct of Government business. Any request for such action by the Secretary shall be submitted in writing and shall set forth the reasons for which the request is made.

1410. - 1419. RESERVED.

Section 2. ENFORCEMENT OF CIVIL RIGHTS REQUIREMENTS

1420. GENERAL.

1421. THE CIVIL RIGHTS REQUIREMENTS WITH WHICH SPONSORS, CONTRACTORS, AND SUBCONTRACTORS MUST COMPLY.

The requirements are described in various documents issued by the FAA, the Office of the Secretary, or the President as set out in the following paragraphs of this section. The clauses required by various laws and regulations to be included in contracts, subcontracts, leases, etc., are found in the documents listed in the following paragraphs of this section and appropriate appendices of the AC. Therefore, the documents cited in the following paragraphs of this section should be used as a

companion documents in this area. It is the responsibility of the FAA Airports Offices to ensure the appropriate clauses are inserted into the grants and with respect to Executive Order 11246 (Equal Employment Opportunity), into contracts. The FAA Airports Offices are responsible for reporting to the Assistant Administrator for Civil Rights Staff any information indicating a possible failure to comply with Title II of the ADA or Section 504 of the rehabilitation Act of 1973. The Regional Civil Rights Staffs are responsible for ensuring that appropriate clauses are inserted into contracts for all other authorities listed below. The headquarters Office of Civil Rights (ACR) and the Regional Civil Rights Staffs are responsible for conducting investigations of discrimination complaints and for conducting periodic compliance reviews. The Department of Labor is responsible for enforcing the requirements under Executive Order 11246, as amended, discussed in Paragraph 1424. In all enforcement procedures, FAA's action is with respect to the sponsor, who may be required to take action against an activity in order to enforce a DOT finding. Title VI of the Civil Rights Act of 1964.

Title VI states that "no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." These requirements are primarily concerned with discrimination in service to the public. To implement the requirements of Title VI, the Department of Transportation (DOT) issued Title 49 CFR, Part 21, Nondiscrimination in Federally assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.

a. Standard DOT Title VI Assurance. Beginning in October 1984, the first grant issued to a sponsor to construct a facility (including runways, taxiways, aprons, etc.) or to purchase land must include the DOT Title VI Assurance, which includes clauses for contracts and subcontracts and requirements for deeds, licenses, leases, permits, or similar instruments. All grants must have the Standard DOT Title VI Assurances attached to the grant agreement. Acceptance of the grant agreement constitutes acceptance of the Title VI Assurances and a signature on the assurances themselves is not required.

(1) Duration. This assurance obligates the sponsor for the period during which the financial assistance is extended to the program, except where personal or real property is involved. In that case, a sponsor is obligated for the longer of:

(a) The period the property is used for the purpose for which the financial assistance was extended, or for another similar purpose; or

(b) For as long as the sponsor retains ownership or possession of the property.

(2) Property Acquisition or Improvement. When real property is acquired or improved with Federal funds, the sponsor must agree to include Title VI covenants in any subsequent deed, license, lease, permit, or other agreement pertaining to the property.

(3) Reverter Clauses. The appropriate clauses of Attachment 2 in Appendix 11 need to be inserted as a covenant running with the land, in any future deeds, leases, permits, and similar agreements entered into by the recipient with other parties for the subsequent transfer of real property acquired or improved under a Federal financial assistance program of the FAA and for the construction or use of or access to space on, over or under real property acquired or improved under the Federal financial assistance program of the FAA. A reverter clause gives the sponsor the right to reclaim property titled to a third party if the party fails to comply with conditions, assurances, and covenants in the agreement established under Title VI. When real property is acquired or improved with Federal funds, the FAA must make a determination whether the sponsor will be required to use reverter clauses in subsequent transfers or other agreements pertaining to the property. In the case where land is acquired in a noise mitigation program that contains Federal funds and subsequently sold for a compatible land use, a reverter clause would not normally be required. If however, the sponsor chooses to lease the land for a compatible land use, and the lessee provides a service to the general public, a

clause terminating the lease for non-compliance with the Title VI assurances, covenants and conditions should be inserted into the lease. This would allow the sponsor to recover the property where violations of the Title VI assurances by the leaseholder are committed. The FAA will require use of these clauses on a case-by-case basis considering the past civil rights record of the sponsor. Insertion of the reverter clauses in a grant agreement binds the sponsor to use the clauses in all-future deeds, leases, licenses, permits, and similar agreements in which the land was originally acquired with or improved under a financial assistance program of the FAA. (See Appendix 15.)

