

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

R. Seltman

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FILE: B-192888

DATE: November 17, 1978

MATTER OF: Federal Aviation Administration: Application of
Statutory Allocation Formulas to 1979 Appropriations
for Airport Development Grants

DIGEST: Federal Aviation Administration (FAA) has annual
obligational authority to make grants in amounts
set under Airport and Airway Development Act (AADA).
Funds are to be distributed according to statutory
allocation formula. 1979 appropriation act in
effect increases total 1979 obligational authority
from \$575 million, set by AADA, to \$629.14 million
and increases amount for general aviation discre-
tionary grants from \$15.6 million, derived from
allocation formula, to \$35.99 million. GAO agrees
with FAA proposal not to subject increase for
general aviation discretionary grants to alloca-
tion formula. Result will be most consistent
with congressional intent and will prevent in-
consistencies resulting from application of
formula.

This is in reply to a letter from the Administrator, Federal
Aviation Administration (FAA), concerning possible conflicts between
the provisions of sections 302 and 303 of Pub. L. No. 95-335 (92
Stat. 435), the Department of Transportation and Related Agencies
Appropriation Act, 1979, and the formulas for apportionment of air-
port development grant funds under sections 14 and 15 of the Airport
and Airway Development Act (AADA), 49 U.S.C. §§ 1714, 1715, as
amended. (The authority of the Secretary of Transportation under
these statutes has been delegated to FAA, and further references
will be to FAA or to the Administrator.)

For fiscal year 1979, 49 U.S.C. § 1714(a)(3) authorizes the
Administrator to make grants for development of air carrier airports
of not less than \$495 million. 49 U.S.C. § 1714(a)(4) authorizes
him to make grants for development of general aviation airports of
not less than \$80 million.

Section 1715(a)(3) of title 49 sets forth an apportionment
formula for grants authorized under § 1714(a)(3). Of the \$495 million
minimum obligation level for FY 1979, \$330 million must be allocated

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to individual air carrier airports as entitlement funds and \$165 million would be a discretionary fund for air carrier airport development grants.

For general aviation airports, the formula for distribution of the \$80 million is found in 49 U.S.C. § 1715(a)(4). Under that section \$15 million is to be distributed at the discretion of FAA for reliever airports, with the remaining \$65 million to be distributed as follows:

- (1) 75 percent, or \$48.75 million, as entitlement funds, to the States on a population basis (§ 1715(a)(4)(A));
- (2) 1 percent, or \$0.65 million, to territories, to be distributed at the discretion of the FAA (§1715(a)(4)(B)); and
- (3) 24 percent, or \$15.6 million, for a general aviation airport development grant fund, to be distributed at the discretion of FAA (§1715(a)(4)(C)).

Sections 302 and 303 of the 1979 Department of Transportation Appropriation Act appear in the General Provisions title of that Act. They provide as follows:

"Sec. 302. None of the funds provided in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$35,990,000 in fiscal year 1979 for general aviation discretionary grants.

"Sec. 303. None of the funds provided in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of \$593,150,000 in fiscal year 1979 for 'Grants-in-aid for airports' under 49 U.S.C. 1714 (a) and (b) other than general aviation discretionary grants."

(The House Appropriations Committee report suggests, and FAA assumes, that the "general aviation discretionary grants" referred to in section 302 are the discretionary funds allocated by 49 U.S.C. § 1715 (a)(4)(C) for a general aviation airport development grant fund, to be distributed at the discretion of FAA.)

FAA says that, although these sections are expressed in terms of limitations on availability of funds, "it is reasonably clear from the underlying history, and we assume for purposes of this letter, that they are actually intended to establish obligational levels as well as limits."

The difficulty arises because of sections 302 and 303. First, read together, they increase the total obligational level for grants-in-aid for 1979 for airports under sections 1714(a)(3) and (a)(4) from \$575 million to \$629.14 million. Second, within that total obligation level, section 302 increases the amount for general aviation discretionary grants from \$15.6 million, derived by applying the formula in section 1715(a)(4) to the original obligation level, to \$35.99 million. But, the Administrator points out, if these increases are required to be allocated according to the formulas of sections 1715(a) and (b), the result would be inconsistent with the \$495 million minimum for air carrier airports.

Thus, the Administrator indicates that if FAA applies the apportionment formula of 1715(a)(4) to the distribution of the \$35.99 million general aviation discretionary grants by assuming (1) that \$35.99 million is to be distributed as general aviation discretionary grants under subsection 1715(a)(4)(C), by virtue of section 302 of the Appropriation Act, and (2) that the amount distributed under that subsection must, by its terms, be 24 percent of the total obligations apportioned for general aviation airports minus the \$15 million for reliever airports, then \$164.96 million would be necessary to satisfy that subsection's provisions: \$164.96 million minus \$15 million for reliever airports equals \$149.96 million, and \$35.99 million is 24 percent of \$149.96 million. But when \$164.96 million is added to the \$495 million required by § 1714(a)(3) to be allocated to air carrier airports, the sum exceeds by \$20.82 million the total obligation authority established by sections 302 and 303 (\$629.14 million).

