



U.S. Department
of Transportation

**Federal Aviation
Administration**

Memorandum

Subject: **ACTION:** Program Guidance Letter 04-08

Date: Sep 30, 2004

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

Reply to
Attn. of:

To: PGL Distribution List

This Program Guidance Letter cancels PGL 03-01, Requirements for Airline Competition Plans, dated November 19, 2002.

04-08 Requirement for Airline Competition Plans – Andrea Toney (202) 267-7038

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), Pub. L. 106-181, Section 155, dated April 5, 2000, requires the submission of a Competition Plan by certain large and medium hub airports (covered airports) for a new Passenger Facility Charge (PFC) to be approved for collection or a grant to be issued under the Airport Improvement Program (AIP) beginning in fiscal year 2001. Section 155 amended both sections 40117 and 47106 of title 49, United States Code (U.S.C.) by adding 40117(k) and 47106(f).

Specifically, the amended section 40117 (the PFC portion of the statute) requires submission of the Plan and U.S. Secretary of Transportation (Secretary) review of the Plan for sufficiency before imposition of a PFC. Further, the amended section 40117 also provides that the Secretary shall periodically review plan implementation to ensure that each airport successfully implements its plan. The amended section 47106 (the AIP portion of title 49) prohibits the approval of a PFC or the execution of a grant under AIP unless the airport has submitted a written Competition Plan conforming to the requirements of section 155.

This program guidance letter is intended to accomplish the following:

- Identify the statutory requirements for Competition Plans;
- Discuss the process for identifying covered airports;
- Provide updated guidance on the contents of Plans and updates;
- Outline the results of the Competition Plan review process to date;
- Discuss initiatives we are implementing to streamline the Competition Plan process; and
- Provide information on the filing status of covered airports in FY 2005.

The results of the review process and streamlining initiative are discussed immediately below.

Competition plan reviews to date

During the past four Federal fiscal years, the Office of the Secretary (OST) and the Federal Aviation Administration (FAA) have closely reviewed Competition Plans and Plan updates of about 40 medium and large hub airports. Many airports have incorporated business practices that recognize the importance of providing an environment conducive to competitive access.

As a result of our review process in Federal fiscal year 2002, we amended the Program Guidance Letter (PGL) 00-3, dated May 8, 2000, to: (1) request airports to address certain practices we found to be conducive to accommodating entry and (2) lengthen the time frame for a Competition Plan update from each year to an 18-month period from the date of the FAA's approval letter. PGL-03-01, November 19, 2002. Since the Competition Plan requirement was enacted, we have observed a continued commitment by airports to (a) adopt more entry friendly leasing practices; (b) enhance gate monitoring and dispute resolution capabilities; and (c) increase oversight of gate-sharing and subleasing practices.

In short, covered airports have made significant progress in fostering a more competitive environment. Based on these considerations, we took action to streamline the process for review of Competition Plans and updates following submittal in FY 2004. In addition, we have decided to streamline the submittal process for FY 2005 and beyond.

FY 2004 Competition Plan Streamlining Initiative

In FY 2004, we significantly reduced the time required to review Competition Plans and Plan updates. When airports were first required to develop Competition Plans in 2001, our review period at times consumed up to 6 months, as we developed our expertise in the area and as the airport community became more familiar with our expectations. In Federal FY 2004, after we had experience reviewing at least an initial Competition Plan and one Plan update for most covered airports, the FAA set a goal of 75 days for completion of a Plan approval. As of June 2004, approval of Competition Plans and Plan updates had an average processing time of 62 days, or a two-thirds reduction in time from when the program began. We accomplished this reduction by: (1) devoting additional staff resources; (2) relying on discussions and information produced during informal teleconferences, rather than through formal correspondence, to resolve questions or issues of concern; and (3) providing each airport with a document summarizing reported actions taken by covered airports to reduce barriers to entry and enhance competitive access (April 2003, "Highlights of Reported Actions to Reduce Barriers to Entry and Enhance Competitive Access").

