



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

Memorandum

Subject: **ACTION:** Program Guidance Letter 12-08

Date:

SEP 14 2012

From:

Manager, Airports Financial Assistance
Division, APP-500

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

To: PGL Distribution List

The purpose of this Program Guidance Letter (PGL) is to provide information and instructions on how to implement the relevant sections of Public Law 112-95, the FAA Modernization and Reform Act of 2012 (FMRA). Because FAA Order 5100-38C, the AIP Handbook, is undergoing major revision, we have not attempted to revise the existing AIP Handbook to incorporate these changes in every case. Rather, we have indicated the paragraphs of the existing AIP Handbook that are affected by the legislative changes. All changes resulting from FMRA will be incorporated in the revised AIP Handbook.

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12-08-01. Reauthorization of AIP through Fiscal Year 2015

On February 14, 2012, the President signed into law the FAA Modernization and Reform Act of 2012, Public Law 112-95. For the purposes of this program guidance letter, this legislation will be referred to as FMRA. Further, since FMRA amended Title 49, United States Code, all references throughout this program guidance letter to 'existing law' refer to that title of the United States Code unless a more specific reference is given. Under the reauthorization, AIP was extended to September 30, 2015. The annual contract authority for AIP is set at \$3.35 billion through FY 2015.

12-08-02. Changes in the Military Airport Program and Joint Use Airports

FMRA makes several changes to the Military Airport Program (MAP). These changes are described below and affect Paragraphs 40, 401e, 406q, 428b(2), 512c and 515b of the AIP Handbook.

a. Definition of Joint use Airport

Section 152 contains a definition of a joint use airport. The legislation established the definition of 'joint use' as: an airport owned by the Department of Defense, at which both military and civilian aircraft make shared use of the airfield.

b. Increase GA Slots from One to Three

Section 146(b) increases the number of general aviation (GA) airports that may be designated to the MAP from one to three. At the same time, Section 132 adds a definition of 'general aviation' airport that includes publicly owned reliever airports. However, a review of the legislative history for the MAP indicates that Congress has always considered a general aviation airport for MAP funding purposes separately from a reliever airport. As a result, reliever airports are not counted towards the GA slots available in the MAP.

c. Emergency Diversionary Operations

Section 146(a) also includes new eligibility for designating former military airports that support emergency diversionary operations. To be considered, the FAA must determine that the potential grant would be required to preserve or enhance minimum airfield infrastructure facilities to support emergency diversionary operations for transoceanic flights in locations within the United States jurisdiction or control. It shall also be determined when considering airport eligibility under this provision that there is a demonstrable lack of diversionary airports within the distance or flight-time required by regulations governing transoceanic flights.

d. *Safety-Critical Airports*

Section 146(c) creates a special eligibility for a federally-owned airport in MAP for projects that preserve or enhance minimum airfield infrastructure facilities to support emergency diversionary operations for transoceanic flights and are necessary to meet safety and operational requirements established under 14 CFR Part 139. (This federally-owned airport is not required to be in the MAP, but may still receive a grant from the MAP set-aside.)

12-08-03. Planning Project Changes

a. *Airport Master Plans*

Section 131 amends the requirements for airport master planning. It requires an airport to consider passenger convenience, airport ground access, and access to airport facilities, in addition to the other requirements for master planning. The following should be inserted at the end of Paragraph 403a of the AIP Handbook: "(5) The system/master planning must consider passenger convenience, airport ground access, and access to airport facilities." This change will also be incorporated into a revision of FAA Advisory Circular 150/5070-6, Airport Master Plans.

b. *Recycling and Environmental Management Plans*

Section 132(b) expands the definition of planning projects to include developing a plan for recycling and minimizing the generation of airport solid waste, consistent with applicable State and local recycling laws, including the cost of a waste audit. APP-400 will be developing guidance on the requirements for recycling plans.

Note: Section 133 of FMRA adds an additional requirement when FAA may approve a grant application. Before FAA may approve a master planning grant, the ADO **must** confirm that the Master Plan includes reviewing solid waste recycling at the airport.

