

Part V: Financial Responsibilities

Chapter 15. Permitted and Prohibited Uses of Airport Revenue

15.1 Introduction.

This chapter discusses the sponsor's use of airport revenue. It supplements, but does not supersede, the guidance issued in FAA's *Policy and Procedures Concerning the Use of Airport Revenue*, 64 Fed. Reg. 7696 (February 16, 1999) ([Revenue Use Policy](#)), and subsequent updates. This chapter also discusses FAA's *Policy and Procedures Concerning the Use of Airport Revenue; Proceeds from Taxes on Aviation Fuel*, 79 Fed. Reg. 66282 (November 7, 2014) ([Aviation Fuel Tax Policy](#)); and FAA's *Policy Regarding Air Carrier Incentive Program*, 88 Fed. Reg. 85344 (December 7, 2023) ([ACIP Policy](#)).

Statutory requirements for the permitted and prohibited use of airport revenue are incorporated in the standard grant assurances and have been interpreted by the FAA and the Office of the Secretary of Transportation in policy statements and compliance decisions.

15.2 Responsibilities.

It is the responsibility of the FAA Regional Airports Divisions (Regions) and Airports District Offices (ADOs) to advise sponsors on the statutes, grant assurances, and policies that outline the permitted and prohibited uses of airport revenue, and to ensure that sponsors are not in violation of their federal obligations in the use of their airport revenue.

15.3 Statutory Requirements.

Congress placed restrictions on the use of airport revenue and further defined certain programs impacting airport revenue through the following acts:

a. Airport and Airway Improvement Act of 1982 (AAIA).

Congress first placed restrictions on the use of airport revenue in the [AAIA \(Pub. L. 97-248, Sec. 511\)](#). The AAIA established the basic principles for the use of airport revenue, which are still largely in effect today. All revenues generated by the airport, if it is a public 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 owner or operator of the airport and directly related to the actual transportation of passengers or property. See 49 U.S.C. §§ 47107(b) and 47133 for the current provision.

b. Airport and Airway Safety and Capacity Expansion Act of 1987 (1987 Airport Act).

In the [1987 Airport Act, \(Pub. L. 100-223, Sec. 109\)](#), Congress extended the restriction on the use of airport revenue to include any local taxes on aviation fuel. Consequently, taxing authorities must use the proceeds of state and local aviation fuel taxes (except taxes in effect on December 30, 1987) for airport capital and operating costs. However, the proceeds of state aviation fuel taxes may be used to support a state aviation program, and airport revenue can be used for noise mitigation on or off the airport. The AIA and the 1987 Airport Act do allow for some preexisting “nonoperating or noncapital” uses of airport revenue. The [Revenue Use Policy](#) refers to these preexisting arrangements as “grandfathered.” Sections 15.16 and 15.17 discuss requirements for grandfathered airports.

c. FAA Authorization Act of 1994 (1994 Authorization Act).

In the [1994 Authorization Act, \(Pub. L. 103-305, Sec. 110-112, codified at 49 U.S.C. § 47107\)](#), Congress (i) defined certain unlawful uses of airport revenue, (ii) required airports to be as self-sustaining as possible, and (iii) required the FAA to publish a policy on the use of airport revenue. (The self-sustaining requirement is discussed in chapter 17, *Self-sustainability*).

d. FAA Reauthorization Act of 1996 (1996 Reauthorization Act).

In the [1996 Reauthorization Act, \(Pub. L. 104-264, Secs. 149 and 804\)](#), Congress authorized an airport privatization pilot program, extended the restrictions on the uses of airport revenue to private airports that have received federal assistance and adopted a civil penalty. The provisions are codified at 49 U.S.C. §§ 47133 and 47134.

e. FAA Modernization and Reform Act of 2012 (2012 Reauthorization Act).

In the [2012 Reauthorization Act, \(Pub. L. 112-95, Sec. 813\)](#), Congress authorized the FAA to exempt airport revenue generated from mineral extraction activities in certain circumstances. This is further described in section 15.15, *Mineral Rights Revenue Exemption*.

f. FAA Reauthorization Act of 2018 (2018 Reauthorization Act).

In the [2018 Reauthorization Act, \(Pub. L. 115-254, Sec. 160\)](#), Congress renamed the Airport Privatization Pilot Program to the Airport Investment Partnership Program (AIPP) and removed the limitation on the number of participating airports. (See section 15.14, *Airport Investment Partnership Program*, and chapter 6, *Rights and Powers and Good Title*, section 6.9, for details on AIPP).

g. FAA Reauthorization Act of 2024 (2024 Reauthorization Act).

In the [2024 Reauthorization Act, \(Pub. L. 118-63, Sec. 703\)](#), Congress revised the civil penalty for airport revenue diversion to be an amount equal to double the illegal diversion in question plus interest. This revision does not apply to illegal diversion of airport revenues that occurred prior to the date of enactment of the act. In addition, Congress, in section 738, amended the AIPP program to include that the Secretary may require a benefit-cost analysis. (See section 15.14, *Airport Investment Partnership Program*, and chapter 6, *Rights and Powers and Good Title*, section 6.9, *Airport Investment Partnership Program*, for details on AIPP).

