

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

**Program to Permit Cost-Sharing of Air Traffic Modernization Projects Guidance
2005**

AGENCY: Federal Aviation Administration (FAA). DOT.

ACTION: Program guidance for air traffic modernization cost-share program.

SUMMARY: The FAA is authorized to approve up to 10 air traffic modernization cost share projects per year under Vision 100--Century of Aviation Reauthorization Act, (Vision 100), Public Law 108-176, Section 183. The initial cost-share program was conducted under the authorization of Public Law 106-181, Section 304 of the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century (AIR-21). Under the Vision 100, section 183 the FAA is now issuing program guidance based upon the lessons learned from the pilot program implementation. This guidance is to inform potential sponsors of the cost share program, the process to apply for the program and the

criteria for approval for cost-sharing projects for this fiscal year. The purpose of Vision 100, Section 183 is to improve aviation safety and enhance mobility of the Nation's air transportation system by encouraging non-Federal investment in air traffic control facilities and equipment. Under this program, the Secretary of Transportation may make grants to eligible project sponsors. Each eligible project is limited to Federal funding as highlighted in section 2.3.1 with the Federal cost share not to exceed 33 percent of the project's facilities and equipment (excluding operations and maintenance) cost. A project sponsor means any major user of the National Airspace System as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more U.S. air carriers.

DATES: The FAA's Vice President for Finance may receive initial sponsors' expressions of interest at any time in fiscal year 2005. While the agency has no proposal submission deadline, potential sponsors are encouraged to submit proposals as soon as possible.

ADDRESSES: Sponsors' expressions of interest/proposal should be mailed or delivered, in duplicate, to the Federal Aviation Administration, Director of Capital Expenditures Programs, 800 Independence Ave SW, Washington, DC 20590. Electronic submissions will be accepted, but must be followed up with a signed paper copy within five working days, to the address listed above. The electronic submissions should be mailed to Chris.Witt@faa.gov. Deliveries may be made between 8:30 a.m. and 5:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Witt of the Finance Capital Expenditure Directorate Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20590; telephone (202) 267-7646,

SUPPLEMENTARY INFORMATION

1. Background

In performing its mission of providing a safe and efficient air transportation system, the FAA operates and maintains a complex air traffic control system infrastructure. Vision 100, Section 183 authorizes a program to permit cost-sharing of air traffic modernization projects, under which major users of the national aerospace system, which includes a public use airport or airport/airline joint ventures, may procure and install facilities and equipment in cooperation with the FAA. The program is intended to allow project sponsors to achieve accelerated deployment of eligible facilities or equipment, and to help expand aviation infrastructure.

The FAA is authorized to approve up to 10 projects per year under Vision 100, Section 183. Those sponsors whose projects were approved in the AIR 21 pilot program may submit additional proposals under the new authorization. All sponsors who anticipate submitting a request should review the criteria in sections 2.1 and 2.2 before submission.

2. Program Guidance

This section provides the statutory language sponsor eligibility of Vision 100 section 183 and outlines FAA's supplementary criteria for the cost share program. The sponsor eligibility, project eligibility, and evaluation and screening criteria are outlined in Sections 2.1, 2.2 and 2.6 respectively of this guidance.

2.1 Eligible Project Sponsors

2.1.1 Statutory Provisions of Vision 100 for Sponsor Eligibility

A project sponsor means any major user of the National Airspace System as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more U.S. air carriers.

2.1.2 Supplementary FAA Criteria for Sponsor Eligibility

An eligible project sponsor is any major user of the national airspace system including public-use airport (or group of airports), either publicly or privately owned, acting on its own or in a joint venture with one or more U.S. air carriers. All landing facilities meeting these criteria are eligible, including but not limited to commercial service airports, reliever airports, general aviation airports, and heliports. Eligibility is not limited to airports; other National Airspace System (NAS) major users such as state or regional aviation activities may be eligible. All eligible sponsors are encouraged to participate. If selected for the program, the sponsor must be willing to enter into a Memorandum of Agreement with the FAA outlining the specific goals to be accomplished, the roles and responsibilities of each party, schedule milestones, and funding contributions of the

parties. An eligible sponsor must have an available source of funds to execute the program.