FY 2005 Initiatives

Beginning in FY 2005, a covered airport that has submitted an approved Competition Plan and two approved plan updates will no longer need to submit periodic written Plan updates unless one of the following special conditions arise:

- An airport files a competitive access report as required by Section 424 of Vision 100, codified as 49 U.S.C. 47107 (s) stating it had denied access to an air carrier for gates or facilities within the last six months. Section 424 requires any medium or large airport that has denied a carrier's request or requests for access to file a report with the FAA describing the carrier's requests, providing an explanation as to why the requests could not be accommodated, and providing a time frame within which, if any, the airport will be able to accommodate the requests. Reports are due each February and August. As described more fully in this guidance letter, the FAA expects the airport's written Competition Plan to detail any changes since the previous submittal and any issues raised in the FAA's approval letter.

- An airport executes a new master lease and use agreement, or significantly amends a lease and use agreement, including an amendment due to use of PFC financing for gates. At these airports, the Plan update would be limited to submitting to the FAA a copy of the airport's new lease and use agreement along with a summary of the agreement. The FAA will review the agreement for consistency with applicable Federal requirements for airport access and compliance with successful implementation of its previous Competition Plan approvals. In light of the significant Federal interest in the leasing and financing practices and arrangements embodied in a new master use and lease agreement or amended use and lease agreement, the FAA encourages airports to consult with the FAA about new lease provisions and to provide the FAA the opportunity to review the new or amended provisions prior to formal execution.

For airports that have not yet had an initial Plan and two updates approved, submittal of an initial Plan and written updates will still be required. However, updates may focus on changed circumstances in any of the areas required to be addressed.

In addition, we will periodically review the implementation of competition plans of all covered airports, and may conduct site visits, to meet our obligation to ensure that each covered airport successfully implements its approved plan.

The FAA will send written notification letters by September 30 of each year to airports that will be required to file Competition Plans or Plan updates in the upcoming Federal fiscal year based on the guidance set forth above.

Airport Business Practices Report

Before Congress adopted the Competition Plan requirement, the U.S. Department of Transportation (DOT) issued a report entitled "Airport Business Practices and Their Impact on Airline Competition". This report can be viewed online by using the link at <http://ostpxweb.dot.gov/aviation/domav/airports.pdf>. The report provides useful information to covered airports and other airport sponsors and public agencies on airport business and leasing practices that can enhance opportunities for airline access. We strongly encourage covered airports to review this report during the development of their Competition Plan.

Statutory Requirement for Competition Plans

"Beginning in fiscal year 2001, no passenger facility fee may be approved for a covered airport under section 40117 and no grant may be made under this subchapter for a covered airport unless the airport has submitted to the Secretary a written competition plan in accordance with this subsection.

"CONTENTS.—A competition plan under this subsection shall include information on the availability of airport gates and related facilities, leasing and subleasing arrangements, gate use requirements, patterns of air service, gate assignment policy, financial constraints, airport controls over air and ground-side capacity, whether the airport intends to build or acquire gates that would be used as common facilities, and airfare levels (as compiled by the Department of Transportation) compared to other large airports.

"COVERED AIRPORT DEFINED.—In this subsection, the term 'covered airport' means a commercial service airport—

"(A) that has more than .25 percent of the total number of passenger boardings each year at all such airports; and

"(B) at which one or two air carriers control more than 50 percent of the passenger boardings."
Pub, L. 106-181, section 155(b).

In adopting the requirement, Congress found that “[m]ajor airports must be available on a reasonable basis to all carriers wishing to serve those airports.” Pub. L. 106-181, section 155(a)(1). Further, the legislative history of the requirement states that “The underlying purpose of the competition plan is for the airport to demonstrate how it will provide for new entrant access and expansion by incumbent carriers. By forcing the airport to consider this, it would be more likely to direct its AIP and PFC money to that end.” H. Rpt. 106-513.

Covered Airports

In compiling a list of covered airports, we use the enplanement information consistent with the annual apportionment of passenger entitlements. The list for a fiscal year will be based upon the data collected for the most recent calendar year (e.g., the list for FY 2005 is based upon calendar year 2003 enplanements). Airports meeting the statutory criteria for covered airports in FY 2005 and who have not filed, and received approval of, a first time Competition Plan and two Plan updates are listed on the FAA ARP website (Attachment A). This list is based upon calendar year 2003 enplanement data that was updated in August 2004. For the purposes of this list, we have determined that an “air carrier” includes all affiliated or subsidiary airlines operating under a single certificate of public convenience and necessity issued by the Secretary of Transportation. For those airports with Plan updates due in FY 2006, as discussed below, the FAA will determine its status as a covered airport at the end of FY 2005, based on calendar year 2004 data.

