




U.S. Department
of Transportation
**Federal Aviation
Administration**

Memorandum

Subject: **ACTION:** Program Guidance Letter 13-05
Procurement of Sole-Sourced Airfield Lighting or
Modification of Airfield Lighting Control and Monitoring
Systems (ALCMS)

Date: June 19, 2013

From: 
Frank San Martin
Manager, Airports Financial Assistance Division, APP-500

Reply to
Attn. of: Nancy S. Williams
202-267-8822

To: PGL Distribution List

1. Purpose and Summary of this PGL

This Program Guidance Letter (PGL) describes updated FAA policy requirements for two specific procurement situations.

a. ALCMS Modification and Single-Certified Airfield Lighting Equipment

The FAA policy will now require sponsors to separate the noncompetitive procurement of an ALCMS modification and single-certified airfield lighting equipment from other parts of the construction procurement. Previously, these items could be included in the overall contract procurement. The requirements for procurement of ALCMS modification or single-certified lighting equipment are addressed in Paragraph 5.

b. Procurement and Installation of a Sponsor's Preferred Airfield Lighting Manufacturer's Equipment

Previously, the FAA policy did not explicitly allow a sponsor to provide lighting equipment on an AIP-funded project. The FAA has now determined that a sponsor may be allowed to buy the preferred equipment (using sponsor funds) and use AIP funds to pay for the installation of the sponsor-preferred equipment, provided all AIP requirements are met for the installation.

The requirements for procurement and installation of a sponsor's preferred airfield lighting manufacturer's equipment are addressed in Paragraph 6.

2. Applicability Limitations

This PGL is limited to *only* the situations listed above - ALCMS modification, acquisition of airfield lighting equipment for which there is only one certified manufacturer, or situations where an airport sponsor wishes to purchase and provide with its own funds airfield lighting equipment which is then installed using AIP grant funds.

The airfield equipment included in the PGL is only the airfield lighting equipment that is both AIP-eligible and is listed in the current version of Chapter 1 of FAA Advisory Circular 150/5345-46, Specification for Runway and Taxiway Lighting Fixtures.

3. Implementation Timing and Requirements

As of the date of the publication of this PGL, these requirements must be followed for all AIP-funded projects or contracts that include any of these situations. The only exception is in the case of construction bid documents that were legally advertised prior to (or no later than thirty (30) calendar days after) the date of this PGL.

4. Regulatory Requirements

The sponsor and the ADO/RO must follow the procurement requirements listed in the following documents for all projects that are funded (in any amount) with AIP funds:

- a. Chapter 49 of the Code of Federal Regulations §18.36, the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- b. Office of Management and Budget Circular OMB A-87, Cost Principles for State, Local, and Indian Tribal Governments.

5. Airfield Lighting Control and Monitoring System (ALCMS) Modification or Single-Certified Airfield Lighting Equipment

The ADO/RO can generally find that the costs of an ALCMS modification or acquisition of airfield lighting equipment may be reimbursed with AIP funds. However, the FAA has determined that ALCMS modification (or the acquisition of certified airfield lighting equipment for which there is only one manufacturer) may negatively impact the 49 CFR § 18.36(c)(1) requirement of full and open competition, if this work is included in a sealed bid procurement for a broader project. This negative impact stems from the fact that the manufacturer of the equipment may be perceived to have an advantage over other manufacturers. In addition, the manufacturer might be perceived to be able to offer more favorable pricing to a contractor who agrees to use only that manufacturer's equipment on other parts of the project, creating a strong pricing incentive to use that manufacturer's equipment for the rest of the project.

To address the problems with competition, the FAA is adopting a policy where a sponsor must now separately procure the ALCMS modification or the single-certified equipment from the overall contract procurement using the noncompetitive procurement requirements in 49 CFR §18.36(d)(4). Previously, these items were sometimes included as part of broader, AIP-funded contracts.

6. Procurement of a Sponsor's Preferred Airfield Lighting Manufacturer's Equipment

Because AIP funded projects must meet the procurement requirements in 49 CFR §18.36(c)(1), sponsors are not allowed to select their preferred manufacturer of airfield lighting equipment and pay for that equipment with AIP grant funds.

An ADO/RO may not approve a sponsor's request for AIP funds to pay for a sponsor's preferred manufacturer's equipment.