2.2 Eligible Projects

2.2.1 Statutory Provisions for Project Eligibility

The term 'eligible project' means a project to purchase equipment or software relating to the Nation's air traffic control system that is certified or approved by the Administrator of the Federal Aviation Administration and that promotes safety, efficiency, or mobility.

Such projects may include:

- a. Airport-specific air traffic facilities and equipment, including local area augmentation systems,* instrument landings systems, weather and wind shear detection equipment, and lighting improvements;
- b. Automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and
- c. Equipment and software that enhance airspace control procedures or assist in en route surveillance, including oceanic and offshore flight tracking.

* Note these projects will be eligible, assuming availability and viability of the equipment within the time limitation highlighted in 2.2.2.c.

2.2.2 Supplementary FAA Criteria for Project Eligibility

- a. Projects should align with the FAA's strategic Flight Plan goals.
- b. The project should be consistent with FAA's air traffic equipment/systems infrastructure and architecture and should be a validated project of a FAA program. The project, when commissioned, should provide measurable benefits that benefit national, regional or local objectives/interests and the FAA NAS.
- c. The project shall be initiated within one year of project approval and completed/commissioned within five years of project approval (allowing for an environmental impact study (if necessary), acquisition, supply support, training programs, etc.).
- d. Equipment and facilities should meet applicable FAA advisory circulars and specifications.
- e. The project should serve the general welfare of the flying public; it should not be used for the exclusive interest of a for-profit entity.
- f. Any facility/equipment acquired under the project should be a new asset, not an asset that the sponsor has already acquired or is committed to acquiring.

- g. The project should have a useful and expected life of ten years or more, notwithstanding the possible need to replace project components during its operating life.
- h. The cost-share program is not the correct forum for requesting development of RNAV procedures.
- i. A sponsor may submit a multiple component project proposal (as outlined in paragraph 2.5) where each component forms part or all of an integrated system. The FAA reserves the option to accept one or multiple components of a proposal.
- j. A project may not be co-mingled with other FAA cost-sharing programs.
- k. All equipment and facilities should meet appropriate OSHA standards for employee safety and fire protection. Where land is involved, the property should meet all environmental compliance requirements, including noise, hazardous material, property access, and zoning rights.

2.3 Funding

2.3.1 Statutory Provisions for Funding

The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. No project may receive more than \$5,000,000 in Federal funding.

The sponsor's share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to Title 49, United States Code 40117.

2.3.2 Supplementary FAA Criteria for Funding

FAA is not obligated to fund one-third of the total project costs; rather, FAA's share may not exceed this threshold. The project sponsor must provide two-thirds or more of the total project cost. The Federal and non-Federal shares of project cost may take the form of in-kind contributions. Equipment in FAA's inventory that has not been previously deployed qualifies as eligible equipment. If selected for the program, a sponsor may use passenger facility charge (PFC) revenues to acquire and install eligible facilities and equipment, but not to fund their operation or maintenance. Normal PFC processing procedures under Federal Aviation Regulation 14 CFR Part 158 will be used to approve the imposition of a PFC or the use of PFC revenue as the non-Federal share of a program project.

Federal contributions applied to any other Federal project or grant may not be used to satisfy the sponsor's cost share under this program.

The following criteria apply to the calculation of the cost-sharing ratio:

- a. Project costs are limited to those costs that the FAA would normally incur in conventional facilities and equipment funding (e.g., if land/right-of-way must be

acquired or leased for a project, its cost can be included in the cost-sharing ratio only if FAA would otherwise incur it in conventional program funding).