Until technical guidance has been issued by APP-400, the Regional Office and Airport District Office (ADO) must coordinate with APP-400 on all master plan grants with these elements as well as any stand-alone grants for recycling plans. To address this change the following paragraphs are inserted at the end of Paragraph 406 of the AIP Handbook:

bb. A review of access to airport facilities and passenger convenience for the throughput and flow of passengers using the airport terminal and facilities and recommendations for improvements may be included

in Master Plan studies. This element of review must follow current terminal design criteria and industry recommendations.

cc. Develop an airport environmental management system plan. Eligibility and requirements for an Environmental Management System is addressed in Program Guidance Letter 07-06 as well as Advisory Circular 150/5050-8 and may be funded as a stand-alone project.

dd. Develop a plan for recycling and minimizing the generation of airport solid waste. The scope must be consistent with applicable State and local recycling laws and must include the following:

1. A waste audit;
2. The feasibility of solid waste recycling at the airport;
3. Minimizing the generation of solid waste at the airport;
4. Operation and maintenance requirements;
5. The review of waste management contracts; and
6. The potential for cost savings or the generation of revenue.

Note: *Until APP-400 issues guidance on recycling plans, the Regional Office and ADO **must** review the scope of work for the project and must ensure that the scope includes items (1) – (6).*

c. *Compatible Land use Planning and Projects by State and Local Governments.*

Section 153 of FMRA extended the sunset date for this program through September 30, 2015. The detailed information on this program may be found in PGL 05-05. However, the sentence in the first paragraph that indicates that the program ends in 2007 is now incorrect. The new program now ends in 2015. This change has been made to PGL 05-05.

12-08-04. Changes in AIP Eligibility

a. *ARFF Equipment Eligibility*

ARFF equipment is generally eligible under AIP if it is required under 14 CFR Part 139. Recently, 14 CFR Part 139 changed the standard for the number of passenger seats that triggers the ARFF equipment requirements from 20 passenger seats to 9 passenger seats. Section 132(a)(1) of FMRA aligns the statute with this change in passenger seat requirements. Because the AIP Handbook relies on the ARFF index

requirements of 14 CFR Part 139, the statutory change does not affect eligibility and no changes to Paragraph 541 of the AIP Handbook are required.

b. Glycol Recovery Vehicles

Section 132(a)(2) of FMRA clarifies that glycol recovery vehicles are eligible under AIP. There is no change in eligibility since glycol recovery vehicles are already eligible as environmental mitigation. No changes to Paragraph 547d of the AIP Handbook are required.

c. Mobile Refueler Vehicle Parking Within an Eligible Fuel Farm

Section 132(a)(3) of FMRA clarifies that providing space for parking a mobile refueler vehicle is an allowable cost within an eligible fuel farm project. This change affects Paragraph 515a of the AIP Handbook. There are no other changes to the eligibility, funding, or other requirements for fuel farms and mobile refueler parking that is not within a fuel farm remains ineligible for AIP funding.

d. Relocation of Airport-Owned Facilities due to a change in FAA Design Standards

Section 135(a) and 138(c) of FMRA allow the cost of relocation to be allowable only if—

- (1) The FAA makes a change in dimensional design standards. This is not a change in category or design standard for the airport due to increased traffic or other circumstances. Rather this is a change in the actual physical dimension that is required for an airport to meet FAA design standards;
- (2) The FAA change to the design standard was made after February 14, 2012 (the date of enactment of FMRA);
- (3) The Government's share of such costs will be paid with funds apportioned to the airport sponsor under section 47114(c)(1) or 47114(d). This limits the funds to passenger entitlements, state apportionment and nonprimary entitlements;
- (4) The Regional Office or ADO determines that the relocation or replacement is required due to a change in the Secretary's design standards; and
- (5) The Regional Office or ADO determines that the change is beyond the control of the airport sponsor.

The changes under this section affect Paragraphs 593 & 506 of the AIP Handbook. Previously, if an AIP-funded project impacted a Sponsor-owned facility, only the cost of demolishing the facility was allowable, unless the facility had its own separate eligibility. This change now allows reconstruction of certain Sponsor facilities meeting all of the requirements listed above.

e. Avian Radar

Section 138(e) requires the FAA to update AC 150/5220-25 to specify which avian radar systems have been studied as well as issue a report on the use of avian radar systems. No changes to the AIP Handbook are required. All eligibility and justification requirements remain unchanged that were established in PGL 12-04.

f. Revenue Producing Projects

Section 138(d) and 132(d) clarifies the types of Sponsor-owned revenue producing projects that are eligible at nonprimary airports. These are:

- (1). Fuel farms;
- (2). Hangar buildings;
- (3). Self-service credit card aeronautical fueling systems;
- (4). Airplane wash racks;
- (5). Major rehabilitation of a hangar owned by a sponsor; or
- (6). Other aeronautical support facilities that the Secretary determines will increase the revenue producing ability of the airport.