Timing and Content of Competition Plans and Updates

Each airport needs to tailor a Competition Plan to reflect the unique nature of business at its airport. This guidance is not intended to restrict the contents of the Plan to the approach contained in this letter, as it only represents one of several possible approaches. However, an initial plan should address each of the eight broad areas identified in this PGL, since these areas are based on the subjects listed in the statute. Further, review is facilitated if the Competition Plan or Plan update is organized to reflect these subject areas and the structure of this PGL. We encourage airports to provide ample information and detail to allow the Department to fully analyze the Plans to ensure that they satisfy the statute. Using a similar structure for Plan updates will likewise facilitate our review. Please note that first time Competition Plan filers (and those airports filing Plan updates) are encouraged to contact the FAA for information and assistance in preparing their Competition Plan or Plan update if they so desire.

Also available is a report (Attachment B), prepared in September 2004, highlighting actions taken by airports covered by the Competition Plan requirements to reduce barriers to entry and enhance competitive access. An earlier version of this report has been distributed at several airport conferences in order to demonstrate the tools airport managers are using to comply with statutory elements of the Competition Plan requirement, the competitive benefits that may be achieved through implementation of these tools, and other ancillary advantages that may be derived from these examples. This report may be of interest to you as you prepare your Competition Plan or Plan update.

While we are not requiring that each airport address each item listed under the topics below, airports should be aware that the lack of sufficient detail in a filing may cause the FAA to solicit additional information before accepting a Competition Plan or plan update. In addition, under the statute, each of the eight topic areas must be addressed for the FAA to accept a filing.

In addition, an affected airport filing a Competition Plan update is requested specifically to address FAA requests for additional information or clarification. The discussion should include a restatement of each FAA question, recommendation or request for additional information, and the airport’s response.

Further, in instances in which the FAA has recommended that an airport adopt a particular management or operating practice and the airport has declined the recommendation, the airport should explain the activities and/or procedures it is performing that would achieve the same result

as the FAA's recommended practice. To facilitate review, the discussion of FAA comments should be associated with the subject category under which the discussion appeared in the FAA's review letter. An airport filing a Plan update to its previous plan submittals need only respond to questions raised or recommendations included by the FAA/OST in previous plan approvals, and specify any new relevant changes in competitive circumstances at the airport. If there have been no changes in competitive filing information, the airport need only state that there has been no change since the previous plan approval.

First-Time Competition Plans

As noted the FAA is prohibited from approving a new PFC application or AIP grant from a covered airport until a Competition Plan determined by the FAA to comply with Section 155 has been received. Consequently, in a fiscal year in which an airport first meets the statutory criteria for a covered airport, the FAA will award no new AIP grants or PFC approvals until the Competition Plan is approved. First time Competition Plan filers are encouraged to contact the FAA Washington Headquarters organization (Ms. JoAnn Horne (202) 267-9922 or Ms. Andrea Toney (202) 267-7038 if they need assistance in preparing their plan or have questions).

Timing

A covered airport should file its initial Competition Plan as close as possible to the start of the fiscal year to avoid undue delay in processing AIP and PFC applications.

Typical First-Time Competition Plan Filing Information

The following items may be considered in the development of a Competition Plan to be filed for the first time. The items are identified in the same order and using the same headings as contained in the statutory provision. The FAA would consider a Competition Plan that includes these items to meet the requirements of section 155.

