



U.S. Department
of Transportation

**Federal Aviation
Administration**

Memorandum

Subject: **ACTION:** Program Guidance Letter 03-3

Date: August 13, 2003

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

Reply to
Attn. of:

To: PGL Distribution List

03-3.1 Contract Air Traffic Control Towers Under AIP - Jim Borsari (202) 267-8822 and Harold Thomas, ATP-140, (202) 267-9315.

Sections 338 and 370 of the Department of Transportation and Related Agencies Appropriations Act, 2003, contained provisions making the construction and/or equipage of airport traffic control towers eligible under the AIP if the towers will be used in the contract tower program. Section 338 was specific to Double Eagle Airport in New Mexico and contains some provisions that are different than the general eligibility. Since this is pertinent to only one airport, the Southwest Region will be advised separately.

GENERAL ELIGIBILITY

An airport may request a grant, using entitlement funding (as more specifically treated below), for the construction and/or equipage of a tower if it meets specific eligibility requirements. The statute places conditions on eligibility as follows:

1. The sponsor must be a participant in the FAA Contract Tower (FCT) Program, or
2. FAA must agree that the construction of the tower would qualify the sponsor to be eligible under the FAA Contract Tower (FCT) Program.
3. The sponsor must certify, via the FCT Operating Agreement and the FCT Cost Share Agreement, if applicable, that it will pay its share of the cost to equip, maintain, and operate the tower.

In the process of accepting the airport into the FCT Program, FAA agrees to seek appropriations for and maintain the airport in the FCT program in the same manner and priority as other airports already in the program.

PROCEDURE

In order for FAA to decide the eligibility of the sponsor to use entitlements for an ATCT, airports offices should advise airport sponsors to follow the procedures below to make application to the appropriate regional air traffic office.

The airport sponsor may commence the review by contacting the appropriate FAA Contract Tower (FCT) Program regional point of contact (POC) and request a FCT application package. This is the standard application process that is advertised through several publications. A list of these POC's is attached.

The regional POC will forward the airport sponsor an application package, which includes information about the program and forms requesting operational data. If the airport is still interested, the airport sponsor must return the completed package to the regional POC. After insuring all the required information is included, the regional POC will forward the package to the FCT Program Office, ATP-140.

ATP-140 will place the airport sponsor on the FCT Program applicant list, and forward the package to the FAA Office of Policy and Plans (APO) for calculation of their preliminary Benefit Cost (B/C) Ratio. The regional POC and the airport sponsor will be notified of the B/C and the program in which the airport is eligible to participate, either fully funded or cost share.

Once ATP-140 has made the final determinations required under the statute, it will provide the necessary certifications (including a statement that FAA will seek future appropriations for the operation of the tower if built with AIP funds) to APP-500 for review and transmittal to the appropriate regional airports division for filing in the file for the project. Such certifications must be kept with the project file.

The airport will be placed on the FCT Program candidate list pending the completion and certification that the tower meets the construction and equipage for a contract tower and the availability of FCT Program funds. ATP-140 has a standard list of equipment items that must be followed in the AIP grant. If the sponsor has other needs due to the unique nature of the conditions at the airport, these other needs must be specifically approved by the regional POC and/or ATP-140 in order to be considered allowable under the AIP grant. The regional POC will make this determination in coordination with ATP-140 and will advise the appropriate Regional Airports Division.

AIP FUNDING

Only after successful completion of the above steps may an airport request an AIP grant for construction. Under this provision, qualifying primary airports must use either primary or cargo entitlements that have been apportioned to them. Nonprimary airports may use either their nonprimary entitlements or state apportionment (under some restrictions). Under the statutory restrictions, State apportionment may be used at qualifying airports subject to a requirement that FAA has consulted with the pertinent State and the State supports the construction of the tower as part of its State airport capital plan. If State apportionment is to be used, States should be advised that in order to process the airport's application, FAA will need an affirmative, written advisory that the state supports the tower in the State airport capital plan and agrees that State apportionment funding should be used in specific funding amounts. Regions are reminded that under current law neither nonprimary entitlements nor State apportionment may be used in a multiyear grant. (There is a provision in the pending reauthorization legislation to permit multiyear authority for nonprimary entitlements, but not state apportionment.) For the time being, therefore, airports using nonprimary entitlements or state apportionment must wait until there is sufficient funding available for the project. The airport must also agree to fund at least 10 percent of the project and the maximum Federal participation is \$1.1 million (Again, there is a proposed reauthorization provision that would increase this amount to \$1.5 million.)

RETROACTIVE TREATMENT

The new statute also provided for the retroactive funding of contract control towers and equipment if the tower was constructed or the equipment acquired after October 1, 1996. In order to take advantage of this retroactivity, the airport must demonstrate that statutory requirements such as minimum wage requirements and Veteran's preference were met in the construction or improvement of the control tower. In addition, the provision did not waive any other statutory requirements such as environmental reviews, Disadvantaged Business Enterprise, professional services contracting and requirements under 49 CFR Part 18, the regulations covering grant programs including competition requirements. Only funds directly apportioned to a sponsor (passenger, cargo and nonprimary entitlements) may be used under this provision. State apportionment funding may not be used.

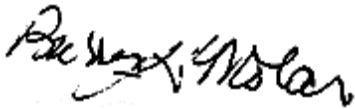
PRIORITY

For many years, FAA has had well-established procedures used by airmen operating at airports without towers. Therefore, for the purposes of the national priority rankings, these projects should be viewed as a capacity/building/construction (CA BD CO). In the event that the airport wishes to justify the project as being primarily a safety project, please advise APP-520 which will consult with ATP-140.

Finally, airport sponsors should be advised that the siting, construction and equipage of the tower will be solely their responsibility and that the FAA will generally have only a review and approval role. If there is a need to install any special FAA equipment, FAA will provide, install and maintain such special equipment.

03-3.2 AWOS Benefit-Cost Analysis – Mark Beisse (202) 267-8826.

Paragraph 572 of the AIP handbook describes the requirement of a benefit-cost analysis for automated weather observing system projects at airports with less than 10 based aircraft. However, with recent experience using the handbook and programming aviation weather projects, we have decided to make the AWOS equipment eligible at any eligible airport regardless of the based aircraft numbers. The principle reason for this change is that it is not cost effective to maintain the benefit-cost model for the number of airports that would be subject to the former benefit-cost policy. Regions should consider the type and cost of an appropriate AWOS depending on the prevailing weather conditions at the airport and the level of aeronautical activity in its project justification. There is no change in the priority rating system for this equipment.

A handwritten signature in black ink, appearing to read "Barry L. Molar". The signature is written in a cursive, somewhat stylized font.

Barry L. Molar