



Federal Aviation Administration

Memorandum

Date: 4 March 2022

To: Office of Airports Regional Directors, AXX-600s
Regional Airport Planning & Programming, AXX-610s
Airports District Office Managers, XXX-ADOs

From: Robert J. Craven, Director, Airport Planning and Programming, APP-1

Subject: Updated Reauthorization Program Guidance Letter (R-PGL) 19-02: Planning and Project Eligibility

Robert John Craven
Digitally signed by Robert John Craven
Date: 2022.03.04 14:27:12 -05'00'

This updated Reauthorization Program Guidance Letter (R-PGL) 19-02 explains and implements provisions in the FAA Reauthorization Act of 2018 (the 2018 Act) (P.L. 115-254), which changed project eligibility, project scope, or funding under 49 U.S.C., Chapter 471 (the primary statutory provision governing the Airport Improvement Program (AIP)). This R-PGL is directed to Office of Airport's staff for the purpose of helping them implement statutory changes. This R-PGL is not legally binding in its own right and will not be relied upon by the FAA as a separate basis for affirmative enforcement action or other administrative penalty. This R-PGL has been updated to reflect updates to a number of provisions, as summarized below.

Policy established in R-PGL-19-02 includes analyses and implementation strategies for the following topics and bill Sections:

Bill Section(s)	Topic	49 U.S.C. section(s) impacted
133 (includes 152)	Contract Tower Program	47124, 47116
138	Eligibility of CCTV Projects	47119(a)(1)(B)
147(1)	General Facilities Authority – Transferrable AWOS	44502(e)
148(a)(1-2)	Recycling Plans	47106(a)
148(a)(3-4)	Uncategorized Small Airports (Unclassified Projects and Funding)	47114(d)(3)(B)
148(b)	Uncategorized Small Airports (Unclassified NPEs	47106(a)

	for FY 2019/2020)	
149	Evaluation of Airport Master Plans (Disaster Preparations role)	47106(h)
152 (See 133)	Construction of Certain Control Towers (See 133)	47116(d)
154	Definition of Airport Development (Mountaintop Airports)	47116(d)(2)
156	Priority review of construction projects in cold weather States.	47112 note
163	Limited regulation of non-federally sponsored property	47107(a)(16)
165(1)(C)-(P)	Amendments To Definitions (Airport Power Supply)	47102(3)(P)
553(d)	Automated Weather Observing Systems Policy (AIP Eligibility of AWOS Equipment)	44720 note

Summary of Changes

This R-PGL has been updated to reflect developments that impact four provisions: Sections 147(1), 163, 165(1)(C)-(P) and 553(d):

- Section 147(1) – Updates to this section provide guidance on eligibility and process for takeover of certain Sponsor-acquired AWOS equipment.
- Section 163 – ARP has completed implementation of this section and this update now references implementation instructions.
- Section 165(1)(C)-(P) – This section has been updated to remove reference to an Energy Efficiency Guidance document, which is no longer necessary for implementation of this section.
- Section 553(d): This section has been updated to clarify that ARP is no longer requiring benefit-cost analysis (BCA) for any AWOS equipment acquisition.

Please note that this update only revises the requirements in sections 147(1), 163, 165(1)(C)-(P) and 553(d). All other sections remain unchanged from the version of this R-PGL as originally published.

Section 133, Contract Tower Program (also includes, Section 152).

Section 133 amends 49 U.S.C. section 47124, which is the statutory home of the FAA's Federal Contract Tower (FCT) program. For the FAA's Office of Airports (ARP), only the following changes are applicable to the administration of the AIP:

Eligibility: Now includes remote air traffic control tower equipment certified by the FAA as eligible for AIP funding at primary airports under the re-designated FCT program or cost-share program;

Funding limits: Removes the previous \$2 million cumulative cap for FCTs.

Section 152 amends 49 U.S.C. section 47116, Small Airport Fund, which expands capital funding sources for certain tower projects to include the Small Airport Fund. This provision impacts primary, small, non-hub, and non-primary airports only.

Funding sources:

- For primary large and medium hub airports, funding still is limited to passenger and cargo entitlement funds. These airports are not eligible to receive funding from the Small Airport Fund.
- For primary small and non-hub airports, funding sources include passenger and cargo entitlements as well as the Small Airport Fund, with limits by airport category apportioned in the statute (see 47116).
- For non-primary airports, funding sources include cargo, non-primary entitlement, state apportionment, and the Small Airport Fund, with limits by airport category apportioned in the statute (see 47116).

Moving forward:

Section 47124 was expanded by the 2018 Act. Previously, it included contract towers and towers in the cost share program. The 2018 Act now incorporates remote tower equipment under this section.

At this time, remote tower equipment has not yet been certified by the FAA; therefore, AIP funding for these items are not yet eligible. The FAA will continue to work toward certification as the equipment matures and field-testing validates its functionality in certain settings. Work codes for remote tower equipment will be created once the equipment is certified.

The elimination of the \$2 million funding cap and the additional option to use Small Airport Funds to fund remote towers (once certified) and FCTs are the two most significant changes. The former is self-enacting with no program changes needed, while the latter requires changes to work codes. The FAA will use work codes for tracking purposes in FAA's grant system (SOAR) under the Small Airport Fund, but it is imperative to note FCTs are not eligible for any category of discretionary funds. The 2018 Act only expanded funding eligibility to include the Small Airport Fund. NOTE: For FY 2019, the Small Airport Fund totals \$548.9M. It has statutory allocations based on airport types, which include:

Airport Type	Funding Percentage	FY 2019 Actual
Small Hubs	1/7 of total fund	\$78.4M
Non-Hubs and Non-Primary CS	2/3 of the remaining 6/7 of the total fund or 4/7 of the total fund	\$313.7M
Non CS General Aviation and Reliever	1/3 of the remaining 6/7 of the total fund or 2/7 of the total fund	\$156.8M

In other words, although these resources can now be considered for qualified FCT projects, the magnitude and structure of the Small Airport Fund is unchanged from prior years. Therefore, any FCT project funded from the Small Airport Fund will be taking the funds from other types of projects that have historically been funded from this source.

Therefore, ROs are still required to justify FCT projects as well as flag in SOAR projects competing for Small Airport Funds. For airports that have been accepted (or will be formally accepted once constructed) into the FCT program, ROs and ADOs may begin entering related projects into the Airport Capital Improvement Plan (ACIPs) using the new codes in FY 2019.