To reflect this change Paragraph 301a(2) of the AIP Handbook is deleted as this paragraph is no longer valid under the FMRA. In addition, the following paragraphs are added and/or revised in the AIP Handbook:

308. Revenue producing aeronautical support facilities are eligible on nonprimary airports. The eligible projects are: fuel farms, self- service credit card aeronautical fueling systems, hangar buildings, major rehabilitation of a hangar (owned by the sponsor), airplane wash racks and other aeronautical support facilities that the FAA determines will increase the revenue producing ability of the airport.

515a. Fuel Farms and Other Aeronautical Support Facilities. Under 49 USC 47110(h) the installation of the sponsor owned fuel farms, self-service credit card aeronautical fueling systems,

hangar buildings, major rehabilitation of a sponsor-owned hangar, airplane wash racks and other aeronautical support facilities that the Secretary determines will increase the revenue producing ability of the airport may be eligible at nonprimary airports using entitlements. Regions must ensure the sponsor have made adequate provisions for financing higher priority airfield projects that are currently required before this revenue-producing work. That is, if there are aeronautical developments identified within the airport's Capital Improvement Plan in the initial planning year and two subsequent years that are not fully covered, or there are obstructions to existing approaches identified on the airport's 5010 form, the use of AIP funds for revenue producing projects could be denied. Contact APP-520 about proposals for the construction, alteration and repair of revenue-producing aeronautical support facilities other than any project clearly allowed in paragraph 526 or a new fuel farm at nonprimary airports.

526d(1). Hangars and Other Support Facilities. The construction of certain sponsor-owned support facilities including fuel farms, self-service credit card aeronautical fueling systems, hangar buildings, major rehabilitation of a sponsor-owned hangar, and airplane wash racks may be eligible at nonprimary airports using entitlements. Separate conditions apply to various projects as described below. Construction of new revenue-producing hangar projects and rehabilitation of existing hangars (owned by the sponsor) at nonprimary airports are eligible under 49 USC 47102(c)(2) using entitlements. The region must ensure that the sponsor has made adequate provisions for financing airfield projects that are currently required before revenue-producing work. Per FAA policy, this means that if there are aeronautical developments identified within the airport's Capital Improvement Plan in the initial planning year and two subsequent years that are not fully covered, or there are obstructions to existing approaches identified on the airport's 5010 form, the use of AIP funds for revenue producing projects could be denied. Alteration and repair of existing facilities depends upon potential environmental issues and whether such facilities have an adequate remaining useful life. If the proposal is for acquisition, alteration or repair of existing hangars, contact APP-520.

12-08-05. Program Guidance Changes

a. General Aviation Airports

Section 132(c) of FMRA creates the following definition for general aviation airport: a public airport that is located in a State that, as

determined by the Secretary, does not have scheduled service; or has scheduled service with less than 2,500 passenger boardings each year.

The new definition affects Paragraph 23 of the AIP Handbook. While FMRA provides a definition of general aviation airport, the statutory definition of a public airport under 49 U.S.C. 47112(20) is one that is under the control of a public agency. As a result, this definition does not include a privately-owned reliever airport.

b. Veterans Preference

Section 139 of FMRA updates statutory language regarding veteran's preference to include Persian Gulf veterans, Afghanistan-Iraq war veterans, and small business concerns owned and controlled by disabled veterans. The change affects Paragraph 922 of the AIP Handbook. The FAA already modified Sponsor Assurance 15, Veteran's Preference, to include these changes on April 13, 2012.

c. Priority Review of Construction Projects for Cold Weather States

Section 154 of FMRA adds a recommendation that FAA review as early as possible construction projects that are carried out in states where weather during a typical calendar year prevents major construction projects from being carried out before May 1. The Regional Office or ADO shall, to the extent practicable, give priority review to sponsor grant applications for construction projects that meet this criteria APP-520 will be considering revisions to the ACIP development schedule to enable Regions to give earlier consideration to projects in such states. This requirement affects Paragraph 1050 of the AIP Handbook.

d. Changes to the AIP Annual Report to Congress

Section 152(c) of FMRA changes the due date for transmittal of the AIP Annual Report to Congress from April 1st to June 1st. In addition, FMRA modifies the report content to coincide with existing practice by removing the requirements to report on project status and provide an itemized list of project expenditures as well as receipts. No changes to existing policies or procedures for drafting the report are required. The changes will be incorporated into the FY 2012 AIP Annual Report to Congress.

e. Correction to Surplus Property Authority

Section 152(f) of FMRA restores priority for public airports to receive Federal real property made surplus under the BRAC process.