15.4 Applicable Grant Assurances.

Under the AAIA, sponsors, as a condition of receiving Airport Improvement Program (AIP) grants, must agree to [Grant Assurance 25, Airport Revenues](#), which incorporates the requirements described in the above statutory requirements.

15.5 Applicable FAA Policy.

The FAA's [Revenue Use Policy](#) implements the statutory requirements of the AAIA and above laws. In addition, the Revenue Use Policy defines airport revenue and describes the permitted and prohibited uses of airport revenue.

The FAA's *Policy and Procedures Concerning the Use of Airport Revenue: Proceeds from Taxes on Aviation Fuel*, 79 Fed. Reg. 66282 (November 7, 2014) ([Aviation Fuel Tax Policy](#)) formally adopts, through an amendment to the Revenue Use Policy, the Federal requirements for use of derived from taxes on aviation fuel.

The FAA's *Policy Regarding Air Carrier Incentive Program*, 88 Fed. Reg. 85344 (December 7, 2023) ([ACIP Policy](#)). This policy updated the FAA policy regarding incentives offered by airport sponsors to air carriers for improved air service. (See [section 15.14](#), and the ACIP Policy for more information).

15.6 Airport Revenue Defined.

Airport revenue generally includes those revenues generated by the airport, including revenue paid to or due to the airport sponsor for use of airport property by the aeronautical and nonaeronautical users of the airport. It also includes revenue from the sale of airport property and resources and revenue from state and local taxes on aviation fuel (excluding taxes on aviation fuel in effect on December 30, 1987).

a. Revenue Generated by the Airport.

Revenue generated by the airport for the aeronautical and nonaeronautical use of the airport includes, but is not limited to, the fees, charges, rents, or other payments received by or accruing to the sponsor from air carriers, tenants, concessionaires,

lessees, purchasers of airport properties, airport permit holders making use of the airport property and services, etc. (**NOTE:** Revenue generated by the tenant in the course of that tenant's business is the tenant's revenue and not airport revenue under the [Revenue Use Policy](#). The airport sponsor's revenue from that tenant's occupancy and business rights would be paid in the form of fees, rentals, lease agreement, etc.).

Additionally, the Revenue Use Policy specifies that:

...Airport revenue includes all revenue received by the sponsor for the activities of others or the transfer of rights to others relating to the airport, including revenue received:

- (1) For the right to conduct an activity on the airport or to use or occupy airport property;
- (2) For the sale, transfer, or disposition of airport real property (as specified in the applicability section of the Revenue Use Policy) not acquired with Federal assistance or personal airport property not acquired with Federal assistance, or any interest in that property, including transfer through a condemnation proceeding;
- (3) For the sale of (or sale or lease of rights in) sponsor-owned mineral, natural, or agricultural products or water to be taken from the airport; or
- (4) For the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest therein owned or controlled by the sponsor and used for an airport-related purpose but not located on the airport (*e.g.*, a downtown duty-free shop).

Revenue from sponsor activities on the airport. Airport revenue generally includes all revenue received by the sponsor for activities conducted by the sponsor itself as airport owner and operator, including revenue received:

- (1) From any activity conducted by the sponsor on airport property acquired with Federal assistance;
- (2) From any aeronautical activity conducted by the sponsor which is directly connected to a sponsor's ownership of an airport subject to 49 U.S.C. §§ 47107(b) or 47133; or
- (3) From any nonaeronautical activity conducted by the sponsor on airport property not acquired with Federal assistance, but only to the extent of the fair rental value of the airport property. The fair rental value will be based on the fair market value.

State or local taxes on aviation fuel (except taxes in effect on December 30, 1987) are considered to be airport revenue subject to the revenue-use requirement (49

U.S.C. §§ 47107(b) and 47133). However, revenues from state taxes on aviation fuel may be used to support state aviation programs. In addition, airport revenue may be used for noise mitigation purposes on or off the airport. See [Revenue Use Policy](#), Section II.B.1.a.-B.2.

b. Tax Revenue.

Taxes collected by a taxing district surrounding the airport and dedicated for support of the airport, but not derived from the use of the airport, are generally not considered airport revenue subject to the [Revenue Use Policy](#). These tax revenues should be kept separate from airport revenue accounts and may be used for purposes other than those listed in 49 U.S.C. §§ 47107(b) and 47133.

c. Parking Fines, and Other Fines and Penalties.