The FCT Work Codes for FY 2019 are:

Code	For new Sponsor Owned FCTs	For Reconstructing Sponsor Owned FCTs
Purpose	Statutory Emphasis Programs = SP (8)	Statutory Emphasis Programs = SP (8)
Component	Building/Equipment = BE* (6)	Building/Equipment = BE* (6)
Type	Contract Tower = CT (5)	Reconstruct Tower = RT (4)

A new Flag is in SOAR: Federal Contract Towers

Pending the release and implementation of FAA Order 5090.5, Formulation of the NPIAS ACIP, the following codes will become effective in SOAR for FY 2020 and beyond:

Code	For new Sponsor Owned FCTs	For Reconstructing Sponsor Owned FCTs
Purpose	Special Emphasis = SP (80)	Special Emphasis = SE (80)
Component	Building/Equipment = BE* (65)	Building/Equipment = BE* (65)
Type	Contract Tower = CT (50)	Reconstruct Tower = RT (48)

**Building/Equipment (BE) is a new component code added to implement Section 133 and 152*
Same flag will apply.

The elements of AIP Funding are defined as follows:

- Sponsor-owned: AIP funds must only be used for sponsor-owned FCTs. Title 49 U.S.C. section 47102(3) lists the activities that constitute airport development under the AIP, provided the activities are undertaken by an airport sponsor. The statute does not permit using AIP funds to construct a new tower that will be FAA owned nor does the statute permit AIP funds to be used to reconstruct a tower that will be FAA owned.
- Reconstruction: AIP can be used to reconstruct an existing sponsor-owned FCT. The tower must have exceeded its useful life and no longer be operationally functional, or be an impediment to a planned AIP funded project. A tower that is more than 40 years old is not automatically qualified for reconstruction. The tower must no longer be operationally functional; that is to say, the tower must no longer have the capabilities to support ATC operations. This is not the same as aesthetics or maintenance issues. If the tower can no longer support ATC services from an operations perspective, the tower may be considered a candidate for reconstruction. If the tower is located in an area that will impede another AIP funded project, tower reconstruction may be eligible provided the new tower is owned by the sponsor and other conditions with regard to AIP planning are met.
- Funds and Costs: There is no longer a cap on the amount of AIP funds that can be used for FCTs; however, as noted above, there are still limitations on the funds available for contract towers and related projects. As explained in the AIP Handbook, the RO/ADO must confirm

the tower has been formally accepted (or will be formally accepted once constructed) by the FAA into the FCT program. Airport sponsors should meet all other requirements; including adding the contract tower and related projects to its airport capital improvement plan (ACIP) and updating the Airport Layout Plan (ALP) prior to submitting an AIP grant application. These requirements for AIP projects include meeting all planning and environmental provisions, as well as other actions necessary to comply with project planning such as siting and airport design requirements.

FAA Order 5100.38D, AIP Handbook – Change 1, prescribes the limitations on eligibility for funding contract towers; however, recent changes in the Air Traffic Organization’s (ATO) minimum equipment list (MEL) do not reflect current AIP eligibility. See Appendix A of this R-PGL for a full list of project limitations and AIP eligible items, including a current list of eligible items on the MEL. As a reminder, all projects related to the FCT, including construction of the tower and the minimum equipment required, that are funded with AIP are subject to the statutory local match, which is usually 10 percent.

- Existing towers: The demolition (including partial demolition, if applicable) of existing towers is subject to AIP requirements for eligibility and justification.

Current FCT is sponsor-owned and replacement FCT will be sponsor owned:	AIP eligible?
If the existing tower will impede (e.g. line of sight or same location) the new AIP funded tower...	Yes, may include full or partial demolition and requires justification as part of AIP project. (See AIP Handbook)
If the existing tower will not impede the new AIP funded tower...	Not eligible. (See AIP Handbook)
Current FCT is FAA-owned and replacement FCT will be sponsor owned:	AIP eligible?
If the existing tower will impede (e.g. line of sight or same location) the new AIP funded tower...	Yes, may include full or partial demolition and requires justification as part of AIP project. (See AIP Handbook)
If the existing tower will not impede the new AIP funded tower...	Not eligible. (See AIP Handbook)
Current FCT is FAA-owned and replacement FCT will be FAA owned:	AIP eligible?
If the existing tower will impede (e.g. line of sight or same location) the replacement non-AIP funded tower...	Not eligible. See AIP Handbook for justification if the new location affects an AIP project.
If the existing tower will not impede the replacement non-AIP funded tower...	Not eligible. (See AIP Handbook)

Guidance and Tools:

The FAA will update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1) in its next version to reflect these changes. SOAR has been updated to add the new work codes, which are included in the new FAA Order 5090.5, Formulation of the NPIAS and ACIP, currently pending final release.

Section 138, Eligibility of CCTV Projects for Airport Improvement Program.

Section 138 amends 49 U.S.C. section 47119(a)(1)(B), which addresses Terminal Development projects, to add the installation of security cameras in the public area of the interior and exterior of the terminal as an eligible project. This provision expands the AIP eligibility of closed circuit televisions (CCTVs) beyond the requirements of 49 CFR part 1542 because it permits the AIP to potentially fund the acquisition and installation of CCTVs in terminal public areas, both inside and outside the building. All existing requirements regarding Terminal Development apply, including restrictions on non-revenue producing areas at commercial service airports and funding limitations prescribed in 47119(c) and (d). See FAA Order 5100.38D, Change 1, for a complete list of terminal building funding rules by airport type.

The text of this provision does not explicitly reference the acquisition of the CCTVs, only the installation. However, it is clear from context that the provision is intended to include acquisition costs as well, as long as there is no budget augmentation or overlap of funding. Accordingly, the FAA can consider AIP funding for acquisition only if the TSA has declined (in writing) to fund the acquisition.

Moving forward:

There are two steps to implement this provision including airports under a state block grant program.

First, prior to requesting a grant that includes CCTVs not required by the airport's part 1542 plan, airport sponsors should obtain a written response from the TSA declining to fund the CCTVs. For clarity, the airport sponsor should identify the number and location of the proposed CCTVs in the written request sent to the TSA. CCTVs subject to this provision declined by the TSA and subsequently requested in an AIP project grant application, must align. While the number may be less, there cannot be more and the locations must have been identified in the request from the airport sponsor to the TSA.