12-08-06. Terminal Development Projects

a. *Terminal Gate Power, Heating and Air Conditioning*

Section 132(a)(2) of FMRA adds a new paragraph in 49 USC 47110(o), making eligible the acquisition and installation of a Sponsor-owned terminal based (not mobile) facilities and equipment that provide air conditioning, heating, or electric power to parked aircraft. Such facilities and equipment must be terminal based and are only eligible at public-use airports at nonexclusive use facilities. The facilities and equipment must also be installed for the purpose of reducing energy use or harmful emissions; as compared to using air conditioning, heating, or electric power from aircraft-based systems.

The provision allows such installations to be eligible if the installation will reduce energy use or reduce emissions. There is ample scientific evidence that using power from the terminal rather than from the aircraft will reduce emissions. Therefore, FAA will not require the airport to provide any documentation supporting this assertion. Terminal gate air conditioning, heating or electric power will be eligible following all of the funding, usage, and hub size requirements for other terminal projects. This change affects Paragraph 603 of the AIP Handbook.

b. *Consolidation of Terminal Development Sections*

Over the years, when statutory information about terminal development was added to 49 USC Chapter 471, it was added in different sections of the chapter. Section 152 of FMRA consolidates these different items and paragraphs into a single subsection under 49 USC 47119. This change affects statutory references to terminal development throughout the AIP Handbook.

c. *Definition of Terminal Development*

Section 132(e) of FMRA creates a definition for terminal development. Terminal Development means—

(A) Development of—

- (i) An airport passenger terminal building, including terminal gates;
- (ii) Access roads servicing exclusively airport traffic that leads directly to or from an airport passenger terminal building; and
- (iii) Walkways that lead directly to or from an airport passenger terminal building; and

(B) The cost of a vehicle described in section 47119(a)(1)(B).

This provision provides more clarity to what airport facility and equipment projects are considered elements of terminal development. The Regional Office or ADO must ensure that all projects that now fall under this definition of terminal development meet the existing funding, public use areas, timing, and eligibility requirements of terminal projects outlined in Chapter 6 of the AIP Handbook. Again, it is important to note that this change means that all access road projects must follow the funding for terminal development projects. This change affects Paragraphs 601, 603, 620 and 621 of the AIP Handbook.

d. Limitation of Discretionary Funding on Terminal Development

Section 152 of FMRA also limits to \$20 million the amount of discretionary funding that FAA can make available for terminal development projects at small and non-hub airports. This limitation is a total limitation, not a yearly limitation, and incorporates all funding awarded for project elements defined as terminal development under 49 USC §47119, including access road construction and all other elements added to the definition under Section 132(e) of FMRA. To ensure this funding limitation is tracked properly all terminal building project elements funded must be coded as individual capital projects under the Overall Development Objective in SOAR. This change affects Paragraph 601 of the AIP Handbook.

12-08-07. Changes in Compliance Issues

a. Through-the-Fence Agreements

Section 136 of FMRA discusses the changes associated with residential through-the-fence. As a result, the Region or ADO must not approve an Airport Layout Plan (ALP) unless the ALP shows all proposed and existing access points used to taxi aircraft across the airport's property boundary. The FAA Advisory Circular 150/5300-13 will be updated to include this requirement for ALP approval. The Office of Airport Compliance will also issue a Compliance Guidance Letter implementing this provision.

b. Privatization Pilot Program

Section 156 of FMRA increased the number of airports that can participate in the program from 5 to 10. The Office of Airport Compliance will issue further guidance on this, if needed.

c. Disposal of Land Acquired with AIP Grant Funds

Section 135(b) makes the following changes regarding the disposal of land which affect Paragraph 730 of the AIP Handbook.

