Appendix E-1 ► Factors Affecting Award of Airport Improvement Program (AIP) Discretionary Grants

Environmental Impact Statement (FEIS) as the preferred alternative. The FAA issued the FEIS on April 19, 1999. The FEIS analyzed two alternatives in detail. The first or No Action alternative would require physical replacement of the Baltimore and Dulles TRACONS, but would not consolidate the two facilities. The second or preferred alternative would provide full consolidation at one of two possible locations. The FEIS identified the preferred location as Vint Hill Farms.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THE RECORD OF DECISION CONTACT: Mr. Joseph Champley, Project Support Specialist, Federal Aviation Administration, (800) 762-9331, Email: jose.champley@faa.gov.

The Record of Decision can be viewed on the Internet at http://www.faa.gov/ats/tpomac.

Dated: June 2, 1999 in Washington, DC.
John Mayhew,
Director, TRACON Development Program.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Factors Affecting Award of Airport Improvement Program (AIP) Discretionary Grants

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) reiterates four factors that may militate against a decision by the FAA to award AIP discretionary funding to an airport sponsor. These factors are revenue diversion, delinquent submittions of financial reports, unsatisfactory progress on existing grant agreements, and use of AIP entitlement funds on low priority development as calculated under the FAA’s National Priority System (NPS) equation.

FOR FURTHER INFORMATION CONTACT: Mr. Barry L. Molar, Manager, Airports Financial Assistance Division, APP-500, on (202) 267-3831.

SUPPLEMENTARY INFORMATION: The FAA manages the AIP in accordance with statutory direction and agency policies and criteria. Decisions to award discretionary grants are made on the basis of a number of factors, including project evaluation under the NPS. The Congress has directed that FAA take certain additional factors into consideration. The FAA hereby provides notice and explanation of those factors, and the manner in which the FAA will consider them in making decisions on discretionary grants.

1. Improper Diversion of Airport Revenue

Airport sponsors receiving federal grants under the Airport Improvement Program (AIP) are subject to a number of statutory conditions, one of which restricts the use of airport revenue. The FAA published a notice of final policy and procedures concerning the use of airport revenues on June 30, 1994, and the Notice defines proper and improper uses of airport revenue and describes actions the FAA may take to address improper revenue use.

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. Airports qualifying under Title 49 U.S.C. 47107(b)(3) are exempted from this policy. This provision recognizes the rights of “grandfathered” airport sponsors to use airport revenues for other purposes. However, as discussed below, payments permitted under the “grandfather” provision may be considered a mitigating factor against the award of discretionary grants in certain circumstances.

General Rule

Title 49 U.S.C., Sections 47107(b) and 47139, generally requires airport revenues to be used for the capital or operating costs of the airport, the local airport system, or other facilities owned or operated by the airport sponsor and directly and substantially related to the actual air transportation of persons or property. If the FAA finds that an airport is not complying with this statute, it will provide notice and an opportunity for hearing, and the sponsor will be required to take any corrective action. Various enforcement actions are mandated or authorized. The enforcement actions affecting AIP funding that the FAA is authorized or required to take include any of the following, or combination thereof: withholding of future AIP entitlement and discretionary grants; 49 U.S.C. 47107(b), 47139(e); withholding approval of the modification of existing grant agreements that would increase the amount of AIP funds available under section 4711(e); and withholding payments under existing grants under section 4711(e).

Grandfather Provision

Under the “grandfather provision” of the revenue use requirement, sections 47107(b) and 47139(b), an airport operator may use airport revenues for local purposes other than those prescribed in sections 47107 and 47139 if a provision of law controlling the airport operator’s financial activities issued on or before September 2, 1982 or a covenant or assurance in an airport operator’s bond issue issued on or before September 2, 1982 provides for the use of airport revenues from any facility of the airport operator to support general debt obligations or other facilities of the airport operator. The statutory revenue use provisions also permit local taxes on aviation fuel to be used in effect on December 30, 1997 to be used for any local purpose.

Thus, the use of airport revenue for local purposes under these exceptions does not preclude the award of AIP grants to an airport operator. However, under 49 U.S.C. §47150(d), the FAA must, in certain circumstances, consider as a factor militating against the distribution of discretionary AIP funding, the use of airport revenue for local purposes under the “grandfather provision.” This mitigating factor applies only if the airport revenue so used in the airport’s fiscal year preceding the date of the application for discretionary funds exceeds the amount of revenues used in the airport’s fiscal year ending after August 23, 1984, and adjusted for changes in the Consumer Price Index. In addition, the airport’s failure to provide information needed by the FAA to determine whether Section 47150(d) applied to a specific grant application would prevent the FAA from making an evaluation required by Section 47150(d), and thus, would prevent the FAA from considering the application for discretionary funds.

2. Annual Financial Reports

Section 111(c) of the Federal Aviation Administration Authorization Act of 1994 (the 1994 Act) requires the Secretary of Transportation to submit to the Congress, and to make available to the public, in annual report listing in detail certain financial information regarding individual airport revenues and expenditures. The data is derived from reports by airport owners or operators, also required by Section 111(a)(19) of the 1994 Act. Under the authority of Assurance 25 of the Airport Sponsor Assurance, airport sponsors are required to submit annual reports. The FAA’s September 10, 1998, Advisory Circular (AC) titled Guide for Airport Financial Reports Fills an Airport Sponsor specifies the report format and due dates.
3. Progress on Existing Grant Agreements

As a general policy, the FAA encourages sponsors to take advantage of a project's flexibility to better align project schedules with real-world constraints. The FAA's approach to project management involves a proactive and flexible approach to accommodate changes in project scope, funding, and timelines. This approach ensures that projects are completed efficiently and effectively, while maintaining the FAA's goals and objectives.

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

Deadline for Submission of Application Under the Airport Improvement Program (AIP) for Fiscal Year 1998 for Sponsor Entitlement and Cargo Funds

SUMMARY: The Federal Aviation Administration (FAA) announces July 12, 1998, as the deadline for each airport sponsor to have on file with the FAA an acceptable fiscal year 1999 grant application for funds apportioned to it under the AIP.


SUPPLEMENTARY INFORMATION: Section 47105(b) of Title 49, United States Code, provides that the sponsor of each airport to which funds are apportioned shall notify the Secretary of the amount of the grant application submitted to the cognizant FAA office by the deadline date. For any of its available entitlement funds including those unused from prior years, shall be in the form of a project application submitted to the cognizant FAA office no later than July 12, 1999.

This notice is promulgated to expedite and prioritize grants prior to the August 6, 1999, AIP expiration date as established by Public Law 106-31 (1999 Emergency Supplemental Appropriations Act). Absent an acceptable application by July 12, 1999, FAA will defer an airport's entitlement funds until the next fiscal year. Pursuant to the authority and limitations in section 47117(g), FAA will issue discretionary grants in an aggregate amount not to exceed the aggregate amount of deferred entitlement funds.

In prior fiscal years, FAA has had sufficient program flexibility to permit sponsors to provide notice later than the deadline date, or to use entitlement funds in future fiscal years in spite of filling no notice to that effect. In FY 1999, however, FAA must make all discretionary grant awards prior to August 7, 1999, including discretionary grants of entitlement funds that are available to, but not used by, the airport sponsors to which they have been apportioned. Airport sponsors that

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