b. Enforcement of Title VI. Regional Civil Rights Offices are responsible for conducting compliance reviews and investigating complaints of violations. Any complaint received alleging discrimination under Title VI should be referred to the Regional Civil Rights Office for processing. (See Draft Order 1400.11 for further guidance). FAA Airports Offices should cooperate fully in the agency's attempt at informal resolution. If informal resolution is not successful, the FAA Airports Office may be told to suspend, terminate, or refuse to grant in accordance with Title 49 CFR, Part 21.

1422. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PROGRAM.

All sponsors are required, as a condition of project approval, to assume certain DBE obligations as set forth in Title 49 CFR, Parts 23 and 26. Complaints alleging discrimination under the DBE program should be referred to the Regional Civil Rights offices. Further technical assistance with respect to the DBE contracting program is available on DOT's website at:
http://osdbuweb.dot.gov/business/dbe/index.html

a. Department of Transportation (DOT) regulation Title 49 CFR, Part 26 requires sponsors anticipating awarding more than $250,000 in prime contracts in Federal funds during a Federal fiscal year to implement a DBE program (Section 26.21(a)(3)). Prime contracts are those for construction, professional services, and equipment. Contracts solely for the purchase of land, however, are not "DOT-assisted contracts" under the definition of Section 26.5 and thus, are excluded. Although a land purchase is not a "DOT-assisted contract", all other contracts let under land acquisition projects, including those for real estate survey or appraisal, are covered by the definition.

b. Multiple Contracts in a Single Fiscal Year. Include all covered contracts in the Federal fiscal year, regardless of the date of the grant agreement funding them. Under the AIP, a sponsor may award prime contracts during a fiscal year from grants executed in a previous year, the current year, and a future year. Also, certain project formulation costs incurred prior to grant agreement that may qualify for reimbursement must be included in the Federal fiscal year contracts.

c. Sponsors that Own or Operate more than One Airport. For these sponsors obligations are determined on the basis of the total funds placed under contract at all locations in a Federal fiscal year.

d. Multi-Year Grants. In a multi-year grant, the FAA agrees to commit the sponsor's future year entitlement funds to the project. The initial grant offer contains a current year obligation as well as the total Federal share of the estimated project cost. The total estimated project cost rather than the current year obligation is used in determining obligations under Title 49 CFR, Part 26.

e. State Block Grant Program. States participating in this program receive block grants for airport master planning and development projects at eligible nonprimary airports in the state.

(1) The states are considered "primary recipients" (sponsors) as defined in Title 49 CFR, Part 26. If the State anticipates that the total value of all prime contract awards made during a Federal fiscal year by all nonprimary airports will exceed $250,000 in Federal funds, all such awards are covered by the DBE program requirement, regardless of the awards made available to individual sub recipients (sub sponsors).

(2) Under the "lead agency concept," a sponsor receiving funds from more than one DOT operating administration (OA) submits its revised program to only one OA. This OA, known as the "lead agency", coordinates its review with the other OA's involved. The lead agency for state departments of transportation is generally the Federal Highway Administration (FHWA) since it generally provides more funds to these recipients (sponsors) than does FAA or the Federal Transit Administration (FTA). Thus, a state block sponsor will generally submit its DBE program to the responsible FHWA official.

(3) However, the state should submit its goal(s) for projects funded by the block grant to the responsible FAA Regional Civil Rights Officer. In accordance with Section 26.45(e)(2), the state may submit a single overall goal for contracts funded by the grant (and any other FAA grants) during the forthcoming fiscal year or, subject to FAA approval; it may submit separate overall goals covering one or more projects. If a single goal is used, the supporting methodology must reflect any variations in the availability of DBE's by project location.