Parking fines and penalties result from law enforcement activity and are intended to penalize and change behavior, not as compensation for use of the airport (as is the case with rent, concession fees, aeronautical fees, and other airport revenue). Fines are assessed by an airport sponsor or another state or local jurisdiction using its police powers, not the sponsor's proprietary powers as owner of an airport. Accordingly, the FAA does not generally consider parking fines and penalties to be a revenue-producing activity. Similarly, the FAA does not consider fines or penalties from other types of law enforcement (such as fines levied for drug possession or intoxication) to constitute "airport revenue." Nor does the FAA consider fines levied for building code violations, improper food handling, or fees from city-issued permits for utility or building use to be "airport revenue." Jurisdictions are not precluded from sharing proceeds from parking fines and other fines and penalties with the airport.

d. Sale of Land Acquired with Federal Assistance.

While not considered to be airport revenue, the proceeds from the sale of land donated by the United States or acquired with federal grants must be used in accordance with the agreement between the FAA and the sponsor. Where such an agreement gives the FAA discretion, the FAA may consider the [Revenue Use Policy](#) as a relevant factor specifying the permissible use or uses of the proceeds. (See Revenue Use Policy, Section II.B.3; see also chapter 22, *Land Use Changes and Releases of Federally Acquired and Federally Conveyed Land*.)

15.7 Applicability of Airport Revenue Requirements.

The rules regarding the use of airport revenue are applicable to:

a. Public Agencies that Receive AIP Grants.

The rules on airport revenue apply to public agencies that have received an AIP grant since September 3, 1982, if the obligations of that grant were in effect on or after October 1, 1996.

b. Public Agencies that Collect Taxes on Aviation Fuel.

The rules on airport revenue apply to state or local government taxing authorities imposing taxes on sales of aviation fuel. Proceeds from taxes on the sales of aviation fuel (except for taxes in effect on December 30, 1987) imposed by a state or local government taxing authority (regardless of whether acting as an airport sponsor or non-sponsor, owner, or operator) are subject to the revenue use requirements. This requirement applies only to the proceeds of the tax collected on aviation fuel sales and not on sales of other products under the same general state or local law. These requirements apply to a new assessment or imposition of a tax on aviation fuel even if the tax could have been imposed before December 30, 1987. (See [Aviation Fuel Tax Policy](#)).

c. Any Airport that Received Federal Financial Assistance.

The rules on airport revenue apply to a public or private airport that has received federal financial assistance (as defined in section 15.8) and the federal obligations for use of airport revenue incurred as a result of that assistance were in effect on or after October 1, 1996.

15.8 Federal Financial Assistance.

Federal financial assistance¹ includes the following:

- (1) AIP development grants and other grants issued under predecessor or subsequent programs.

¹ In 31 U.S.C. § 7501, federal financial assistance is defined as: "...assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director." See also 2 CFR § 200.1, *Definitions*.

- (2) Airport planning grants that relate to a specific airport.
- (3) Aircraft noise mitigation grants received by an airport operator.
- (4) The transfer of federal property under the Surplus Property Act; as amended, 49 U.S.C. §§ 47151-47153.
- (5) The transfer of federal nonsurplus property under deeds of conveyance issued under section 16 of the Federal Airport Act of 1946 (1946 Airport Act), under section 23 of the Airport and Airway Development Act of 1970 (1970 Airport Act), or under section 516 of the AAIA, as amended, codified at 49 U.S.C. § 47125.
- (6) AP-4 Agreements.
- (7) Lease agreements between the Federal government and the airport sponsor.

15.9 Permitted Uses of Airport Revenue.

a. General.

Sponsors may use their airport revenue for the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

Such costs may include reimbursements to a state or local agency for the costs of services actually received and documented, subject to the terms of the [Revenue Use Policy](#). Operating costs for an airport may be both direct and indirect, and may include all of the expenses and costs that are recognized under the generally accepted accounting principles and practices that apply to the airport enterprise funds of state and local government entities.

b. Promotion of the Airport.

Sponsors may use their airport revenue to promote public and industry awareness of the airport's facilities and services. Airport revenue may be used to promote new air service and competition at the airport, but it may not directly subsidize air carrier operations. The [Revenue Use Policy](#) distinguishes between subsidizing air carriers and the waiver of fees as incentives. (See Revenue Use Policy, and [Policy Regarding Air Carrier Incentive Program](#)).

A sponsor may use its revenue to pay the salary and expenses of airport or sponsor employees engaged in efforts to promote air service at the airport. In addition, the sponsor may support promotional events, such as a Super Bowl hospitality tent for corporate aircraft at a sponsor-owned general aircraft terminal. The sponsor may use airport revenue to pay for promotional items bearing airport logos distributed at various aviation industry events. The Revenue Use Policy does not prohibit a sponsor from

spending airport revenue from one airport for promotion of another airport within that sponsor's airport system.

A share of promotional expenses, which may include local or regional marketing efforts, advertising, and related activities designed to increase travel using the airport, to the extent the airport share of the promotional materials or efforts meets the requirements of the [Revenue Use Policy](#) and includes specific information about the airport. (See Revenue Use Policy , Section V.A.3. *Permitted Uses of Airport Revenue*).

c. Airport/Airline Advertising of Existing Service.

