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U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

800 Independence Ave., S.W.  
Washington, D.C. 20591

## Memorandum

**To:** File on City of Chicago's Application for Letter of Intent (LOI)

**From:** Financial Analysis and PFC Branch Manager

**Re:** LOI Application Review

**Date:** September 27, 2005

The FAA Office of Airport Planning and Programming (APP) evaluated the City of Chicago's application for a \$300 Million Letter of Intent (LOI) for the O'Hare Modernization Program (OMP)-Phase One. The decision to award the LOI to the City was taken with full consideration of the notice entitled *Factors Affecting Award of AIP Discretionary Funding*, 64 Fed. Reg. 31031, June 9, 1999. The notice states it is the intent of the FAA to generally withhold AIP discretionary funding to those airports requesting such funding that are being investigated by the FAA for misuse of airport generated revenue. APP concluded that the pending investigation by the FAA Office of Safety and Standards (AAS) of the City of Chicago for alleged revenue diversion totaling approximately \$3 million for work performed at Meigs Field did not warrant withholding AIP discretionary funding to the City of Chicago at this time for the reasons summarized below.

In the analysis supporting the \$300 million LOI, we explain how O'Hare, a transportation hub, plays a significant role in the National Air Transportation System and how the OMP Phase 1 project provides significant capability to handle additional aviation activity with a concurrent reduction in annual delays. Reducing delays at O'Hare is vital to enhancing the capacity of the NAS.

The revenue use investigation, on the other hand, is focused narrowly on the alleged misuse of approximately \$3 million in City funds from the City airport fund instead of the general fund to pay for non-airport expenses. The end result of the \$300 million LOI would be to contribute to the Phase 1 Project and the resulting increase in capacity at O'Hare and the NAS, while that of the revenue use investigation, if a violation is established, would be to require transfer of approximately \$3 million from one City account to another with interest.

The guidance in question is more applicable to individual grant decisions when the scale of the revenue use at issue, as here, is more of the magnitude of an individual grant rather than a multi-year LOI. There are sufficient means available to compel the City's compliance preferable to withholding the \$300 million LOI if a finding is made that the City diverted \$3 million of airport revenue. Further, the guidance on its face applies generally and offers flexibility when other measures are available to ensure airport sponsors compliance with the revenue use statutes. Here the LOI may be awarded to the City and the revenue use investigation pursued vigorously without apparent conflict.

APP will continue to monitor the status of the revenue use investigation and review the findings by AAS once issued, to determine if the circumstances warrant withholding AIP discretionary funding at a later time.



Joe Hebert