



U.S. Department
of Transportation

**Federal Aviation
Administration**

Memorandum

Subject: ACTION: Program Guidance Letter 92-6

Date: SEP 25 1992

From: Manager, Airports Financial Assistance
Division, APP-500

Reply to
Attn. of:

To: PGL Distribution List

92-6.1. Post-1992 Legislative Issues Related to the AIP
(Jim Borsari, 267-8822).

There is some likelihood that the Congress will not pass the reauthorization of the Airport Improvement Program (AIP) prior to expiration of the grant obligation authority on September 30, 1992. It is important that all personnel be advised of the our grant authority until such time as the program is reauthorized. Section 505(b)(1) of the Airport and Airway Improvement Act of 1982 (AAIA) states, "No such obligation shall be incurred by the Secretary after September 30, 1992, except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 508(a) of this title after such date." Section 508(a) establishes the duration of availability of apportioned amounts for passenger entitlements, cargo entitlements, State and Insular apportionments, and the Alaska supplemental.

Therefore, the AAIA provides that "carryover funds" in the above categories from FY 1991 and FY 1992 are available for grants to sponsors in FY 1993, even if no further authorizing legislation is enacted. However, only the carryover amount can be obligated since no "new funds" can be made available without AIP reauthorization.

There may also be questions regarding our shortage of liquidating cash, grant amendments and Passenger Facility Charge (PFC) program items.

In the case of liquidating cash for the purpose of making payments under existing grants, these funds are established by the DOT Appropriations Act or continuing resolution and are not affected by the status of the AAIA. Today, the President signed a dire emergency supplemental

appropriation bill passed by Congress. This supplemental appropriation contains an additional \$100 million in liquidating cash for FY 1992. We will provide further advice on using these funds as soon as possible.

In the case of grant amendments, we have had two legal opinions covering this subject. In both cases, the legal opinions have held that we do not have the authority to increase the maximum Federal participation using prior obligated funds recovered from AIP grants without the reauthorization. Therefore, we do not recommend pursuing recovery of funds until we have renewed grant authority. Grants, however, may be amended to add items of work provided there is no increase in the maximum obligation.

The PFC program is unaffected by the status of the AAIA or an appropriations act. AIP eligibility requirements under PFC's still exist since only the grant authority under AAIA expires.

It now appears that a DOT Appropriations Act may be passed by Congress prior to October 1, 1992. However, there is a possibility that if the reauthorization is not passed during this session of Congress, the existing reauthorization bills will need to be reintroduced after January 1993, the start of the new Congress.

This information is current as of close of business, September 24. If the status of any of the legislation changes, we will disseminate the information as soon as practicable.



Lowell H. Johnson