Second, CCTVs purchased with AIP funds must only be owned and operated by airport personnel. The airport sponsor may not acquire CCTVs for the TSA or airlines to use. The CCTVs may feed TSA and other municipal aid operations but are the responsibility of the sponsor.

To assure both of these requirements are met, the following new special grant condition has been added to the grant agreement:

The sponsor hereby certifies it has requested TSA funding for security cameras outside the scope of the airport's 49 CFR part 1542 plan but TSA denied the request in writing on _____ (insert date). The sponsor further certifies cameras acquired and installed under this grant will be for the sole use of the airport sponsor and its personnel for airport purposes. Equipment purchased and installed under this grant may not be owned or operated by TSA, airlines, or other federal, state, or municipal agencies except those included in a mutual aid agreement that provides active surveillance and incident response.

Due to the expansion of the project eligibility under this provision, APP has established a new work code that will capture both the acquisition and installation of CCTVs within and beyond the requirements of the airport sponsor's 49 CFR part 1542 plan. Prior to FY 2019, the purpose code was safety, the component code was equipment, and the type code was security.

Covered by part 1542 (previously used prior to FY 2019)

SA (safety) = 10	EQ (Equipment) = 8	SE (Security) = 6
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Beginning in FY 2019 projects, the purpose code will become "SP." Under the current ACIP Order, this code stands for "Statutory Emphasis Programs;" however, it will be renamed "Special Emphasis" pending the release and implementation of FAA Order 5090.5, Formulation of the NPIAS and ACIP. Also in FY 2019, the component code will change from EQ (Equipment) to TE (Terminal) while the purpose code remains SE (Security).

The CCTV work codes and values for FY 2019 grants are:

Covered by 1542 and Non-1542

Use these codes for FY 2019 (Current NPS equation)

SP (Statutory Emphasis Programs) = 8	TE (Terminal) = 1	SE (Security) = 6
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The new NPS equation and new project values will take effect once FAA Order 5090.5 is released and implemented. Following explains the codes and values for FY 2020 and beyond.

Covered by 1542 and Non-1542

Use these codes for FY 2020 forward (New NPS equation)

SP (Special Emphasis) = 80	TE (Terminal) = 22	SE (Security) = 85
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Guidance and Tools:

The FAA will update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1) in its next version to reflect this provision. SOAR has been updated to add the new work codes,

which are included in the new FAA Order 5090.5, Formulation of the NPIAS and ACIP, currently pending final release.

Section 147(1), General Facilities Authority (Transferrable AWOS).

Section 147 amends 49 U.S.C. section 44502, General Facilities and Personnel, in two ways. This first part of this section amends paragraph (e) and renames this paragraph, *Transfers of Air Traffic Systems*. The second part adds a new paragraph (f), entitled, *Airport Space*. The latter provision will be addressed in guidance issued by the Office of Airport Compliance and Management Analysis.

Amended paragraph (e) now permits sponsors to transfer to the FAA, without consideration, the following systems if they were purchased using Federal airport aid/grant:

- 1) an Instrument Landing System (ILS) consisting of a glide slope and localizer (if the Administrator has determined that a satellite navigation system cannot provide a suitable approach to an airport);
- 2) an Automated Weather Observing System (AWOS) weather observation system; or
- 3) a Remote Communication Air/Ground (RCAG) and Remote Communication Outlet (RCO) communications facility.

ILSs (and associated approach lighting equipment and runway visual range equipment) purchased with AIP funds remain eligible for transfer. This provision adds AWOSs, RCAGs, and RCOs to the list of equipment eligible for transfer, under criteria of the Administrator. However, the AIP statute does not permit RCAGs and RCOs to be purchased with AIP funds; therefore, such equipment cannot be transferred.

AWOS equipment currently is eligible under the AIP statute. AIP funds can be used to purchase AWOS equipment for sponsors to own, operate, and maintain. Under the new legislation, an airport sponsor may still request AIP funds for an AWOS it wishes to operate and maintain but not transfer. However, if a sponsor plans to transfer their AWOS, the AWOS equipment must be an eligible air traffic system or equipment meeting (1) performance specifications for the equipment, and (2) acceptance criteria acceptable to the Administrator.

Moving forward:

The Air Traffic Organization (ATO), pursuant to 49 U.S.C. § 44502(e), will only take over the ownership, operation, or maintenance of any sponsor-acquired AWOS equipment that the FAA has determined to meet requirements under AC 170-9A and the ATO has agreed to take over the equipment under a transfer plan. Only AWOS III P/T or above meet these requirements and are eligible to be transferred to the ATO.

The Airport Sponsor Grant Agreement has been modified to include a special condition in which the sponsor certifies that it understands the terms under which a transfer can take place and the sponsor's obligations to operate and maintain the AWOS system until such time that it can be transferred to the FAA. The grant agreement also includes a clause permitting the sponsor to terminate the agreement if the FAA does not agree to take over the equipment within 60 days after the sponsor accepts the grant offer.

As a reminder, before approving acquisition of an AWOS system, ROs/ADOs must follow all remaining steps outlined in the AIP Handbook, in Appendix K, Table K-2, with the exception of BCA requirements, which are no longer required. This change is addressed in Section 553(d) below. ROs/ADOs should also remind sponsors that adherence to AC 170-9A is required, and additional costs may be incurred to make the system they procure meet performance specifications and acceptance criteria to be eligible for takeover per AC 170-9A.

ROs/ADOs should use the following work code for acquisition of an AWOS system:

AWOS Systems Acquisition Grant		
ST (Standards) = 35	EQ (Equipment) = 85	WX (Weather) = 75

For further questions about eligibility of specific AWOS systems, RO/ADO personnel may contact assigned APP-520 regional points of contact.

Guidance and Tools:

The FAA will update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1) in its next version to reflect this provision.

Section 148(a)(1-2), Recycling Plans.