1. Availability of gates and related facilities (identify or describe):
 - Number of gates available at the airport by lease arrangement, i.e., exclusive, preferential, or common-use, and current allocation of gates;
 - Whether any air carriers that have been serving the airport for more than three years are relying exclusively on common-use gates;
 - Diagram of the airport's concourses;
 - Description of gate use monitoring policies, including any differences in policy at gates subject to PFC assurance # 7 and samples of gate use monitoring charts, along with a description of how the charts are derived and how they are used by the airport;
 - Description of the process for accommodating new service and for service by a new entrant;
 - Description of any instances in which the PFC competitive assurance #7 operated to convert previously exclusive-use gates to preferential-use gates or it caused such gates to become available to other users;
 - Gate utilization (departures/gate) per week and month reported for each gate;
 - The circumstances of accommodating a new entrant or expansion during the 12 months preceding filing, including the length of time between initial carrier contact of airport and start of service, the identity of the carriers and how they were accommodated;

- Resolution of any access complaints by a new entrant or an air carrier seeking to expand service during the 12 months preceding the filing, including a description of the process used to resolve the complaint;
- Use/lose, or use/share policies and recapture policies for gates and other facilities. If no such policies exist, explain the role, if any under-utilized gates play in accommodating carrier requests for gates;
- Plans to make gates and related facilities available to new entrants or to air carriers that want to expand service at the airport and methods of accommodating new gate demand by air carriers at the airport (common-use, preferential-use, or exclusive-use gates);
- Availability of an airport competitive access liaison to assist requesting carriers, including new entrants; and
- Number of aircraft remain overnight (RON) positions available at the airport by lease arrangement, i.e. exclusive, preferential, common-use or unassigned, and distribution by carrier. Describe procedures for monitoring and assigning RON positions and for communicating availability of RON positions to users.

2. Leasing and subleasing arrangements (identify or describe):

- Whether a subleasing or handling arrangement with an incumbent carrier is necessary to obtain access;
- How the airport assists requesting airlines to obtain a sublease or handling arrangement;
- Airport policies for sublease fees levels (e.g. maximum 15 percent above lease rates), and for oversight of fees, ground/handling arrangements and incumbent schedule adjustments that could affect access to subtenants;
- Process by which availability of facilities for sublease or sharing is communicated to other interested carriers and procedures by which sublease or sharing arrangements are processed;
- Procedures for resolving disputes or complaints among carriers regarding use of airport facilities, including complaints by subtenants about excessive sublease fees or unnecessary bundling of services;
- Resolution of any disputes over subleasing arrangements in the 12 months preceding filing;
- Accommodation of independent ground service support contractors, including ground handling, maintenance, fueling, catering or other support services; and
- Copies of lease and use agreements in effect at the airport.

3. Patterns of air service (identify or describe):

- Number of markets served and identities of carriers serving the airport;
- Number of markets served on a non-stop basis and the average number of flights per day;
- Number of small communities served;

- Number of markets served by low-fare carriers;
- Number of markets served by one carrier; and
- Number of new markets added or previously served markets dropped in the past year.

4. Gate assignment policy (identify or describe):

- Gate assignment policy and method of informing existing carriers and new entrants of this policy. This would include standards and guidelines for gate usage and leasing, such as security deposits, minimum usage, if any, fees, terms, master agreements, signatory and non-signatory requirements;
- Methods for announcing to tenant carriers when gates become available. The description should discuss whether all tenant air carriers receive information on gate availability and terms and conditions by the same process at the same time; and
- Methods for announcing to non-tenant carriers, including both those operating at the airport and those that have expressed an interest in initiating service, when gates become available; and policies on assigning RON positions and how RON position availability announcements are made.

5. Gate use requirements (identify or describe):

- Gate use monitoring policy, including schedules for monitoring, basis for monitoring activity (i.e., airline schedules, flight information display systems, etc.), and the process for distributing the product to interested carriers;
- Requirements for signatory status and identity of signatory carriers;
- Where applicable, minimum use requirements for leases (i.e., frequency of operations, number of seats, etc.);
- The priorities, if any, employed to determine carriers that will be accommodated through forced sharing or sub-leasing arrangements. Describe how these priorities are communicated to interested carriers;
- Justifications for any differences in gate use requirements among tenants;
- Usage policies for common-use gates, including, where applicable, a description of priorities for use of common-use gates. Explain how these priorities are communicated to interested carriers; and
- Methods for calculating rental rates or fees for leased and common-use space. Where applicable, provide an explanation of the basis for disparities in rental fees for common-use versus leased gates.

