

Action: EIS Preparation Guidance; Third Party Contracting

From: Manager, Community and Environmental Needs Division, APP-600

To: Airport Division Managers and AMA-600, ATTN: Environmental Specialists

Reply to Attn. of: Ralph Thompson (202) 267-8227

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In 1992, after the court decision in **Citizens Against Burlington v. Busey**, APP-600 began examining the procedures and practices of the Airports program regarding the selection and use of contractors to prepare environmental impact statements (EIS's). The purpose was to ensure that our national guidance complied with the regulations of the Council on Environmental Quality (CEQ) and law; to determine if regional practice was relatively consistent with national guidance; and, to determine the need for additional guidance.

While our examination disclosed that national guidance was consistent with the National Environmental Policy Act and CEQ regulations, some additional guidance was needed regarding the way the airports program could go about selecting, hiring, and paying for contractor services in preparing EIS's and other environmental documents and analyses.

Draft guidance documents were developed by this office after discussions with EPA and other Federal agencies, and coordination with the FAA Office of the Chief Counsel and regional airports division managers. It became apparent very quickly that increased use of third party contracting would benefit our program more than any other process. Draft procedures for using third party contracting were finalized and introduced into use.

With your help and assistance, we have gained a considerable amount of experience in the use of third party contracting. Based on this knowledge we have finalized our guidance and a copy is attached. As part of the guidance, there are two recommended standard MOU's for establishing the third party contracting process between the FAA and airport sponsor (one MOU is for where FAA is the sole lead agency, the other MOU covers the situation where there are joint lead agencies). You will also find as part of the guidance, a copy of a recommended format for a contractor or subcontractor disclosure statement. The guidance, including attachments, will be sent via cc:mail to your regional environmental specialist for use and ease in reproduction.

I would also like to call your attention to FAA advisory circular 150/5100-14C (dated 2/16/94), section 2-10, for new guidance dealing with consultant selection procedures for EIS preparation.

Please keep my office informed of instances where you encounter problems or difficulties in undertaking third party contracting, or developing or executing an MOU. To date our experience in resolving problems has been very good.

Please contact my office should you or members of your staff have any questions regarding this material or want particular assistance.

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