Section 148 includes three provisions. The first part of subparagraph (a) amends 49 U.S.C. section 47106(a), by adding requirements for Solid Waste Recycling Programs. The additions outline the applicable scenarios for determining whether the airport sponsor meets the newly mandated requirements of this section. These include:

- 1) SCENARIO #1: If the FAA-accepted Master Plan already includes a solid waste recycling plan, any project grant application, regardless of the project, meets this requirement.
- 2) SCENARIO #2: If the FAA-accepted Master Plan does not include a solid a waste recycling plan and a sponsor submits a grant application for a project included in the Master Plan, the RO/ADO will work with the sponsor to submit a grant application for a solid waste recycling plan as a stand-alone project (see AIP Handbook, Table E-1) before the grant application for the project grant can be approved.
- 3) SCENARIO #3: If the FAA-accepted Master Plan does not include a solid waste recycling plan and the sponsor submits a grant application for a project that is not included in the Master Plan, the sponsor does not have to update its Master Plan, or request a stand-alone grant to include a solid waste recycling plan before being eligible for the original project grant.

NOTE: Previously, the statute required any airport that had a Master Plan to include a solid waste recycling plan. While the requirement in the revised statute is less restrictive, most AIP funded projects will be included in an airport's Master Plan; therefore, the third scenario above likely will be rare.

As a reminder, grant assurance 29, airport layout plan, codified at 49 U.S.C. section 47107(a)(16) requires airport sponsors to have a current airport layout plan. The airport layout plan is an eligible product of a master plan (see FAA Advisory Circular 150/5070-6B, Airport Master Plans). Accordingly, most projects for which a grant application is submitted should appear on the ALP for the sponsor to be in compliance with its grant assurance obligations. There are instances when projects are not depicted on an ALP, such as a project in a terminal building that does not expand or alter the footprint of the building. This is a separate part of the law and not related to this provision except for the fact that an ALP is a component of a master plan.

Moving forward:

The statute specifically states: “if the project is for an airport that has an airport master plan that includes the project” the airport must have a solid waste recycling plan. Therefore, if a project for which an airport sponsor is requesting funding is in the airport’s master plan, the airport must have a solid waste recycling plan. Projects not in the master plan may include rehabilitation or reconstruction, certain terminal projects, and other equipment acquisition projects. However, if the master plan includes these or any project for which a grant application is submitted, the airport must have a solid waste recycling plan.

The Airport Sponsor Grant Agreement has been modified to include a special condition in which the sponsor certifies the applicable conditions, now prescribed in the statute and explained above, have been met.

- 1) If scenario #1 applies, the RO/ADO should include the following special condition in the grant agreement:

Solid Waste Recycling Plan. The sponsor certifies that it has a solid waste recycling plan as part of an existing Airport Master Plan, as prescribed by 49 U.S.C. section 47106(a)(6).

- 2) If scenario #2 applies, the grant cannot be issued until a stand-alone solid waste recycling plan has been accepted.
- 3) If scenario #3 applies, there is no need for this special condition and the grant may proceed.

In addition, RO and ADO Program Managers must assure sponsors and block grant states are aware of this statutory change, and must work with these entities to assure any new grants issued meet the new requirements.

ROs/ADOs should use the following work code for a stand-alone grant for a solid waste recycling plan:

Solid Waste Recycling Plan Grant – stand-alone		
Use these codes for FY 2019 (Current NPS equation)		
PL (planning) = 8	PL (planning) = 7	MS (miscellaneous) = 5

Pending the release and implementation of FAA Order 5090.5, Formulation of the NPIAS ACIP, the following work codes will become effective in SOAR:

Solid Waste Recycling Plan Grant – stand-alone		
Use these codes for FY 2020 forward (New NPS equation)		
PL (planning) = 65	MA (airport master planning) = 70	NP (New Plan/Study/Assessment) = 70

Guidance and Tools:

The current version of the AIP Handbook (FAA Order 5100.38D, Change 1) is not impacted as these specific provisions were not addressed in that Order; however, future versions will reflect this change in the statute. The grant agreements in SOAR (both for block grant and non-block grant airports) have been modified to include a special condition. Other documents that will be updated include FAA Advisory Circular 150/ 5070-6B, *Airport Master Plans*, and the FAA's *Guidance on Recycling, Reuse, and Waste Reduction*, currently available only on the APP-400 webpage.

Section 148(a)(3)-(4), Uncategorized Small Airports (Unclassified Projects and Funding).

Section 148 includes three provisions. The second provision under 148(a)(3)-(4) further amends 49 U.S.C. section 47106(a) by adding paragraph (7), which defines four types of projects that may be funded at unclassified airports using *only* state apportionment funding. Specifically, the FAA may fund the following projects:

- a) maintenance of the pavement of the primary runway;
- b) obstruction removal for the primary runway;
- c) rehabilitation of the primary runway; or
- d) a project that the Secretary considers necessary for the safe operation of the airport.

Moving forward:

Prior to the 2018 Act, ROs submitted proposed projects at unclassified airports to APP-400 and APP-500 for review and determination. FAA policy limited project justification to include those rehabilitating the airport's existing primary runway pavement at a frequency not to exceed 10 years; one-time projects to remove obstructions from each end of the primary runway; and runway maintenance projects allowed per 49 U.S.C. section 47102(3)(H). FAA policy also permitted other projects, including those needed to correct design standards issues, in limited cases where extraordinary justification existed.

Under the 2018 Act, the latitude previously allowed by policy is no longer germane because the statute now defines and limits permitted projects and limits funding types for these projects. The one subjective component in the statute is the latitude in the language under section 47106(a)(7)(D), which permits projects the Secretary "considers necessary for the safe operation of the airport." This does not expand funding options.

For unclassified airports not under a state block grant program:

- ROs or ADOs (as applicable) shall submit an *Unclassified Airport Clearance Form* (available in SOAR documents) for projects at unclassified airports requesting funding under statutory category (D). The RO/ADO may fund a project under (A)-(C) without APP-520 review.
- The RO/ADO must confirm in its submission that the proposed project will be funded with state apportionment funds as required by statute. See *Section 148, Uncategorized Small Airports (Unclassified NPEs for FY 2019/2020)*.
- If a project is submitted under (D), the Regional Airports Division Director shall approve the *Unclassified Airport Clearance Form* before it is submitted to APP-520. APP-520 will review all forms submitted under (D) to assure consistent application of policy.
- APP-520 will issue Regional Implementation Guidance annually stating the due dates for ROs and ADOs to submit all *Unclassified Airport Clearance Forms* as well as instructions on the submission process for current year grants.