1. Required Use of Proceeds from Land Disposal.

Section 135(b) amends 49 U.S.C. 47107(c)(2) to include land acquired for noise compatibility. As a result, it no longer matters whether the land was acquired for noise compatibility or not; as *any* land acquired using AIP is now subject to the disposal requirements. The section also deletes the requirement to pay the proceeds to the Secretary for deposit in the Airport and Airway Trust Fund for the disposal of land, but permits this as an acceptable action under the hierarchy of uses which is now described in Grant Assurance 31.

2. Noise Buffer.

Section 135(b) allows an airport sponsor who acquired land for noise compatibility to designate the land as a noise buffer and then either develop the land in a compatible manner or leave the land undeveloped. This designation of land as a noise buffer will not trigger the disposal requirement.

3. Permitted Lease of Noise Land.

In addition, the FMRA specifies that when airport land acquired for a noise compatibility purpose with AIP funding is leased at fair market value, this use does not constitute a disposal of the property. Airport owners and operators may use the revenue from such a lease for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

d. Sale of Privately Owned Airports to Public Sponsors

Section 149 permits a private airport owner to use certain proceeds from the sale of the airport to a public sponsor for non-airport purposes. Because this type of airport sale requires coordination between the Office of Airport Compliance (ACO) and Office of Airport Planning and Programming (APP), Regional Offices and ADOs must contact APP-400 and ACO-100 for assistance.

Any unamortized AIP grants made for any purpose other than land acquisition on or after October 1, 1996, and an amount equal to the federal share of the fair market value of any land acquired with an AIP grant on or after October 1, 1996 must be repaid by the private owner. Any remaining proceeds from the sale of the airport may be retained by the private airport seller. This exception only applies when the Secretary of Transportation approves the sale and provides funding for any portion of the public sponsor's acquisition of the airport.

These changes affect Paragraph 707 of the AIP Handbook and Grant Assurance 25, Airport Revenues, have been updated to reflect this change.

e. *Use of Mineral Revenue at Certain Airports*

Section 813 allows sponsors of general aviation airports, as defined by the statute, to use certain revenues derived from or generated by mineral extraction, production, lease, or other means for federal, state, or local transportation infrastructure projects carried out by the airport sponsor or by a governing body within the geographical limits of the airport sponsor's jurisdiction. The FAA must find that this revenue is greater than the amount needed by the airport sponsor to carry out the five-year projected operations, maintenance, capacity, airport design and safety standards needs of the airport and the airport sponsor must agree to certain conditions. Grant Assurance 25, Airport Revenues, has been updated to reflect this new exception to revenue use requirements. The Office of Airport Compliance has also issued Compliance Guidance Letter 2012-01 implementing this provision.

f. *Release of Restrictions.*

Section 817 shifts the authority to release land conveyed pursuant to section 16 of the Federal Airport Act of 1946 (FAAP) and section 23 of the Airport and Airway Development Act of 1970 (ADAP) from the U.S. Congress to the Secretary. The office of Airport Compliance will issue a Compliance Guidance Letter implementing this provision.

12-08-08. AIP Funding Issues and Changes

a. *Cold Weather Construction Projects*

(This section is being developed)

b. *Creation of a Limited Virtual Primary Program*

Section 141 of FMRA contains two exceptions to the conventional calculations of primary and nonprimary entitlements. These exceptions affect Paragraph 25 of the AIP Handbook.

(1). *Limited Virtual Primary Program Based on Passenger Enplanements*

In Section 141(a), FMRA permits nonprimary airports to receive the minimum Passenger Entitlement apportionment if they have more than 10,000 passenger boardings from either scheduled or unscheduled air service of a large certificated air carrier in the year used to calculate the apportionment.

This provision specifically enables non-primary airports that do not have scheduled air service but have significant amounts of passenger boardings from unscheduled air service to receive the minimum Passenger Entitlement. Airports qualifying under this special apportionment rule are still categorized as **nonprimary airports** and will receive the minimum Passenger Entitlement amount under their Non-Primary Entitlement apportionment.

Each fiscal year APP-520, in coordination with APP-400, will identify the airports that qualify under this special apportionment rule. APP-520 will provide Regional Offices with the list of qualifying airports, as well as all apportionment calculations, during the regional entitlement review process.

(2). Limited Virtual Primary Program Based on Scheduled Service and More than 10,000 Passengers in Calendar Years 2009 or 2010

In Section 141(b), FMRA creates a limited exception for FY 2012 and FY 2013 allowing airports that had over 10,000 passenger boardings and scheduled air service in CY 2007, but due to the economic recession have dropped below 10,000 passenger boardings in either CY 2009 or CY 2010, to still receive an apportionment equal to their FY 2009 entitlement amount.