6. Financial constraints (identify or describe):

- The major source of revenue at the airport for terminal projects;
- Rates and charges methodology (residual, compensatory, or hybrid);
- Past use, if any, of PFC's for gates and related terminal projects; and

- Availability of discretionary income for airport capital improvement projects.
7. Airport controls over airside and groundside capacity (identify or describe):
- Majority-in-interest (MII) or “no further rates and charges” clauses covering groundside and airside projects;
 - Any capital construction projects that have been delayed or prevented because an MII was invoked; and
 - Plans, if any, to modify existing MII agreements.
8. Airport intentions to build or acquire gates that would be used as common facilities:
- The number of common-use gates that the airport intends to build or acquire and the timeline for completing the process of acquisition or construction. Indicate the intended financing arrangements for these common-use gates, and whether the gates will be constructed in conjunction with preferential or exclusive-use gates.
 - Whether common-use gates will be constructed in conjunction with gates leased through exclusive or preferential-use arrangements;
 - Whether gates being used for international service are available for domestic service; and
 - Whether air carriers that only serve domestic markets now operate from international gates. If so, describe and explain any disparity in their terminal rentals versus domestic terminal rentals.
9. Airfare levels as compared to other large airports. (Information about airfare levels compared to other large airports is available at <http://ostpxweb.dot.gov/aviation/> Complete the following steps to view airfare levels after reaching the above referenced website.
- Click on: Domestic Issues (on the left side of the screen)
 - Click on: Airport Competition Plans – Air Fare Data
 - Click on: Airport Competition Plans – Air Fare Data
 - Select: Table with appropriate data
 - Summarized data for the airport showing each carrier’s local passengers, average fares, market share (based on passengers), and average passenger trip length. (Source: Table 1 of data provided by DOT); and
 - Summarized data for the airport showing local passengers, average passenger trip length, average passenger yield, and number of city-pair markets served disaggregated by distance (distinguishing between markets of 750 miles or less and markets over 750 miles), and depending upon whether or not a low-fare competitor is present. Compare to other airports that have similar average passenger trip lengths, for short distance markets, long distance markets, or in total. (Source: Table 2 of data provided by DOT).

Any questions about this database should be directed to the Office of Aviation Analysis, DOT, on (202) 366-5903.

Periodic Updates to the Plan

As indicated above, the statute provides for the periodic review of the Competition Plans for PFC purposes and the FAA needs updated Plans for action on subsequent PFC applications. Covered airports that meet the statutory requirement to file a Competition Plan update and have submitted their initial Plan and two Plan updates will no longer need to submit future written Plan updates unless the special conditions outlined previously (i.e. – executed a new master use and lease agreement and/or significantly revised use and lease agreement or filed a Vision 100 competitive access disclosure notification) are applicable. An airport that has not yet submitted two updates should submit Plan updates no later than 18 months after the FAA's approval of its prior submission. The update requirement can be satisfied by submitting information on circumstances of information which has changed since the prior submittal, and addressing questions, suggestions or recommendations in the FAA's previous review letter. Airports need not repeat all information in earlier submittals. However, to facilitate review, the update should be structured to address the nine broad areas outlined in this PGL. With respect to competitive actions that have not been changed, the airport may so indicate.

Timing of Plan Updates

A covered airport that has not submitted and received approval of a Competition Plan and two Plan updates must submit its Plan update within 18 months of its previous Plan approval date. (See Attachment A for a current list of airports and their next Plan update submission deadlines). However, an airport that does not meet the criteria for a covered airport in the fiscal year its update would otherwise be due would not be required to file an update in that fiscal year.

To determine whether an airport is required to submit a Plan update, the FAA will consider an airport's status as a covered airport in the fiscal year in which the plan update is due. Attachment A contains the list for Federal FY 2005. For FY 2006, the FAA will establish a new list of covered airports at the end of FY 2005. Only those airports who meet the special conditions for covered airports or those who have not filed a first time Competition Plan and two updates (and still meet the statutory requirement for a covered airport on the list in FY 2006) will be required to file plan updates that fiscal year.