For unclassified airports under a state block grant program:

- The state aviation agency should provide to APP-520 a list of projects funded under this provision to include applicable project categories (A, B, C, or D) and funding source annually.
- If a project is to be funded under (D), the state aviation agency should provide to the RO/ADO prior to issuing the grant sub-award to the airport sponsor an *Unclassified Airport Clearance Form* supporting the determination that the project(s) is/are necessary for the safe operation of the airport to assure compliance with the statute.
- APP-520 will add a special condition to the state apportionment grant that outlines the new restrictions on funding related to unclassified airports and specific project types allowed by statute.
- Due to the statutory requirements limiting funding to only state apportionment, the FAA may require state aviation agencies to provide additional records to confirm funding source.

Special Funding Rules for FY 2019 and FY 2020:

- As stated above, this subsection includes a statutory restriction on the use of funding types. The statute **prohibits** FAA and state aviation agencies from using any funds except state apportionment funds for these projects. See Section 148(b), *Uncategorized Small Airports (Unclassified NPEs for FY 2019/FY 2020)*, for limited exceptions during these two fiscal years.

Guidance and Tools:

The FAA will update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1) in its next version to reflect these changes. APP-520 will continue to issue programmatic guidance for administering this provision in the Regional Implementation Guidance annually. The block grant agreement document has been updated for FY 2019 in SOAR.

Section 148(b), Uncategorized Small Airports (Unclassified NPEs for FY 2019/2020).

Section 148 includes three provisions. The third provision under 148(b) amends 49 U.S.C. section 47114(d)(3) by adding subparagraph (C) to allow airports that earned FY 2013 non-primary entitlements (based on the 2013 NPIAS Report) and are unclassified in the FY 2019 NPIAS Report to accrue that same amount of apportionments in FY 2019 and FY 2020. This is a special funding rule only applicable to FY 2019 and FY 2020.

The amounts apportioned to an airport sponsor under this provision cannot be carried over or transferred; they must be put under grant during the FY apportioned and they must be spent on the airport to which the funds were apportioned. The statutory text specifically prohibits transfers; therefore, these funds cannot be used as part of a various locations grant. Furthermore, because the statute prohibits the accrual and transfer of these funds, any part of the apportioned funds not used by the airport sponsor to which the funds were apportioned are returned to the general discretionary account.

Moving Forward:

The following applies only to FY 2019 and FY 2020.

For unclassified airports not under a state block grant program:

- The RO/ADO may program grants for projects meeting the requirement under 47106(a)(7)(A, B, C, or D) in accordance with the guidance provided above. *See Section 148(a)(3-4), Uncategorized Small Airports (Unclassified Projects and Funding).*
- For projects in FY 2019 and FY 2020, an unclassified airport may use entitlement funds that may have been provided under this section for the four types of eligible projects noted above. *See Section 148(a)(3-4), Uncategorized Small Airports (Unclassified Projects and Funding).*
- APP-400 has provided a list of airports receiving apportionments under this provision to APP-520 for implementation purposes. Funding in FY 2019 has been made available for each airport based on projects in compliance with the statute. Funding in FY 2020 will be made available for each airport based on projects in compliance with the statute.
- When submitting *Unclassified Airport Clearance Forms* for projects funded under (D) the RO/ADO should identify the funds that will be used for this project grant application, whether the current FY NPE, state apportionment, or both.

- The funds apportioned under this subsection must be obligated in the fiscal year apportioned, cannot be carried over, and cannot be transferred to another airport. Additionally, these airports may not use funding transferred from other airports to fund projects determined to be eligible under 47106(a)(7)(A, B, C, or D).
- Funds apportioned under this provision that are not used by the airport sponsor to which the funds were apportioned will be used as discretionary in the same fiscal year.
- APP-520 will issue Regional Implementation Guidance annually stating the due dates for ROs and ADOs to implement this policy as well as instructions on the submission process for current year grants under this provision.

For unclassified airports under a state block grant program –

- Each state block grant program agency will submit to their appropriate RO/ADO a list of projects and which statutory exemption will be applied [as required by 47106(a)(7)(A, B, C, or D)] at unclassified airports to be funded with NPEs for FY 2019 and FY 2020.
- The RO/ADO will send this information to APP-520; APP-520 will review proposed exemptions under (D) to assure compliance with the statute.
- ARP will include funds for these projects in the state block NPE grant based on this submission. It is imperative block grant states identify unclassified airport projects eligible under this special provision before the state block NPE grant is issued to assure the grant includes eligible funds. The state block NPE grant will contain a special condition outlining the specific restrictions noted above for use of the NPEs.
- Funds apportioned under this provision that are not used by the airport sponsor to which the funds were apportioned will be used as discretionary in the same fiscal year.
- Due to the statutory requirements limiting availability and use of funds apportioned under this provision, the FAA may require state aviation agencies provide additional records to confirm project costs and funding sources.

Guidance and Tools:

This provision is only applicable to FY 2019 and FY 2020 grants; therefore, the AIP Handbook will not be updated. APP-520's Regional Implementation Guidance will be the annual notification of APP's implementation procedures for FY 2019 and FY 2020. ROs and ADOs are responsible for reminding state block grant aviation agencies of the statutory requirements of this provision, but the state block grant MOA will be updated to include reference. SOAR has been updated to reflect the special conditions and new elements for the grants that will be issued to block grant states.

Section 149, Evaluation of Airport Master Plans (Disaster Preparations Role).

Section 149 amends 49 U.S.C. section 47106, Project grant application approval conditioned on satisfaction of project requirements, by adding subparagraph (h), which sets forth two roles an airport sponsor may take into account when evaluating a Master Plan:

1. The role the airport plays with respect to medical emergencies and evacuations, and
2. The role the airport plays in emergency or disaster preparedness in the community served by the airport.

While such considerations may be included in an airport Master Plan, neither a Master Plan (nor what is depicted on an ALP) necessarily lead to favorable AIP funding eligibility or justification determinations. AIP grant requests for projects included in an airport Master Plan must meet individual eligibility and justification based on well-established criteria, such as critical aircraft determinations, and current and forecasted operations of the airport (e.g., runway length needs based on the performance characteristics of the critical design aircraft). This provision does not change existing planning policy for critical aircraft determinations.