- b. Operations and maintenance costs of the project, both before and after any sponsor-elected project transfer to the FAA, will not be considered as part of the cost-share contribution. However, these costs must be identified.
- c. Non-federal funding may include cash, substantial equipment contributions that are wholly utilized as an integral part of the project, and personnel services dedicated to the proposed project prior to commissioning, as long as such personnel are not otherwise supported with Federal funds. The non-federal cost may include in-kind contributions (e.g., buildings). In-kind contributions will be evaluated as to whether they present a cost that FAA would otherwise incur in conventional facilities and equipment funding.
- d. Aside from in-kind contributions, only funds expended by the sponsor after the project approval date will be eligible for inclusion in the cost-sharing ratio.
- e. Unless otherwise specified by these criteria, the principles and standards for determining costs should be conducted in accordance with OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*.

- f. As with other U.S. DOT cost-sharing grants, it is inappropriate for a management/administrative fee to be included as part of the sponsor's contribution. This does not prohibit appropriate fee payments to vendors or others that may provide goods or services to support the project.

FAA funding decisions will be based on the project evaluation and project selection processes discussed later in this notice.

The U.S. Department of Transportation and the Comptroller General of the United States have the right to obtain and assess all documents pertaining to the use of Federal and non-Federal contributions for selected projects. Sponsors should maintain sufficient documentation during negotiations and during the life of the project to substantiate costs.

2.4 Transfer of Facility or Equipment to FAA

2.4.1 Statutory Provisions for Facility or Equipment Transfer

Notwithstanding any other provision of law, and upon agreement by the Administrator, a project sponsor may transfer, without consideration, to the FAA, facilities, equipment, and automation tools, the purchase of which was assisted by a grant made under this section if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

2.4.2 Supplementary FAA Criteria for Facility or Equipment Transfer

Project transfers to the FAA will be at the sponsor's election and in accordance with the criteria listed below.

- a. At the time of transfer, the project should be operable and maintainable by the FAA and should comply with FAA Order 6700.20, Non-Federal Navigational Aids and Air Traffic Control Facilities, or any successor Order then in effect.
- b. In the event of transfer, software code, data rights, and support tools should be provided to the FAA at no cost to the FAA.

If the project is not transferred to the FAA, the sponsor remains liable for all operations and maintenance costs, including the costs of capital sustainment.

2.5 Application Procedures

Unlike the cost share pilot program, for this fiscal year all applications will be reviewed upon receipt and selected based upon individual merit and alignment with the FAA's goals and objectives as outlined in the strategic planning documents. The statutory limit is ten projects per fiscal year. The following application procedures will be used when applying for cost-share:

- a. The purpose of the application is provide sufficient information to conduct detailed analysis that evaluates cost, benefits, risk, alignment with strategic direction of the proposed project and to compare the proposal with other NAS needs. It is suggested

that the sponsor contact the FAA's cost share office to discuss the potential project before the applicant expends excessive resources on the project application.

- b. Eligible sponsors may submit multiple projects and projects with multiple components, but each piece of equipment/activity must be identified and costed separately, with appropriately defined benefits and should be listed in priority order. An example of a multiple component project would be an instrument landing system (ILS) project that may include in addition to the ILS equipment, middle markers and runway lighting for a complete package. The FAA reserves the option to accept one or multiple pieces of each proposal.
- c. Projects that would be good candidates for this program may include equipment and systems that monitor weather, support runway incursion reduction, and support regional interest.
- d. Under this program, either the FAA or the sponsor may acquire and/or install facilities or equipment. In the case where the FAA manages the procurement, existing FAA contracts will be used where possible.
- e. Proposals for new air traffic control towers will only be considered if they enhance the National Airspace System. Per FAA Order 6030.1, FAA Policy on Relocation, movement of an existing air traffic control tower for the convenience/benefit of only

the airport will not be considered. Requests for towers will be considered utilizing the criteria in Order 7031.2C, Airway Planning Standards Number One (APS-1).

2.5.2 Formal Application and Selection of Projects

The proposal should not be more than thirty pages in length. During the evaluation process each sponsor should submit an application with the following elements needed by the FAA to evaluate the merits of the application.