In some cases, cooperative airport/airline advertising of air services may be permissible, but the portions paid by the airport must showcase facilities and services offered by the airport and avoid unjust discrimination in providing access to the airport. This type of marketing may be difficult to carry out because of the potential for promoting one airline over another. For example, if an airport engaged in joint marketing with a particular carrier for an existing airline service and did not offer the same opportunity to other carriers, this arrangement could be construed as unjust discrimination in violation of [Grant Assurance 22, Economic Non-Discrimination](#).

d. Repayment of the Sponsor.

Airport revenue may be used to repay the airport owner or sponsor for funds contributed by such airport owner or sponsor for capital and operating costs of the airport and not already reimbursed. An airport owner or sponsor can seek reimbursement of contributed funds only if the request is made within six (6) years of the date on which the expense is incurred or contribution made. (See 49 U.S.C. § 47107(k)(5)). Reimbursements for capital and operating costs of the airport made by sponsor must meet the standard of documentation and must be supported by adequate documentary evidence. (See [Revenue Use Policy](#), Section V.C. *Standard of Documentation for the Reimbursement to Government Entities of Costs of Services and Contributions Provided to Airports*).

If the contribution was a loan to the airport, and structured and documented as an interest-bearing loan at the time the transfer was made, the sponsor may repay the loan principal and interest from airport funds. Loans may be repaid over an extended period of time exceeding six years. The interest rate of the loan may not exceed the interest rate on the sponsor's other investments at the time of the contribution.

For other contributions to the airport, the sponsor may seek reimbursement of interest only if the FAA determines that the airport owes the sponsor funds as a result of activities conducted by the sponsor or expenditures by the sponsor for the benefit of the airport. The FAA determines the date from which the airport may commence payment of

interest. The interest that the airport may pay for the other contributions is limited to the U.S. Treasury investment interest rate. (See 49 U.S.C. § 47107(n) and (o)).

e. Lobbying and Attorney Fees.

A sponsor may use airport revenue to pay lobbying and attorney fees to the extent these fees are for services in support of airport capital or operating costs that are otherwise allowable.

f. Costs Incurred by Government Officials.

A sponsor may pay for costs that government officials incur on the airport's behalf. For example, the cost of travel for city council members to meet with FAA officials about AIP funding is an allowable use of airport revenue.

g. General Government Costs.

A sponsor may pay for a portion of the general costs of government, including executive offices and the legislative branches, provided the sponsor allocates such costs to the airport in accordance with an acceptable cost allocation plan. The FAA may require special scrutiny of allocated costs to assure that the airport is not paying a disproportionate share.

h. Central Service Costs.

A sponsor may use airport revenue to pay for costs such as accounting, budgeting, data processing, procurement, legal services, disbursing, and payroll services that it bills to the airport through an acceptable cost allocation plan. The [Revenue Use Policy](#) and applicable sections of [2 CFR part 200, subpart E, Cost Principles](#)² are our references for evaluating sponsor cost allocation plans. Such costs must meet the standard of being airport capital or operating costs. The allocation of these costs may require special scrutiny to assure that the airport is not paying a disproportionate share of these costs.

² 2 CFR part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon state and local governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code. Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

i. Community Activities.

A sponsor may use airport revenue to support community activities and to participate in community events if such expenditures are directly and substantially related to the operation of the airport. For example, it may purchase tickets for an annual community luncheon at which the airport director delivers a speech reviewing the state of the airport. The airport sponsor may also contribute to a golf tournament sponsored by a "friends of the airport" committee.

The FAA also recognizes that contributions for community or charitable purposes can provide a direct benefit to the airport through enhanced community acceptance and that a benefit of that nature is intangible and not quantifiable. Consequently, where the amount of contribution is minimal, the FAA will not question the value of the benefit so long as there is a reasonable connection between the recipient organization and the benefit of local community acceptance for the airport. An example of a permitted expenditure in this category is a \$250 fee for a booth focusing on the operation of the airport and career opportunities in aviation at a local school fair.

j. Ground Access Projects.

It is the policy of the United States to encourage the development of intermodal connections on airport property between aeronautical and other transportation modes and systems to serve air transportation passengers and cargo efficiently and effectively and promote economic development. (See 49 U.S.C. § 47101(a)(6)). Consistent with this policy, a sponsor may use airport revenue to pay for the airport's share of a ground access project if: (1) if the project qualifies as an integral part of an airport capital project, and (2) if the project is owned or operated by the sponsor and is directly and substantially related to the air transportation of passengers or property.

(1) Airport Capital Project. An example of an airport capital project would be the construction of an airport transit station incorporated into a new airport passenger terminal to provide direct transit access to the airport terminal building. The station must be designed and intended exclusively for airport ground access and is effectively part of the terminal building.