APP-520, in coordination with APP-400, has identified 31 airports that qualify under this special apportionment rule and will consequently receive Passenger Entitlements equal to their FY 2009 apportionment amount in FY 2012 and FY 2013, which is \$1 million for all qualifying airports.

c. Increased Federal Share for Medium Hub Primary Airports

Section 137 of FMRA allows airports that have transitioned from Small Hub to Medium Hub status to continue to receive AIP grants at a federal share of 90 percent. They are eligible for the increased federal share for two fiscal years following the change in status. As changes in status are determined annually at the beginning of the fiscal year, the increased federal share will be in effect for the year the change in status occurred, and continue for the following year. After the second year, the federal share will revert to 75 percent, or as otherwise specified by statute. Once the enplanements for an upcoming year are finalized, APP-400 and APP-520 will advise ADOs and Regional Offices of the airports in this category. This change affects Paragraph 25 of the AIP Handbook.

d. Federal Share Change From 95 Percent to 90 Percent

There are no sections within FMRA that renew the temporary increase of the Federal Share to 95 percent of the project cost at smaller airports that

was established in Vision 100. As a result, the Federal share for projects at smaller airports will revert back to 90 percent as required by statute under 49 U.S.C. 47109.

Section 137 of FMRA does make some exceptions that enable the Federal Share to remain at 95 percent for some qualified smaller airports. These exceptions as well as related guidance are established in PGL 12-05, Government Share of Project Costs at Essential Air Service (EAS)/Economically Distressed Area (EDA) Locations.

e. United States Territory Minimum Guarantee for Puerto Rico and United States Territories

Section 142 of FMRA continues the practice of calculating entitlements for Puerto Rico and the United States territories, while making it clear that these airports are eligible to receive discretionary funding. No change to the AIP Handbook is required.

f. Environmental Set Aside

Section 145 of FMRA caps the noise set aside at \$300 million. The noise set aside is still calculated as 35 percent of the Discretionary Program but it is now limited to no more than \$300 million. Section 145 of FMRA also expands the types of projects eligible under the noise set aside to include water mitigation projects complying with the Clean Water Act that have been approved in an Record of Decision for an AIP funded airport development project. This change affects Paragraphs 25 and 587 of the AIP Handbook.

g. Extension of Grant Eligibility for Marshall Islands, Micronesia, Palau and Midway Island

Section 144 of FMRA extends grant eligibility for Marshall Islands, Micronesia and Palau through Fiscal Year 2015. Section 151 extends grant eligibility for Midway Island through Fiscal Year 2015.

h. Repeal of Certain Limitations on Metropolitan Washington Airports Authority

Prior to the passage of FMRA, 49 U.S.C. 49108 prohibited FAA from accepting a grant application from the Metropolitan Washington Airports Authority (MWAA), the sponsor for Ronald Reagan Washington National Airport and Washington Dulles International Airport after October 1, 2008. The section also prohibited FAA from approving a PFC application after October 1, 2008. The deadline date had been extended in each of the authorization extensions that had been passed after the expiration of Vision 100. Section 150 of FMRA eliminates this portion of the statute

entirely, thus eliminating the possible deadline for accepting grant applications or approving PFC applications from MWWA.

i. Removal of restrictions on Grant Eligibility for Midway Island Airport

Section 151 of FMRA extends grant eligibility for Midway Island through Fiscal Year 2015

j. Increase in maximum funding available for contract towers

Construction, improvement and relocation of the ATCT are eligible using entitlements for certain airports that are in the FAA Contract Tower program under 49 USC 47124. Section 147 of FMRA increases the project Federal share from \$1.5 million to \$2 million. This statutory limitation on the maximum AIP funding for a contract tower is the total funding, not a yearly maximum. Therefore, Regional Offices and ADOs must keep track of the funding provided on contract tower projects to ensure that the maximum is not exceeded.

The maximum total AIP funds that can be used on contract tower projects per year is increased from \$7.5 million to \$10.35 million in Fiscal Years 2012 through 2015.