Similarly, with regard to an airport sponsor assessing its role in emergency preparedness in the community served by the airport, as part of the airport planning process, the sponsor may assess the utility of the airport in this capacity but this provision does not permit airports to receive AIP funds to be used for non-airport disaster and emergency response planning.

Airports previously took into account their role in emergencies, but this provision requires clarification as to what is, and is not, permitted. For example, the following considerations may be included in an airport's Master Plan but inclusion is not congruent with the project(s) being eligible and justified:

- The Federal Emergency Management Agency (FEMA) and local communities often include airports in disaster management plans; however, such inclusion does not make a project AIP eligible. FEMA or other implementing agencies retain responsibility for their plans and the FAA's AIP grants cannot be used to augment other agencies' plans or programs.
- Airports with very low levels of operations occasionally make the case that additional runway lengths (or facilities) are needed to accommodate medical emergencies (e.g., lifeflight-type operations) or evacuations. Limited operations and operations based on emergency readiness in the community may be considered but do not constitute project eligibility and justification under this provision.

Moving Forward:

This provision affirms an airport sponsor's prerogative to include projects to address local community interests relating to the airport in a Master Plan; however, this provision does not amend the AIP statutory requirement that projects funded must be eligible and justified. The statute does not make such roles or project associated with them eligible and justified. There should be no changes to an airport sponsor's ACIP based solely on this provision. Future Master Plan updates may include such assessments provided the assessments are focused solely on the airport's role.

Guidance and Tools:

The FAA will update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1) in its next version to reflect these changes. Additionally, FAA Advisory Circular 150/ 5070-6B, Airport Master Plans, will be updated to explicitly allow airport Master Plans to document the role the airport plays with respect to medical emergencies, evacuations, and emergency or disaster preparedness in the community served by the airport. No changes to SOAR are required to implement this provision.

Section 152, Construction of Certain Control Towers (see Section 133).

This provision is addressed under Section 133, Contract Tower Program.

Section 154, Definition of Airport Development (Mountaintop Airports)

Section 154 amends 49 U.S.C. section 47116(d)(2), by replacing the previous subtitle and text with "Airport Development for Eligible Mountaintop Airports." The new statutory language specifically requires the FAA to give priority consideration under the Small Airport Fund to sponsors of "mountaintop airports" for grading and associated structural support including access roads, duct banks, and other related infrastructure. This provision is only applicable at airports meeting the mountaintop criteria, defined by the FAA below, and only applies if the airport does not have sufficient area for:

- eligible and justified airport development projects, or
- additional hangar space.

The statutory language clearly states these projects must be given priority consideration in the allocation of Small Airport Fund money.

Moving Forward:

Section 154 did not define "mountaintop airport" and there is no existing definition in statute or policy. However, the Air Traffic Organization (ATO) identifies mountainous areas governing the operation of aircraft under instrument flight rule on air traffic routes. Designated Mountainous Areas in the United States (including AK, HI, and PR) are contained in 14 CFR part 95, subpart B. The latitude and longitude for each area (eastern, western, AK, HI, and PR)

is identified. Using the ATO's data, APP determined that 947 non-primary (excludes unclassified airports), small hub, and non-hub NPIAS airports fall within the designated mountainous area (using the latitude and longitude provided in part 95). The preliminary list of mountaintop airports has been provided to ROs/ADOs and state block grant agencies by APP-520.

The list provided is not definitive. This list is to be used by ROs/ADOs and state block grant program agencies as a starting point. The sponsor must submit a grant application and is responsible for providing the documentation necessary to confirm the airport and the project conforms to the requirements provided in the statute. Those requirements include:

Airport sponsors: Must be on the list and the airport must be physically constrained due to topographical impediments resulting from the airport's location. The FAA developed the following criteria to determine if the airport may be considered "mountaintop":

- Topographical impediments include surrounding terrain that slopes downward from the airport property.
- Lack of sufficient area to construct projects provided for under this provision must be caused directly by the downward sloping of the terrain.
- NOTE: Airports with mountains, hillsides, or other terrain sloping upward from the airport property that create physical constraints are not considered mountaintop for the purposes of this provision.

Projects: Must be submitted by sponsors as part of the existing ACIP process and must meet all other AIP requirements. Eligible projects under this provision include those requiring mass grading and associated structural support, including access roads, duct banks, and other related infrastructure. The sponsor also should demonstrate there would not otherwise be sufficient surface area for eligible and justified airport development projects or additional hangar space to be eligible for a grant under this provision.

For airports on the list not under a state block grant program:

- If an RO/ADO receives a grant application from the sponsor of an airport on the list, determine if the sponsor has met both the airport sponsor and the project requirements stated above.
- Once a positive determination is made by the RO/ADO, that office will flag the project in SOAR as a mountaintop airport and the project may be submitted for priority consideration under the Small Airport Fund.

APP-520 is responsible for managing this list and associated projects under this provision as they do other requests for funding through the Small Airport Fund.

For airports on the list that are under a state block grant program:

- If the state aviation agency receives a grant application from the sponsor of an airport on the list, the state should provide the RO/ADO with its determination as to whether or not an airport and project meet the criteria to be designated as a mountaintop using the same criteria as noted above.
- Once a positive determination is made by the state, the appropriate RO/ADO will flag the project in SOAR as a mountaintop airport project and the state aviation agency may submit project requests to the RO/ADO for priority consideration under the Small Airport Fund.

Guidance and Tools:

The FAA will update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1) in its next version to reflect this provision. SOAR has been updated to add a flag for Mountaintop Airport Projects for the ADOs, ROs, and APP-520 to use, as described above, to identify mountaintop airport projects meeting the statutory topographical parameters of this provision. The state block grant MOA will be updated to address this provision.

Section 156, Priority review of construction projects in cold weather states.

Section 156 mirrors the language in the note under 49 U.S.C. section 47112, implemented by the FAA Modernization and Reform Act of 2012 (FMRA), regarding cold weather projects. There is no change to the text in the note regarding the program's implementation; however, this section adds a requirement that the FAA provide a briefing to appropriate committees of Congress annually on the effectiveness of the review and prioritization. This provision is not related to nor does it impact an airport sponsor's ability to request access to discretionary funds under FMRA's section on Cold Weather Construction Projects and 49 U.S.C. section 47110(b)(2)(D).