(4) If a nonprimary airport recipient under the state block grant program also receives funding directly from the FAA, the sponsor must submit a DBE program (or updated goal, if a program has previously been implemented) to FAA for review when it anticipates awarding more than $250,000 in prime contracts in Federal funds during a Federal fiscal year. The DBE program, including the overall goal, should address only the funds received directly from FAA, not the funds received from the state under the block grant program.

f. State Departments of Transportation as Contracting Agents. In some cases, the state department of transportation serves as the contracting agent for individual airports. The airport, as sponsor, is responsible for satisfying all requirements levied pursuant to Title 49 CFR, Part 26. If the state is not the sponsor, the airport is responsible for ensuring that the state provides FAA with required programs and goals and implements other required steps.

g. Scope of Requirements. Contracts awarded by a sponsor which are not funded by an AIP grant are not subject to the provisions of Title 49 CFR, Part 26.3(d).

h. Contracts not Covered by DBE Program Requirements. A contract that is not subject to the DBE program requirements must comply with other provisions. These include title 49 CFR, Part 26.7(a) and certain provisions of Title 49 CFR, Part 26.13.

i. Force Account. A DBE program is required only when the sponsor will award contracts from the covered grant.

(1) A sponsor that will accomplish all work under a project with its own personnel or the personnel of another public agency, rather than by contracting, is not required to implement a DBE program. Procedures and requirements for accomplishing work by this means (known as "force account") are outlined in Chapter 10.

(2) A related situation occurs when DOT-assisted contracts will be let from a grant requiring a DBE program, but a portion of the project will be accomplished by force account. In this case, the overall goal is based only on the contracts to be awarded, while the funds expended in force account are excluded from the goal-setting process.

1423. SECTION 47123 OF THE ACT.

a. Section 47123. Section 47123 of the Act concerns nondiscrimination and affirmative action. The DBE requirements for AIP were implemented through the departmental regulation, Title 49 CFR, Part 26. The concession requirements are contained in Title 49 CFR, Part 23. Benefits and public service requirements are handled through the Title VI and 14 CFR Part 21 regulations. Additional guidance may be found in Draft Order 1400.11, issued by the FAA Civil Rights office.

b. Enforcement of Section 47123. Any complaint alleging discrimination in employment practices under Section 47123 is to be directed to the regional Civil Rights office. From there, the complaint will be transferred to the Departmental Office of Civil Rights and on to the Equal Employment Opportunity Commission (EEOC). If it involves a class complaint, the complaint will be investigated by DOT/FAA Civil Rights office, as appropriate.

1424. EXECUTIVE ORDER (E.O.) 11246.

a. Purpose of E.O. 11246. The purpose of E.O. 11246 is to promote and ensure equal opportunity for all persons, without regard to race, color, religion, sex or national origin, employed or seeking employment with contractors performing under Federally assisted construction contracts in excess of $10,000. This Order, which authorizes the Secretary of Labor to adopt such rules and regulations as necessary to achieve the purpose of the Executive Order, was amended by Executive Orders 11375 and 12086. E.O. 11375 provides for equal opportunity on the basis of merit without discrimination because of sex. E.O. 12086 transfers the compliance functions to the Secretary of Labor. The rules and regulations adopted by DOL to implement this E.O. can be found in 41 CFR Part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.

b. Responsibility of FAA. The FAA is responsible for ensuring the necessary clauses required by 41 CFR Part 60 are included in appropriate grants, appropriate bid specifications, and construction contracts in excess of $10,000. (See AC 150/5100-15, Section 3.)

c. Enforcement of E.O. 11246. Enforcement of the requirements of E.O. 11246 is the responsibility of the Department of Labor (See 41 CFR Part 60-1, Subpart B, for General Enforcement, and 41 CFR Part 60-30 for Administrative Procedures Requirements).

(1) Complaints. Complaints may be filed with the Office of Federal Contract Compliance Programs (OFCCP), 200 Constitution Ave., NW, Washington, D.C. 20210, or with any regional OFCCP office. (See 41 CFR 60-1.23 for contents of complaints.)

(2) Sanctions/Penalties. A sponsor must carry out such sanctions and penalties for violation of the Equal Employment Opportunity clause as may be imposed on contractors and subcontractors by the Department of Labor based on Part II, Subpart D of the Executive Order. If the sponsor fails or refuses to comply, the FAA may terminate, or suspend in whole or in part, any contractual arrangement it may have with the sponsor. The FAA may also, refrain from extending any further assistance under any of its programs subject to the executive order until satisfactory assurance of future compliance has been received from the sponsor, or may refer the case to the Department of Justice for legal proceedings.

d. Other Areas of Discrimination.

e. Employee Selection. Guidelines on employee selection are contained in 41 CFR Part 60-3.

f. Sex Discrimination. Complete details on nondiscrimination requirements are contained in 41 CFR Part 60-20.

g. Discrimination Because of Religion or National Origin. Guidelines are found in 41 CFR Part 60-50.