(2) Other Facilities Directly and Substantially Related to Air Transportation. A facility may extend for a distance off airport property or be used in part by nonairport passengers. Such cases can be complex, and a three-part analysis should be applied:

First, is the facility owned or operated by the airport sponsor?

Second, is the facility directly and substantially related to air transportation?

The facility must be a primary means of ground access to the airport even if the facility will not be used exclusively by airport passengers, employees, and

visitors. The facility must be designed and intended for airport use even if others will also make use of it once the project is built. Airport funding is limited to the portion (road or rail line) from the airport to the nearest line of mass capacity, typically a highway or rail line adjacent to or close to the airport boundary. City streets and local highways may be used by passengers on the way to the airport, but they are not designed or intended for airport access and are not directly and substantially related to air transportation.

Third, is the airport contribution prorated to the forecast use of the facility? If 50% of the passengers on a transit line with a stop at the airport will be airport passengers, then the airport can contribute up to 50% of the cost of the rail line across airport property. For example, where a transit line was designed to run through airport property in order to provide an airport station, the FAA has approved the use of airport revenue for 100% of the actual costs incurred for structures and equipment associated with the airport terminal building station, as well as for a portion of the costs of the rail line through the airport, prorated for the percentage of airport passengers using the system in relation to total transit passengers using that segment of the line.

The FAA reviews the permissibility of using airport revenue for a ground access project on a case-by-case basis. Regions and ADOs should consult with ACO on issues involving use of airport revenue for major ground access projects.

15.10 Allocation of Indirect Costs.

An airport sponsor may use its revenue to pay capital or operating costs that the sponsor charges the airport through a cost allocation plan. In an acceptable cost allocation plan, the sponsor allocates costs in a manner consistent with the [Revenue Use Policy](#) and applicable sections of [2 CFR part 200, subpart E, Cost Principles](#). The sponsor may not disproportionately allocate general government costs to the airport and may not indirectly bill costs through the cost allocation plan that are also billed directly to the airport. The sponsor must bill its other comparable units of government in a similar manner for the same costs it allocates to the airport; such allocations must be in proportion to the benefit that each receives from the allocated costs.

15.11 Standard for Documentation for Reimbursement to Government Entities.

The airport sponsor must ensure that reimbursement for capital and operating costs made by a government entity, both direct and indirect, is supported by adequate documentary evidence. Such evidence may include the underlying accounting data (such as general and specialized journals, ledgers, manuals, and supporting worksheets and other analyses) as well as corroborating evidence (such as invoices, vouchers, and indirect cost allocation plans). (See [Revenue Use Policy](#), Section V.C.,

Standard of Documentation for the Reimbursement to Government Entities of Costs of Services and Contributions Provided to Airports).

The FAA accepts audited financial statements as supporting evidence if such statements clearly identify the expenses as having been incurred for airport purposes consistent with revenue use requirements. If not, the statement's underlying accounting records must support and substantiate transactions between the entity billed to the airport. The entity's budget estimates are not sufficient to establish a claim for reimbursement. The entity may use budget estimates to establish predetermined indirect cost allocation rates as part of an indirect cost allocation plan, provided estimates are adjusted to actual expenses in the subsequent accounting period.

15.12 Prohibited Uses of Airport Revenue.

a. Unlawful Revenue Diversion.

Unlawful revenue diversion is the use of airport revenue for purposes other than airport capital or operating costs or the costs of other facilities owned or operated by the sponsor and directly and substantially related to air transportation. Revenue diversion violates federal law and AIP grant assurances unless: (1) it is grandfathered within the scope of grandfathered financial authority established before 1982, or, (2) it is authorized under an exemption issued by the FAA as part of the airport privatization pilot program.

Revenue diversion is the use of airport revenue for purposes other than airport capital or operating costs.

b. General.

Prohibited uses of airport revenue include direct or indirect payments that exceed the fair and reasonable value of those services and facilities provided to the airport. The FAA generally considers the cost of providing the services or facilities to the airport as a reliable indicator of value. For example, the DOT Office of Inspector General (OIG) and the FAA found a city sponsor to be diverting revenue where the sponsor charged the airport for investment management at the rate that would have been charged for commercial services when services to the airport were actually provided by city employees at a much lower cost.

c. Cost Allocation.

Payments under a cost allocation plan are a prohibited use of airport revenue when the allocation is based on a formula that is not consistent with the [Revenue Use Policy](#) or when the payment is not calculated consistently and equitably for the airport and other comparable units or cost centers of government.

d. General Economic Development.

Using airport revenue for general economic development is a prohibited use of airport revenue.

e. Market and Promotion.

When unrelated to airport operations, marketing and promotion costs are prohibited uses of airport revenue. Examples include participating financially in marketing as a destination city or regional attractions, such as hotels, convention centers, sports arena, theaters, and other entertainment attractions having no connection to the promotion of the airport.

f. Payments in Lieu of Taxes (PILOTs).