Moving Forward:

This Section requires no changes to the current process. Regional Offices will continue to submit FAA Form 5100-142, Sponsor Request for FAA Acknowledgement for Cold Weather Early Start, to APP-520 for documented final signature for sponsor notification. After sponsor notification, the ROs or ADO must submit the forms with the "ADO Manager or Regional Airports Division Manager Notification to Sponsor" section completed to APP-520 in accordance with procedures to be outlined in Regional Implementation Guidance. APP-520 will be responsible for compiling the information and providing it to the Administrator to use to brief Congress.

Guidance and Tools:

The FAA will update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1) in its next version to reflect this provision. The FAA will provide briefing information using the data provided by the ROs/ADOs to comply with the requirements of this Section.

Section 163, Limited Regulation of Non-Federally Sponsored Property.

Section 163 has four provisions. The first three, which include paragraphs (a)-(c), do not amend statute but prohibit the FAA from regulating, directly or indirectly, certain airport property. This provision, and the full implementation of the fourth provision, subparagraph (d), explained herein, are addressed in a separate policy document that ARP issued to ROs/ADOs in October 2020. Subparagraph (d), amends 49 U.S.C. section 47107(a)(16) to limit the FAA's review and approval authority for Airport Layout Plans (ALPs) to those portions of ALPs or ALP revisions that:

1. Materially impact the safe and efficient operation of aircraft at, to, or from the airport;
2. Adversely affect the safety of people or property on the ground adjacent to the airport as a result of aircraft operations; or
3. Adversely affect the value of prior Federal investments to a significant extent.

Federally obligated airport sponsors have obligations to keep an up to date ALP as prescribed by 49 U.S.C. section 47107(a)(16) and the corresponding grant assurance 29. The ALP must depict the airport's boundaries and existing and planned uses and facilities. Under this new Section, upon receiving an updated ALP with revisions, ARP will consider whether it has authority to approve or disapprove the proposed changes and advise the airport sponsor accordingly.

Moving forward:

In October 2020, ARP issued instructions to the ROs/ADOs on Section 163 implementation, and subsequently provided numerous training webinars. Moving forward, APP-400 will coordinate with the ROs/ADOs on Section 163 determinations and remain available to provide technical assistance, if requested.

Guidance and Tools:

The FAA's "Instructions to Airport District Offices and Regional Office of Airports Employees Regarding Airport Layout Plan Reviews and Projects Potentially Affected by Section 163 of the FAA Reauthorization Act of 2018" implements this provision. The FAA will also update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1), applicable grant assurances, the Airport Compliance Manual, the Airport Master Plan AC, along with other ACs and Orders as appropriate. Please direct any questions about Section 163 implementation to APP-400.

Section 165(1)(C)-(P), Amendments to Definitions (adds airport power supply).

Section 165(1)(C)-(P) amends 49 U.S.C. section 47102(3), Definitions, by creating a new subparagraph (P), which permits AIP funds to be used for on-airport projects that improve the reliability and efficiency of the airport's power supply and prevent power disruptions to the airfield, passenger terminal, and any other airport facilities. The new definition states the acquisition and installation of electrical generators, separation of the airport's main power supply from its redundant power supply, and the construction or modification of airport facilities to install a microgrid (as defined in section 641 of the United States Energy Storage Competitiveness Act of 2007 (42 U.S.C. 17231)) are eligible projects under the AIP statute.

NOTE: Section 165 also amends or adds six other definitions to the AIP statute defining eligible airport development (49 U.S.C. section 47102). This topic only addresses the provision under (C)(1) in the 2018 Act, which creates a new paragraph (P) in the statute. The remaining provisions will be addressed in R-PGL 19-03.

Moving forward:

Planning, eligibility, and justification requirements will be set forth in an updated version of the AIP Handbook. However, the lack of an AIP Handbook update does not preclude consideration of these projects. ROs and ADOs should coordinate with APP-400 on a project-by-project basis until that update is completed.

Guidance and Tools:

The FAA will update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1) in its next version to reflect this provision. SOAR has been updated to add the new work codes. These are included in FAA Order 5090.5, Formulation of the NPIAS and ACIP.

Section 553(d)-(e), Automated Weather Observing Systems Policy (AIP Eligibility of AWOS Equipment).

Section 553(a)-(c) primarily directs the ATO to update its non-federal AWOS policies and procedures. However, paragraphs (d) and (e) affect the administration and awarding of AIP grants for AWOS.

Paragraph (d) prohibits the FAA from using a benefit-cost ratio requirement for AWOS equipment eligible for AIP funding in low population density states, provided certain conditions are met. Paragraph (e) requires the FAA to submit a report to Congress on the implementation of the requirements of this section.

Moving forward:

ARP is no longer requiring a positive BCA for any AWOS acquisitions. There is no statutory requirement to conduct a BCA for AWOS systems, but FAA policy imposed that analysis for

certain AWOS systems. Section 553(d) prohibits ARP from requiring a positive BCA for airports requesting AWOS equipment if the airport is located in a low population density state and certain conditions are met. Since enactment of the 2018 Act, Congress provided further exceptions to BCA requirements in the Joint Explanatory Statement (JES) accompanying the Consolidated Appropriations Act, 2021. The JES requires ARP to waive any BCA requirement for airports in low population density counties as well as BCA requirements for projects that have a material impact on safety of operations at the airport and funded using non-primary entitlement funding and no additional discretionary funding from the FAA. The FAA has determined that a BCA analysis for any eligible AWOS system is no longer required.

Therefore, if an RO/ADO receives a request from an airport sponsor for any type of eligible AWOS system, the RO/ADO must not require a BCA in making an eligibility determination. ROs/ADOs must continue to follow all other steps in table K-2 of the AIP Handbook.

Guidance and Tools:

The FAA will update the current version of the AIP Handbook (FAA Order 5100.38D, Change 1) in its next version to reflect this provision.

APPENDIX A: FCT Minimum Equipment List

NOTE: This appendix includes minimum equipment list items for Federal Contract Towers (FCT), consolidated from a variety of the Air Traffic Organization's (ATO) Advisory Circulars, Orders, and other references. The Office of Airports is providing a single, consolidated list of AIP eligible items to ensure consistent field implementation of this provision in line with AIP's authorizing statute.