The ADO/RO must not consider this situation as equivalent to sponsor force account or donated materials. However, the FAA Office of Airports has developed a procedure that will allow a sponsor to provide its preferred equipment (using other, non-AIP funding sources) to be used as part of an AIP-funded project. While the sponsor must use its own funds to pay for the equipment, AIP may be able to fund the installation costs provided the steps and requirements in the following sections are met.

7. Requirements for Procurement

The requirements for noncompetitive procurement are listed in Table 1.

Table 1. General Requirements for Procurement

The following applies...	The requirements are...
a. Advance ADO/RO Notification by the Sponsor	<p>(1) The sponsor must notify the ADO/RO in writing before the procurement begins.</p> <p>(2) The notification must include the schedule for the equipment procurement, the schedule for the overall bid project procurement. These schedules must indicate that the equipment procurement will be completed before the overall bid project procurement begins.</p> <p>(3) For sponsor-preferred equipment, the sponsor must include an acknowledgement in the notification that the cost of the sponsor-preferred equipment will not be eligible for AIP funding and that the sponsor will pay for the costs of the procurement and the sponsor-preferred equipment with non-AIP funding.</p>
b. ADO/RO Response to the Sponsor	<p>(1) The ADO/RO must review the sponsor notification to see if the three items listed above have been included.</p> <p>(2) It is not necessary for the ADO/RO to acknowledge the sponsor's notification.</p> <p>(3) The ADO/RO must keep a copy of the sponsor's notification and any ADO/RO acknowledgement in the project file.</p> <p>(4) The ADO/RO has the option to review the sponsor's procurement documents.</p>
c. Procurement Process	<p>(1) For ALCMS modification or single-certified equipment, the sponsor must procure this equipment or ALCMS modification outside of the overall contract procurement using the noncompetitive proposal process described in 49 CFR §18.38(d)(4), if the sponsor anticipates requesting AIP funds for the modification or equipment.</p>
d. Procurement Timing	<p>(1) The manufacturer must have submitted its price quotation to the sponsor before the overall project procurement begins</p>
e. Requirements for AIP Reimbursement	<p>(1) The ability for the ADO/RO to reimburse the sponsor is listed in Table 2.</p>

8. AIP Reimbursement of Costs.

- a. ALCMS modification or Single-Certified Airfield Lighting Equipment. Provided the requirements listed in Table 2 are met, the ADO/RO may approve AIP funds for ALCMS modification or Single-Certified Airfield Lighting Equipment.
- b. Sponsor-preferred airfield lighting equipment. Although the cost of the sponsor-preferred airfield lighting equipment is not eligible for AIP funding, in some cases, the ADO/RO may approve AIP funds for other costs associated with sponsor-preferred airfield lighting equipment. The requirements are listed in Table 2.
- c. Sponsors are prohibited from using the costs of sponsor-preferred airfield lighting equipment as part of the sponsor's share of a grant.

Table 2 Rules for AIP Reimbursement of Sponsor Furnished Materials or Equipment (applicable only to the specific context of this PGL)

If the Sponsor furnished materials or supplies is...	And...	The eligibility determination is ...
a. ALCMS modification or Single-Certified Equipment Procured per 49 CFR § 18.36(d)(4)	(1) Meets all required federal contract provisions for equipment procurement, including Buy American, 49 U.S.C. § 50101. (2) Meets all requirements of Table 1. (3) Meets all applicable FAA technical standards for material or supply.	The equipment is AIP eligible. The installation, testing and inspection of the equipment is AIP eligible (provided all AIP requirements are met).
b. ALCMS modification or Single-Certified Equipment Procured per 49 CFR § 18.36(d)(4)	(1) <i>Does not</i> meet all required federal contract provisions for equipment procurement, including Buy American (2) Meets all requirements of Table 1. (3) Meets all applicable FAA technical standards for material or supply.	The equipment is not AIP eligible. The installation, testing and inspection of the equipment is AIP eligible (provided all AIP requirements are met).
c. Sponsor-preferred airfield lighting equipment	(1) Meets all of the requirements of Table 1. (2) Meets all applicable FAA technical standards for material or supply.	The equipment is not AIP eligible. The installation, testing and inspection of the equipment is AIP eligible (provided all AIP requirements are met).
d. ALCMS Modification, Single-Certified, or Sponsor-preferred airfield lighting equipment	(1) Does not meet all applicable FAA technical standards for material or supply.	None. The equipment cannot be used on the AIP funded project.