1425. REHABILITATION ACT OF 1973 (P.L. 93.112).

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against any qualified individual with a disability solely by reason of his/her disability in any program or activity receiving Federal financial assistance or under any federally conducted program or activity. Sponsors subject to 49 CFR part 27 must also comply with the applicable provisions of the ADA. Compliance with 49 CFR part 27 does not relieve them of that responsibility.

a. DOT Regulation Title 49 CFR, Part 27. This regulation implements Section 504 and sets out detailed requirements for grantees under Federal financial assistance programs. The rule prohibits employment discrimination and requires sponsors to make reasonable accommodations to the disabilities of otherwise qualified employees. In addition, sponsors are required to make their existing and future facilities and programs accessible to disabled persons by providing specific equipment to accommodate them. Sponsors are not required to make structural changes to their facilities constructed prior to July 26, 1992, unless other methods are not effective. Other methods may include redesign of equipment, reassignment of services to accessible buildings, delivery of services at accessible facilities, or any other methods that result in accessibility. Sponsors must give priority to the method that provides the most integrated setting appropriate for persons with disabilities (title 28 CFR, Part 35.130(d)). In addition, public airports must make reasonable modifications to its policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the airport can demonstrate that the modifications would fundamentally alter the nature of the service, program, or activity (title 28 CFR, Part 35.130(b)(7)). A sponsor is not required to take any action that will result in a fundamental alteration in the nature of a service, program, or activity or would result in undue financial and administrative burdens. Specific equipment that is not part of the real property (telephones, teletypewriters, etc.) is not eligible under present legislation. The design and construction of new buildings and the alterations and the necessary structural modifications to existing buildings must comply with accessibility standards under Title II and Section 504.

b. Responsibility of FAA. Transition plans are the airport's specific plans to make structural modifications to existing buildings where necessary to meet accessibility standards. All airports under Section 504 were required to submit a transition to the FAA for approval "where extensive structural changes" were necessary. All the remaining airport sponsors who had not previously submitted a plan to the FAA were to have done so by March 3, 1997, (Title 49 CFR, Part 27.71(g)). The regional civil rights staff is responsible for reviewing plans and specifications for compliance with Section 504 accessibility. The regional Civil Rights staff is also responsible for conducting investigation of complaints filed under Section 504 and conducting compliance reviews.

c. Enforcement of Title 49 CFR, Part 27. If informal resolution is not successful, the FAA Airports Office may be told to suspend, terminate, or refuse to grant in accordance with Title 49 CFR, Part 27. See 49 CFR 27.125 and Chapter 11, Section 6.

1426. AIRCRAFT AND AIR CARRIER FACILITY ACCESSIBILITY.

Although OST, rather than FAA, enforces the Air Carrier Access Act (ACAA), Section 504 does place some responsibility for access to small aircraft on the airport sponsor. If that airport sponsor's personnel are involved in providing boarding assistance, the sponsor must ensure that they are trained to proficiency in the use of the boarding assistance equipment used at the airport and appropriate boarding assistance procedures that safeguard the safety and dignity of passengers (Title 49 CFR, Part 27.72(e)).

At an airport having 10,000 or more annual enplanements, a sponsor, in cooperation with carriers serving the airport, must provide to individuals with disabilities boarding assistance using mechanical lifts, ramps, or other devices that do not require employees to lift or carry passengers up stairs (Title 49 CFR, Part 27.72(b)). These sponsors must also negotiate in good faith with each carrier serving the airport concerning the acquisition and use of such boarding assistance devices. The Sponsor must sign a written agreement with each carrier serving the airport for certain aircraft that have a capacity from 19 to 30 seats. The agreement must address respective responsibilities for providing boarding assistance to individuals with disabilities using mechanical lifts, ramps, or other devices that do not require employees to lift or carry passengers up stairs. The agreement must have been signed by September 2, 1997 (Title 49 CFR, Part 27.72(c)).