For purposes of determining whether the FAA may approve a new PFC or process new grants, FAA will consider a Plan update to be current for 18 months after the approval of the first Plan and subsequently, 18 months after the approval of each Competition Plan update. In other words the FAA will continue to process new AIP grants and PFC approvals until the due date for filing Plan updates.

Typical Plan Updates

The Competition Plan update should provide the analytic support needed for the airport to demonstrate how, over the past 18 months, it has "...provided for new entrant access and expansion of incumbent carriers. "Similar to the case of the original Competition Plan, the update should be tailored to the circumstances of an airport and the information provided below represents only one approach to the updates. Where there has been no change or no significant change, a simple negative declaration would be sufficient.

The information below also is identified by the same headings as the first-time Competition Plan above.

1. Availability of gates and related facilities – the airport should provide Copies of gate use monitoring procedures amended during the update period and samples of current gate monitoring charts and the airport should provide description of changes relating to:
 - a. Carriers serving the airport;

- b. The process for accommodating new service and descriptions of the process for accommodating new or expanded services;
 - c. Number of gates now available at the airport;
 - d. Number of gates with common use status and reason for change;
 - e. Gate utilization;
 - f. Gate recapture;
 - g. Gate allocation or assignments since the last Competition Plan update; and
 - h. RON position allocation or assignments since the last Competition Plan update;
2. Leasing and subleasing arrangements – the airport should provide the following information:
 - a. Copies of amended lease and use agreements executed during the update period.
 - b. Description of any major changes in:
 - Contractual arrangements at the airport, for example, disposition of any individual gate lease agreements that were renewed or changed;
 - Policies and procedures for monitoring sublease fees and arrangements; and
 - Availability of third-party ground service providers or in airport policies governing third-party ground service provider access to the airport.
 - c. Resolution of any disputes between carriers relating to access since previous submittal.
3. Patterns of air service -- the airport should identify changes relating to new markets served, new markets served by low fare carriers, or the number of markets served by one carrier.
4. Gate assignment policy – the airport should identify major changes in assignment policies, including changes in RON position assignment policies.
5. Gate use requirements -- the airport should identify major changes in requirements for signatory status; lease requirements; common-use gate priorities; gate use monitoring; and calculation of rental rates and common-use fees as well as disparities in fees, if not addressed under Gate availability or Leasing and subleasing headings.
6. Financial Constraints – the airport should identify any additional financial constraints since the previous submittal or the relaxation of any financial constraints.
7. Airport controls over airside and groundside capacity -- the airport should identify any major changes in its rates and charges policy and describe whether and why the MII clause has been invoked in the period covered by the update.

8. Airport intentions to build or acquire gates that would be used as common facilities – the airport should provide any updates to plans for additional gates as common facilities.

Updates due to special circumstances

As noted, once the FAA has accepted an initial Competition Plan and two Plan updates, a covered airport would be required to submit an additional written update only if one of two special circumstances exist – the airport has submitted a report of denial of access under section 424 of Vision 100 or the airport has executed a new master lease and use agreement or a significantly amended lease and use agreement. The timing and content of updates in these special circumstances varies from periodic update requirements. In all special circumstances, the FAA will specify the requirement for filing further updates in our review letter.

Update based on Vision 100 filing – Limited Update

Covered airports submitting a plan update because they filed a report of a denial of access under section 424 of Vision 100 should file a Plan update within two months of submitting the section 424 report. Use of the suggested format and contents for periodic updates outlined above will facilitate our review of access conditions at the airport and acceptance of the update. The FAA will not issue any new AIP grants or PFC approvals after the due date of the update until we accept the new update.

Update based on new master use and lease agreement or significantly amended lease

Covered airports submitting a Plan update because they have executed a new master use and lease agreement or a significant lease amendment should file a Plan update within two months of execution of the lease. The update may be limited to a copy of the new master use and lease agreement or amended lease agreement along with a written description of the changes in lease terms, and leasing practices or policies included in the lease document. Where possible, we encourage airports to submit their new master use and lease agreement or amended lease before execution. This would provide an opportunity for us to review proposed changes for consistency with the objective of providing airport access. We also remain available to discuss proposed changes informally with covered airports during the negotiations of leases. The FAA will not issue any new AIP grants or PFC approvals after the due date of the update until we approve the new update.