Alternatively, if one third of the \$629.14 million total obligation authority as established by the 1979 Appropriation Act (\$209.71 million) is allocated to general aviation airports, then the \$629.14 million will not be exceeded. But, after subtracting the \$15 million for reliever airports from the one third allocation, 24 percent of the remainder (the percentage which the formula of section 1715(a)(4)(C) sets aside for general aviation discretionary grants) is \$45.73 million, an amount in excess of the \$35.99 million limit set by section 302 of the 1979 Appropriation Act. Thus, there is no apparent way to satisfy sections 302 and 303 while at the same time allocating the additional obligational authority provided by those sections according to the scheme of sections 1715(a)(3) and (4) of title 49.

FAA concludes that Congress intended it to effect an accommodation in the provisions of 49 U.S.C. §§ 1714 and 1715 to the extent necessary to carry out the schemes of sections 302 and 303. It has proposed to do this by

- (1) apportioning and distributing the \$497 million minimum requirements of § 1714(a)(3) and \$80 million minimum of § 1714(a)(4) in accordance with the formulas prescribed in §§ 1715(a)(3) and (4); and
- (2) administering the excess (the difference between \$629.14 million and \$575 million) as a part of the discretionary fund established by § 1715(b) from which to make
 - (a) "general aviation discretionary grants" under § 1714(a)(4) until the maximum of \$35.99 million is reached; and
 - (b) discretionary grants other than general aviation discretionary grants under §§ 1714(a)(3) and (4) until the maximum of \$593.15 million is reached.

A fundamental principle of statutory interpretation is that all statutes be construed to give effect to the intent of Congress. United States v. American Trucking Assn., 310 U.S. 534, 542 (1940); 2A Sutherland, Statutory Construction §45.05 (Sands ed. 1973).

There is little doubt that FAA's proposal represents what the Congress intended. Thus, in the House, where the language of sections 302 and 303 was first considered, the report of the Appropriations Committee shows that the Committee was aware of the formula limitation resulting in approximately \$15.5 million in 1979 obligation authority for general aviation discretionary grants under § 1715(a)(4)(C), and intended to increase it without affecting other formula allocations. Thus, the Committee report mentions three particular projects which it wanted to fund under § 1715(a)(4)(C) as general aviation discretionary grants. The total cost of the three projects was \$6.48 million, and the Committee provided in the reported version of section 302 for obligations for general aviation discretionary grants of \$21.98 million, \$6.48 million more than the formula level of \$15.5 million.^{1/}

^{1/}There is a discrepancy here in that the House report apparently assumes a formula level of \$15.5 million, whereas the correct figure is \$15.6 million. The difference does not affect the conclusions reached herein.

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At the same time, the House provided in its version of section 303 for total grants under §§ 1714(a)(3) and (4), other than general aviation discretionary grants, of \$561.3 million. That figure included \$1.8 million intended for a particular airport.

The Senate Appropriations Committee ratified the House Committee's direction for FAA to make the grants mentioned above to particular airports totaling \$8.28 million (\$6.48 million plus \$1.8 million) and added three specific grants of its own, totaling \$3.75 million. The Senate further increased the obligation level for general aviation discretionary grants in section 302 to \$50 million, well beyond what was required to provide the \$15.5 million formula funding plus the specific projects added by the House and Senate. In addition, the Senate increased the authority for grants other than general aviation discretionary grants, in section 303, to \$625 million, thus increasing total obligational authority by \$100 million, to \$675 million.

The Senate Committee apparently expected that the \$50 million it authorized in section 302 would be used for general aviation discretionary grants, and would not be reduced through allocation among other programs. See S. Rep. No. 95-938, 15 (1978):

"The committee has included in the general provisions of the bill, obligations for this activity for fiscal 1979 not to exceed \$675 million, of which \$50 million is for general aviation discretionary grants."

(Emphasis added.)

In conference, the final figures which appear in sections 302 and 303 of the Act were agreed upon. In discussing the conference agreement on the House floor, Chairman McFall of the House Appropriations Subcommittee said that the agreement provides \$629.14 million in limitations on airport development grants. He went on to say:

"The airport grant limitation is approximately \$54 million over the President's budget and includes an increase of \$20.49 million for discretionary general aviation grants. We have been advised that there is a large backlog of unfunded applications in this particular area."

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This statement by the Chairman establishes clearly that it was not intended that the \$35.99 million provided for in section 302 for general aviation discretionary grants be subject to allocation, since \$20.49 million in additional authority plus \$15.5 million derived from the formula totals the \$35.99 million in section 302.

The legislative history thus makes it clear that the Congress intended that, of the increase in the total obligational level for grants-in-aid for airports for 1979 of \$54.14 million (from \$575 million to \$629.14 million), \$20.49 million was to go for discretionary general aviation grants so that the total of such grants would be \$35.99 million (\$15.5 million original authority plus \$20.49 million increase). The remainder of the increase (\$33.65 million) was to be available for all other grants under sections 1714(a)(3) and (4) of title 49.

FAA's proposed method of allocating the obligational authority is consistent with that intention and with the language of sections 302 and 303, while at the same time satisfying the minimum obligation requirement of section 1714(a)(3) and (4). Accordingly, we concur with the Administrator's interpretation of his statutory authority.


Deputy Comptroller General
of the United States