Payments in lieu of taxes or other assessments that exceed the value of services provided to the airport or are not based on an acceptable cost allocation formula (*i.e.*, reasonable and transparent) are prohibited uses of airport revenue. (See 49 U.S.C. § 47107(k)(2)(C)).

g. Lost Tax Revenues.

Payments to compensate non-sponsoring governmental bodies for lost tax revenues, to the extent the payments exceed the stated tax rates applicable to the airport, are prohibited uses of airport revenue. Note that many PILOTs by airports are voluntary, not assessed, and should be evaluated under the lost tax provisions of 49 U.S.C. § 47107(k)(2)(D) rather than § 47107(k)(2)(C), which pertains to payments in lieu of taxes or other assessments. In each case the nature of the payment, rather than its title, should determine the appropriate analysis.

h. Loans and Investments.

Loans to, or investment of, airport funds in a state or local agency at less than the prevailing rate of interest are prohibited uses of airport revenue.

i. Sponsor Aeronautical Use.

Use of land for free or at nominal rental rates by the sponsor for aeronautical purposes (e.g., a sponsor-owned fixed-base operator³) is a prohibited use of airport revenue, except to the extent permitted under the [Revenue Use Policy](#), Section VII.E.

j. Sponsor Nonaeronautical Use.

Rental of land to, or use of land by, the sponsor for nonaeronautical purposes at less than fair market value rent is considered a subsidy of local government or other entities and is a prohibited use of airport revenue.

k. Impact Fees.

Impact fees assessed by any governmental body that exceed the value of services or facilities provided to the airport are prohibited uses of airport revenue. However, the airport may pay for environmental mitigation measures contained in an FAA record of decision approving funding for an airport development project or for constructing a ground access facility that would otherwise be eligible for the use of airport revenue. When such fees meet the other allowability and documentation requirements, the sponsor may use airport revenue to pay for impact fees. In determining appropriate corrective action for an impact fee payment that is not consistent with the revenue use requirements, the FAA will consider whether a nonsponsoring governmental entity imposed the fee and whether the sponsor has the ability under local law to avoid paying the fee.

l. Community Activities.

Using airport funds to support community activities and to participate in community events or using airport property for community purposes is a prohibited use of airport revenue, except to the extent permitted under the [Revenue Use Policy](#). (See section 15.9, *Permitted Uses of Airport Revenue*).

m. Subsidy of Air Carriers.

The direct subsidy of air carrier operations is a prohibited use of airport revenue. Prohibited direct subsidies do not include waivers of fees or discounted landing or other fees during a promotional period (see section 15.13, *Air Carrier Incentive Program*).

³ A fixed-base operator (FBO) is a commercial entity providing multiple aeronautical services such as fueling, maintenance, storage, ground and flight instruction, etc., to the public.

15.13 Air Carrier Incentive Program (ACIP).

The following excerpt from the [ACIP Policy](#) provides the general principles of the program:

Many U.S. airport sponsors have found it beneficial to encourage new air service and new carriers at their airports by offering air carrier incentive programs (ACIPs), in the form of reductions or waivers of airport charges, and/or support for marketing new service.

ACIPs represent a limited exception to the general rule stated in Grant Assurance 22(e), guaranteeing all carriers non-discriminatory and equivalent rates and charges for each carrier's category. The FAA has reconciled this exception with the general rule on the understanding that a new carrier operating at an airport, or a carrier starting a new route, operates at a disadvantage with established carriers until the new service becomes known and accepted. In that sense, the carrier operating new service is not similarly situated to established carriers, and a sponsor may reduce charges to the new service carrier in some circumstances, for a limited time, without violating [Grant Assurances 22, 23, 24, or 25](#).

In considering whether an ACIP complies with a sponsor's Federal grant agreements, the FAA will apply these general principles to the particular elements of the ACIP:

- Discrimination between carriers participating in an ACIP and non-participating carriers must be justified and time-limited. Differences in airport charges for carriers under an ACIP from those charged to other carriers at an airport must not be unjustly discriminatory. Differences in charges must be justified by differences in the carriers' costs of starting and marketing new service at the airport and must be temporary.
- A sponsor may not use airport revenues to subsidize air carriers. Using airport revenue for cash payments and other forms of subsidy for a carrier providing new service is considered revenue diversion and is therefore prohibited by grant agreements and Federal law. Fee reductions, fee waivers, and marketing assistance as incentives to new service are permitted to the extent described in the Revenue Use Policy.
- A sponsor may not cross-charge non-participating carriers or other aeronautical users to subsidize ACIP carriers. Carriers not participating in an ACIP may not be charged directly or indirectly for the costs of the ACIP or for airport costs left uncovered as a result

of the reduction or waiver of charges for an ACIP carrier, unless all non-participating carriers agree.