Plan Submittal

Covered airports should provide two copies of their Plan or update to the FAA's Director of Airport Planning and Programming (APP-1), 800 Independence Avenue S.W., Washington, DC 20591 for review. Alternatively, the FAA will accept an electronic version filed at 9-AWA-ARPAPP-Competition-Plans@faa.gov. In addition, covered airports should also submit one copy of their Competition Plan or update to the appropriate regional or airports district office. Airports should note that failure to provide an acceptable Plan in a timely manner will affect the FAA's ability to issue a grant or approval to collect a PFC. The review of Competition Plans or updates may take up to 75 days.

Plan Assistance

Covered airports who wish to seek the assistance of FAA Airports organization staff' in completing the first time Competition Plan, or Plan update may contact the FAA's Financial Analysis and Passenger Facility Charge Branch (APP-510), 800 Independence Avenue S.W., Washington, DC 20591 for assistance (JoAnn Horne, Branch Manager, (202) 267-9922 or Andrea Toney, (202) 267-7038).

Plan Review Process

A joint OST/FAA team will review each plan to determine that the Plan or Plan update satisfies statutory requirements. Plan acceptance and/or deficiency identification will be communicated to the airport by APP-1 with a copy to the servicing region. The OST/FAA team may contact the airport informally during the course of the Competition Plan review. This contact would generally take the form of a telephone conference call and may include a site visit. Additionally, the OST/FAA intends to monitor the implementation of an airport's Plan during the period between submittals. This monitoring may include site visits to subject airports.

Public Availability of Plans and Updates

Pursuant to the FAA's authority under 49 U.S.C. sections 47107(a)(15) and 47122, we have determined that the competition plan and competition plan update are reports within the meaning of section 47107(a)(15) and its implementing AIP grant assurance. Consequently, under the terms of the assurance, the Competition Plan and Competition Plan update must be made available to the public. The FAA recommends the posting of Competition Plans and Plan updates, as well as the FAA's review letters, on the airport's web site as the method of satisfying this requirement. The Competition Plan or Plan update should describe the airport's method of satisfying AIP grant assurance No. 26. If web posting is employed, the filing should identify the precise web address where the Competition Plan material may be found. If web posting is not employed, the reasons for this decision should be discussed in the submission.

Additional PFC Information

A competition plan is required for an airport that seeks new PFC authority subject to FAA approval. For the purposes of this guidance, such new PFC authority would be a new application for collection, an increase in PFC level (\$3 to \$4 or \$4.50), or new collection authority applied for through an amendment under 14 CFR Part 158.37(1)(i).

For example, a public agency may seek to increase its previously approved PFC amount for a project through an amendment under 14 CFR Part 158.37(b)(1)(i). Whereas the previously approved collection authority would have expired in December 2004, the amendment would extend collection authority to December 2005. The FAA could not approve the new collection authority attributable to the amendment unless a Competition Plan had been submitted. However, the public agency could continue to collect the PFC under the original authority until it expires in December 2004, even without submitting a Plan.

In order to minimize submittal requirements, airports submitting Plans to satisfy AIP requirements will be considered to have satisfied PFC requirements and will not be required to resubmit its Competition Plan as part of a PFC application.

Plan Development Eligibility

Competition Plans and updates are eligible for AIP and/or PFC funding as master planning. Additionally, the scope of work for full master planning studies and updates for the full study must include a Competition Plan development or update as part of the effort (if the studies or updates include a review of terminal development). However, this requirement would not apply to master planning efforts that are either minor in scope or that are occurring at times that would create a duplication of effort with recently completed Plans or updates.

Distribution of Guidance

The FAA Headquarters Airports Organization (ARP), will distribute a copy of this PGL via letter to each large and medium hub airport, identified in Attachment A and to any other airport that submitted a Competition Plan or Plan update in FY 2004. Subsequent notification will be provided to covered airports (each fiscal year) via letter or a website reference that will contain pertinent information and instructions.



Barry L. Molar

Attachments

Cancelled