1427. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990.

The ADA protects individuals from discrimination based on disability regardless of whether they are seeking employment or access to services from a public or private entity or from an agency that receives federal financial assistance. The ADA has five separate titles. This discussion briefly covers the FAA's responsibilities to enforce Title II. A more detailed treatment of the ADA requirements with which sponsors must comply are contained in AC 150/5360-14, Access to Airports by Individuals with Disabilities. Also, AC 150/5220-21, Guide Specification for Devices used to Board Airline Passengers with Mobility Impairments, and Order 1400.9, Americans with Disabilities Act and Rehabilitation Act Operating Procedures, may provide additional guidance.

Title II prohibits discrimination on the basis of disability by public entities and applies to all services, programs, or activities made available by a public entity, regardless of whether it receives federal financial assistance. The DOT and FAA have jurisdiction over public airports, including those, which do not receive federal grant funds. The DOT has delegated authority to the modal administrations to conduct compliance reviews and other enforcement activities.

1428. - 1499. RESERVED.

Appendices

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Appendix 1. NON-ALLOWABLE ITEMS (1 PAGE)

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Appendix 2. RESERVED (1 PAGE)

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Appendix 3. STANDARD FORM 424 (2 PAGES)

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Appendix 4. PART II – PROJECT APPROVAL INFORMATION (FAA FORM 5100-100)

(DEVELOPMENT PROJECTS) (10 PAGES)

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Appendix 5. Project Approval Information (FAA Form 5100-101) (Planning Projects) (8 pages)

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Appendix 6. GRANT AGREEMENT (FAA FORM 5100-37) (3 PAGES)

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Appendix 7. GRANT SPECIAL CONDITIONS (6 PAGES)

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Appendix 8. PROJECT EVALUATION REVIEW AND DEVELOPMENT ANALYSIS CHECKLIST (FAA FORM 5100-109) (1 PAGE)

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Appendix 9. Construction Progress and Inspection Report (FAA Form 5370-1) (2 pages)

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Appendix 10. AIP FINAL INSPECTION REPORT (FAA FORM 5100-17) (1 PAGE)

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Appendix 11. TITLE VI REVERTER CLAUSES (1 PAGE)

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Appendix 12. Labor Standards Interview and Summary of Labor Standards Investigation Reports (Forms DOT F 4220.5 and 4220.6) (2 Pages)

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Appendix 13. EXAMPLES OF INCREASING MAXIMUM OBLIGATION (4 PAGES)

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Appendix 14. GRANT AMENDMENT (FAA FORM 5100-38) (2 PAGES)

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Appendix 15. INFORMAL LETTER AMENDMENT (2 PAGES)

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Appendix 16. ENTITLEMENT TRANSFER AGREEMENT (FAA FORM 5100-110) (1 PAGE)

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Appendix 17. MULTI-YEAR LETTER AMENDMENT (SUGGESTED TEXT) (1 PAGE)

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Appendix 18. FEDERAL CASH TRANSACTIONS REPORT (SF 272) (3 PAGES)

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Appendix 19. REQUEST FOR ADVANCE OR REIMBURSEMENT (SF 270) (2 PAGES)

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Appendix 20. Outlay Report and Request for Reimbursement for Construction Programs (SF 271) (2 pages)

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Appendix 21. LETTER OF INTENT AND AMENDMENT
(3 PAGES)

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Appendix 22. AGREEMENT ON STATE SPONSORSHIP AND AIRPORT SPONSOR OBLIGATIONS (2 PAGES)

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Appendix 23. ADJUSTMENTS OF FEDERAL SHARES AT CERTAIN AIRPORTS (1 PAGE)

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Appendix 24. RESERVED (1 PAGE)

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Appendix 25. STANDARD SPONSOR CERTIFICATION FORMS (12 PAGES)

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Appendix 26. BLOCK GRANT APPLICATION (1 PAGE)

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Appendix 27. BLOCK GRANT AGREEMENT (4 PAGES)

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Appendix 28. AIP Grant Status Report
(FAA Form 5100-107 - Electronic Version) (1 Page)

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Appendix 29. FINANCE TEMPLATE FOR LOI APPLICANTS (1 PAGE)

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Appendix 30. Obligations in Block Grant Suspension or Termination (1 Page)

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