- The terms of an ACIP should be made public. Publishing the intent to implement an ACIP, as well as information on how the ACIP is being used, ensures all eligible carriers are aware of the program, allows nonparticipating operators to review the potential effect of the ACIP on standard airport rates and charges, and minimizes the grounds for complaints of unjust discrimination.
- Use of airport funds for an ACIP must not adversely affect airport operations or maintenance. A sponsor adopting an ACIP must maintain a self-sustaining rate structure that continues to provide funds for necessary operations and maintenance responsibilities, without increasing rates charged to non-participating operators.

Guidance on particular program elements in this policy applies generally to each of those elements. For variations on those elements, or program elements not specifically addressed in this guidance, the above five principles will govern the agency's ultimate determination of whether a particular ACIP is consistent with the sponsor's AIP Grant Assurances.

15.14 Airport Investment Partnership Program (AIPP).

The 1996 Reauthorization Act authorized the FAA to establish an airport privatization pilot program. The 2018 Reauthorization Act effectively ended the pilot program and renamed it the Airport Investment Partnership Program (AIPP). This program is codified in 49 U.S.C. § 47134. The 2024 Reauthorization Act amended 49 U.S.C. § 47134(b) to include that the Secretary may require a benefit-cost analysis.

Through the AIPP, commercial service airports can only be leased and general aviation airports can be sold or leased. The AIPP continues to permit airports to explore privatization as a means to generate access to sources of private capital for airport improvement and development. Local or state governments own and operate most commercial service airports in the United States. Public-use general aviation airports are both publicly and privately owned.

As an incentive for participation in the program, the Secretary may grant an approved sponsor three exemptions: (a) an exemption from the revenue-use rules to permit the sponsor to recover a specified amount from the lease or sale if approved consistent with the statutory requirements, (b) an exemption waiving the obligation to repay federal grants or return property transferred from the federal government, and (c) an exemption permitting the private operator to earn compensation from airport operations. (See

chapter 6, *Rights and Powers and Good Title*, section 6.9, for further discussion of the AIPP).

15.15 Mineral Rights Revenue Exemption.

a. General.

The FAA has the authority to exempt a defined amount of airport revenue generated from mineral extraction activities on general aviation airports from statutory, grant assurance, and policy obligations if specific conditions are met.⁴ A sponsor of a general aviation airport (as defined in 49 U.S.C. § 47102(8)) may request to exempt revenue derived from or generated by mineral extraction, production, lease, or other means. Accordingly, the FAA Administrator may declare certain revenue derived from mineral extractions on a designated general aviation airport property to be used for other transportation purposes not related to the airport.

Unless exempted, the airport sponsor must assure that revenue generated from mineral extraction activities is collected and used in accordance with the FAA's [Revenue Use Policy](#) and in compliance with [Grant Assurances 24, Fee and Rental Structure, and 25, Airport Revenue](#), and applicable law. Revenue generated from other sources is not eligible for this exemption.

b. Grant Assurance 25, Airport Revenues.

This grant assurance includes paragraph a(3):

Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102(8)), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112–95.

c. Sponsor Application and Additional Guidance.

General aviation airport sponsors seeking to exempt mineral rights revenue must submit an application to the FAA. Additional guidance on this exemption and the application process is available at [Mineral Rights Revenue Exemption Toolkit](#). Additional guidance on oil and gas extraction is set forth in the [AC No. 150/5100-20, Guidance on the Extraction of Oil and Gas at Federally Obligated Airports](#).

⁴ See [FAA Modernization and Reform Act of 2012](#) (Pub. L. 112-95, Section 813), *Use of Mineral Revenue at Certain Airports*.

15.16 Grandfathering from Prohibitions on Use of Airport Revenue.

Certain airports qualify as “grandfathered” and may use airport revenue for nonairport expenditures that would otherwise not be permissible. In accordance with 49 U.S.C. §§ 47107(b)(2) and 47133, a sponsor/airport is “grandfathered” 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.

Sponsors/airports are grandfathered only as to the financial arrangements, revenues, and expenditures in effect not later than September 2, 1982. A list of sponsors/airports considered to be grandfathered is available at the [\(CATS\) Certification Activity Tracking System](#).

Based on previous DOT interpretations, examples of grandfathered financial arrangements of sponsors/airports may include, but are not limited to, the following:

a. Debt.

A port authority or state department of transportation that owns or operates other transportation facilities in addition to airports and which have pre-September 3, 1982, debt obligations or legislation governing financing and providing for use of airport revenue for nonairport purposes. (Such sponsors may have obtained legal opinions from their counsel to support a claim of grandfathering, which the FAA would consider in its review).

b. Bonds.

Bond obligations and city ordinances requiring a five percent (5%) "gross receipts" fee from airport revenues. The payments were instituted in 1954 and continued in 1968.

c. State Statute.

A 1955 state statute assessing a 5% surcharge on all receipts and deposits in an airport revenue fund to defray central service expenses of the state.

d. City Legislation.

City legislation authorizing the transfer of a percentage of airport revenues, permitting an air carrier settlement agreement providing for annual payments to the City of 15% of airport concession revenues.

e. Multi Modal Authority.