1. Communications Equipment

- a. Voice switch communication equipment, with direct access line to controlling instrument flight rules facility, capable of radio and telephone ATC communication as appropriate. This must include the capability of headset use and instructor/student override capabilities.
- b. One headset per controller and one handset per position, with appropriate spares.
- c. Very High Frequency radios for ground/air communication, as required, to support level of traffic; i.e., Local Control, Ground Control, Automated Terminal Information Service, Clearance Delivery, and Emergency. One transmitter and one receiver for each frequency. Handheld radios are not authorized as primary units.
- d. Tunable emergency backup transceiver with battery backup supply (to provide VHF communication).
- e. A multi-channel, multi-line digital voice recorder system with a remote alarm, for continuous unattended recording of each position used for receiving/transmitting ATC clearances and ATIS. It must meet applicable recording time and parameter requirements. See FAA Order JO 8020.16.
- f. An administrative telephone line with long distance capability and handsets in the operating and administrative quarters. To support a single person on duty, contingency plan and emergency operations, the administrative line must be available in both the office and tower cab environment.
- g. Telecommunications requirements to sustain high-speed internet communication, to include the following:
 1. FTI Mission Support connection and Router;
 2. Local Area Network consisting of a network switch, an Uninterruptible Power Supply (UPS), a rack with a patch panel, and network cabling to the wall jacks.

NOTE: This may require a reimbursable agreement with FAA ATO. The RO/ADO must consult with APP-500 before funding a reimbursable agreement.
- h. Alert system to notify airport emergency equipment operator.
- i. Automated Terminal Information System (ATIS), (for tower with 50,000 or more annual operations).
- j. ASOS Automatic Terminal Information Service (ATIS) Interface Unit (AAIU).

NOTE: Facilities equipped with an ATIS and an automated weather system with broadcast capability must be equipped with an FAA-approved interface switch, which inhibits the automated system from broadcasting the weather while the FCT is open.

2. Weather Equipment:

- a. Manual Limited Aviation Weather Reporting Stations (LAWRS) stations must possess the primary weather reporting equipment meeting the following performance specification standards:
 - 1) Wind measuring equipment (Speed and Azimuth), must be visible from each operational position.
 - 2) Altimeter (in accordance with FAA JO 7210.3), must be visible from each operational position.
 - 3) Temperature
 - 4) Dew Point

- b. Automated LAWRS stations must possess the equipment with the following performance specifications to provide augmentation/backup of the automated weather system with SPECI capability:
 - 1) Operator Interface Device (OID) located in the tower cab.
 - 2) Wind Measuring Equipment (Speed and Azimuth), independent of the automated weather system, must be visible from each operational position.
 - 3) Altimeter, independent of the automated weather system, must be visible from each operational position.
 - 4) Temperature Equipment, independent of the automated weather system.
 - 5) Dew point Equipment, independent of the automated weather system.

Any equipment beyond those prescribed here must be coordinated with APP-500.

3. Operations Floor Equipment:

- a. Two pair of operable binoculars. 7x50 or greater.
- b. Signal light gun with a back-up power source.
- c. At least one digital 24-hour time source with hours, minutes, seconds display visible from operating positions.
- d. Manual or automated traffic counting device.
- e. Controller Chairs – safety issues within the controllers' work area require:
 - 1) Chair should be Electro Static Discharge (ESD) compliant.
 - 2) Chairs should meet the high intensity use 24/7 standard.
 - 3) Chairs should have fully adjustable mechanisms that are easy and safe to manipulate.

4. Non-Operational Equipment:

- a. Appropriate non-operational space must be provided, including:
 - 1) Training/break room built out only, not to include desks, chairs, and table or other furniture, appliances, etc.
 - 2) Plumbing, electrical, and utility connections may be included in the build out.

5. Building Equipment/Specifications.

- a. Generator for any ATCT with an elevator.
- b. Airport lighting controls located in the tower cab, including on/off switch for rotating beacon.
- c. FAA-approved window shading for all tower cab windows (must not have any imperfections that would obstruct vision).
- d. Position lighting with rheostat control for each operating position and tower cab administrative area.
- e. Restroom one floor below the tower cab.
- f. Floor covering should be ESD resistant. NOTE: Other floor grounding apparatus may be necessary depending upon specifications of the electronic equipment installed.

Changes to AIP Handbook FAA Order 5100.38D, Change 1

The following references and statements in the AIP Handbook are no longer applicable because the referenced document is no longer current, replacement documents do not accurately reflect eligible items, or the 2018 Act changed the AIP Statute.

Page 4-9, Table 4-5 (f):

(6) Contract Air Traffic Control Towers. Not allowed. Funding is restricted by airport and fund type per 49 USC section 47124(b)(4)(A).

- Statute was amended by 2018 Act; see Section 133/152 for changes.

Page B-4, Table B-1:

Federal Contract Tower Minimum Equipment List

The list is included in FAA Order JO 7210.54, FAA Contract Tower (FCT) Operation and Administration and lists the eligible equipment at contract towers.

http://www.faa.gov/regulations_policies/orders_notices/

- No longer applicable, Order no longer current.

Page 0-10, (2):

(2) Only the equipment contained in the Federal Contract Tower Minimum Equipment List is eligible for AIP funding.

- No longer applicable, Order no longer current.

(4) The Federal share of the cost of planning and construction is limited to a cumulative maximum of \$2.0 million per airport per 49 USC section 47124(b)(4)(C). In addition, the type of AIP funding is limited per Paragraph 4-7.

- Stature was amended by 2018 Act; see Section 133/152 for changes.

(5) Eligible costs include the ATCT structure and equipment inside it.

- No longer fully applicable; use this Appendix for current list of AIP eligible costs.

FCT Structure:

The following structural components of a sponsor owned FCT are eligible for AIP:

Exterior: Tower building to include a cab for six operations stations based on the current square foot per controller standards needed. See AIP Handbook.

Utilities: Lines to support water, sewage, electrical, and telecommunications in addition to a backup generator not to exceed the size and staffing of the facility.

Interior: Elevator(s), restroom facilities, and utilities to accommodate facility operations. This does not include acquisition and installation of furniture unless the furniture is required for operations, such as controller operations stations, chairs as noted above, and restroom facilities. Non-operations fixtures and furniture such as break-room tables, chairs, appliances, and sinks, as examples, are not AIP eligible; however, AIP funding may be used to construct the shell of these spaces to include providing utility lines.