These changes affect Paragraph 563(c) of the AIP Handbook.

k. Changes to Reducing Apportionments for Airports Collecting PFCs in Hawaii

Section 143 of FMRA changes the calculation used to reduce apportionments for Hawaiian airports collecting a PFC. The revised calculation will now take into account the percentage of inter-island boardings when determining the apportionment reduction. APP-520, in coordination with APP-400, has already adjusted the apportionment calculation in SOAR to reflect this change.

This change affects Paragraph 25 of the AIP Handbook.

l. Orphan Aviation Earmark Provision

Section 825 of FMRA requires any congressional earmark that is older than 9 years and is over 90 percent unobligated be rescinded. APP-520 will work with Regional Offices to identify any earmarks that meet this requirement and once rescinded will no longer require AIP funding. Regions and ADOs must coordinate with APP-520 before engaging in any external communication regarding this provision.

12-08-09. Energy Efficiency Measures in Airport Buildings

Section 138(b) of FMRA includes a new provision that allows airports to incorporate energy efficiency measures into eligible airport building projects. This new provision affects Paragraph 310(d) of the AIP Handbook.

In accordance with this statutory direction, Sponsors are encouraged in their early planning procedures to consider measures to improve the efficiency of an airport building (such as a measure designed to meet one or more of the criteria for being considered a high-performance green building as set forth under section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13)). Costs to incorporate energy efficiency measures must meet all of the following criteria:

- (1) The measure is for the eligible project;
- (2) For a building such as a terminal building which contains eligible and ineligible areas, all costs associated with the measure (such as design, construction, and inspection) are prorated accordingly;
- (3) The design calculations must indicate that if incorporating the measure will result in an increase in initial project costs, the increase must be offset by the expected savings over the life cycle of the project;
- (4) The sponsor must submit the calculated costs, proration, and savings information to the Regional Office or ADO as part of the project design report;
- (5) The Sponsor must follow the published FAA guidance for calculating life cycle cost.

In addition,

- (1) The costs to incorporate energy efficiency measures into an AIP-funded project are not eligible as a stand-alone project, but rather are allowable costs to the funded project; and
- (2) Because AIP cannot pay for a work item to be completed more than one time in a project, the costs to redesign or to modify ongoing construction to incorporate energy efficiency measures into the project are only allowable to the extent that the "sunk" costs are removed from the AIP-funded project.

12-08-10. Reauthorization Issues That Will Be Addressed In Future Guidance

There are a number of reauthorization provisions that will be addressed in future guidance, updates to Advisory Circulars, or updates to existing FAA orders.

These sections include:

- a. **Passenger Facility Charges.** Sections 111, 112 and 113 of FMRA include minor changes to the Passenger Facility Charge program. Separate guidance will be issued by APP-510 on these changes.
- b. **Competition Plans & Competitive Access Issues.** Separate guidance will be issued by APP-510 on these changes.
- c. **Compliance issues.** ACO-100 will issue guidance if needed on: Residential Through the Fence (Section 136); Mineral Rights (Section 813); and Release from Restrictions (Section 817)
- d. **Minority and Disadvantaged Business Participation.** The FAA Office of Civil Rights will issue any required guidance related to changes to the MBE and DBE programs as a result of FMRA.
- e. **Environmental & Planning.** All guidance related to environmental and planning issues will be issued by APP-400, which specifically include the following: Disposal of Noise Land; Pilot Program on the Redevelopment of Airport Properties (Section 822); Environmental Requirements for State Block Grant States (Section 502); Airport Funding Of Special Studies or Reviews (Section 503); Grant Funding For Environmental Assessment of Flight Procedures That Have Been Approved In a Part 150 (Section 504); Determination of Fair Market Value of Residential Properties (Section 505); Zero Emission Airport Vehicles program (Section 511); Increasing the Energy Efficiency of Airport Power Sources program (section 512); Flood Planning (Section 815); Airport Sustainability Working Group (Section 919); and Correction to Emission Credits Provision (Section 152).

12-08-11. Section 152(a) Changes to the NPIAS Report to Congress.

No guidance will be issued. The changes will be incorporated into the next NPIAS Report to Congress.

12-08-12. Revisions to Grant Assurances

On April 13, 2012, FAA revised the grant assurances to conform to the requirements of FMRA (77 FR 22376). Copies of the revised assurances are available on the Office of Airports website at:

http://www.faa.gov/airports/aip/grant_assurances/

12-08-13. List of Current PGLs

The FAA website of Program Guidance Letters reflects the current PGLs as of the date of this PGL