A 1957 state statutory transportation program governing the financing and operations of a multi modal transportation authority, including airport, highway, port, rail and transit facilities, wherein state revenues, including airport revenues support the state's transportation-related and other facilities. The funds flow from the airports to a state transportation trust fund composed of all "taxes, fees, charges, and revenues" collected or received by the state department of transportation.

f. Enabling Provision.

A port authority's 1956 enabling act provisions specifically permitting it to use port revenue, which includes airport revenue, to satisfy debt obligations and to use revenues from each project for the expenses of the authority. The act also exempts the authority from property taxes, but requires annual payments in lieu of taxes to several local governments, and gives it other corporate powers. A 1978 trust agreement recognizes the use of the authority's revenue for debt servicing, for facilities of the authority, and its expenses, reserves, and the payment in lieu of taxes fund.

g. Aviation Fuel Tax.

Grandfathered arrangements may also include local taxes on aviation fuel that were in effect on December 30, 1987. To support grandfathered status, state and local governments need to provide supporting documentation of the legislation that was in effect on December 30, 1987, and any amendments enacted thereafter. (See 49 U.S.C. §§ 47107(b)(1) and 47133).

15.17 Oversight of Grandfathered Sponsors/Airports.**a. Statutory Requirement.**

Certain sponsors/airports are "grandfathered" from the revenue use requirements of 49 U.S.C. §§ 47107(b)(2) and 47133. For such sponsors/airports, the use of airport revenue for nonairport purposes under this exception does not preclude the award of AIP grants.

However, under 49 U.S.C. § 47115(f), the FAA must, in certain circumstances, consider the use of airport revenue for nonairport purposes under the "grandfather provision" as a factor militating against the distribution of discretionary AIP funding. This militating factor applies only if the airport revenue used in the sponsor's/airport's fiscal year preceding the date of the application for discretionary funds exceeds the amount of revenues used in the sponsor's/airport's first fiscal year ending after August 23, 1994, and adjusted by the Secretary for changes in the Consumer Price Index (CPI).

Many of the affected sponsors own and operate multiple airports. Because there is no Federal requirement for such sponsors to delineate the specific sources of revenue taken off the airport(s), the FAA interprets § 47115(f) to require consideration before awarding AIP discretionary funds for any airport owned by the sponsor, regardless of whether the airport is contributing to the sponsor's revenue use for non-airport purposes.

b. Responsibilities and Process.

Each year ACO will notify APP of the status of all grandfathered airports that report payments via [Form 5100-126](#) and other correspondence sent to the FAA. In addition, ACO will advise APP-500 if a grandfathered sponsor is not exercising its rights under the grandfather provision.

ACO will also send a letter to grandfathered airport sponsors that exceeded the cap during the federal fiscal year. This letter will remind the sponsor of the FAA's statutory requirement to consider the sponsor's use of airport revenue for nonairport purposes as a factor militating against the award of AIP discretionary funds. This letter will also reiterate the deadlines and establish a requirement for these sponsors to notify ACO when they have completed their data submissions.

The letter will also explain to the sponsor that it may take up to 75 calendar days to review the financial data once it has been submitted to the FAA and make the necessary findings before considering an AIP discretionary grant. Therefore, the sponsor should factor the timeframe for this review into its capital planning process.

Like all federally-obligated commercial service airports, grandfathered sponsors/airports must submit annual financial data to the FAA using the FAA's Certification Activity Tracking System (CATS) Forms [126](#) and [127](#) within 120 days of the end of their fiscal year. Sponsors/airports may request an extension of up to 60 days. If the FAA has agreed to permit a sponsor/airport to submit grandfathered revenue data outside of Forms 126 and 127, the sponsor/airport still must meet the same deadlines.

Therefore, sponsors/airports whose fiscal year ends on June 30 must submit the data by October 28 (or, with an approved extension, by December 27). Sponsors/airports whose fiscal year ends on December 31 must submit the data by April 29 (or, with an approved extension, by June 29).

If a sponsor/airport wants to be considered for AIP discretionary funding earlier in the fiscal year, then it is the sponsor's/airport's responsibility to submit the financial data earlier.

After completing an annual review of all grandfathered sponsors/airports, ACO will prepare an annual summary report to ARP-1/-2, APP-1/-2, APP-500 and APP-520, outlining the complete set of analyses for all grandfathered sponsors/airports for the prior fiscal year.

NOTE: If the airport sponsor is replaced or the character of its makeup changes in such a way that it is no longer appropriate for the sponsor to use its revenue to pay for new costs of the previous sponsor under the grandfather provision, the FAA may determine the new sponsor is no longer eligible for grandfathering. For example, an existing grandfathered port authority was replaced in 2003 with a newly created airport authority. Airports under the jurisdiction of the newly created airport authority are not eligible for grandfathering. Their ability to grandfather expired when the new authority was created.

15.18 through 15.22 Reserved.