- a. **Project Description:** The project description should contain: (1) the identity of the submitting sponsor (including point-of-contact's name, mailing address, telephone number, fax number, and e-mail address) and all participating authorities or entities in the case of joint ventures; (2) project name and location; and (3) a detailed project description. In addition, the sponsor must provide a statement of intent to transfer the project to the FAA, including anticipated transfer date, or intent not to transfer the project to the FAA.

- b. **Projected Benefits:** All applications should describe the need for the project and demonstrate its measurable contributions to safety, efficiency, capacity, productivity and as applicable, at the airport, regional, and system-wide levels. The sponsor may conduct its own analysis, or where the FAA has the equipment/system on an acquisition waterfall the sponsor may opt to summarize existing FAA cost benefit analysis, and/or may use the investment criteria in FAA Order 7031.2C, Airway Planning Standard Number One.

- c. **Economic Analysis:** Supporting the projected benefits review the applicant should conduct an economic analysis. The analysis should include a schedule of project costs, including: (1) up-front costs broken down into proposed shares between the sponsor and the FAA; and (2) annual and life-cycle operations and maintenance costs before and after transfer to the FAA (if the sponsor elects to transfer). The level of effort devoted to the analyses should be tailored to the scope and cost of the project. For complex programs FAA guidance can be found in Report FAA-APO-98-4, *Economic Analysis of Investment and Regulatory Programs – Revised Guide*, and Report FAA-APO-98-8, *Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs*
- d. **Schedule:** The Schedule should list all significant proposed project dates, including the start date, completion date, date of project transfer to the FAA (if applicable), and key interim milestone dates.
- e. **Financial Plan:** The Financial Plan should contain: (1) the proposed local and Federal cost shares, (2) evidence of the sponsor’s ability to provide funds for its cost share (e.g., approved local appropriation or Memorandum of Agreement); and (3) any commitment the sponsor might choose to offer for the assumption and liability of cost overruns aside from the liability criterion provided earlier in this notice.

- f. **Letter of Commitment:** Sponsors should demonstrate a commitment to the project, as evidenced by a Letter of Commitment signed by all project participants (including any participating air carriers). The letter should, at a minimum, include a list of the participating agencies and organizations in the proposed project; the roles, responsibilities and relationship of each participant; and the name, address, and telephone number of the individual representing the sponsor.

- g. **Letter of Acknowledgement/Support:** The application will include a letter of acknowledgment/support from the applicable State Department of Transportation and/or other appropriate jurisdiction (to avoid circumventing State and metropolitan planning processes). It is the intent of FAA Headquarters for the appropriate projects to include the FAA's Regional Office in the project review cycle. It would be in the best interest of the applicant to pre-coordinate the projects with the appropriate FAA Regional Office.

The FAA will review and evaluate the application using a panel of technical program experts and senior managers based on the criteria outlined below in Section 2.6. Following its evaluations, the review panel will recommend to the FAA's Air Traffic Operations Senior Vice President for Finance and the appropriate Vice President under whose area of responsibility the system will be installed, if the application in their view should be accepted. If the FAA selects a project for inclusion in the cost share program, an agreement will be executed between the sponsor and the FAA.

2.6 Application Evaluation and Screening Criteria

The FAA will review each of the applications based upon the individual merit of the application. The FAA will consider the following elements in evaluating an application:

- a. Compliance with statutory criteria, FAA's supplemental criteria, and application procedures.
- b. Degree to which the project provides benefits that contributes to the FAA's documented goals and objectives.
- c. Qualitative and quantifiable benefits to the airport, region, and national airspace system.
- d. Likelihood of project success in terms of cost, schedule and performance and achieving proposed benefits/outcomes.
- e. Evidence that the project can be implemented in accordance with the proposed schedule.
- f. Ability of sponsor to provide its cost share.

- g. Availability of FAA resources.
- h. Degree of Federal leveraging (degree to which the proposal minimizes the ratio of Federal costs to total project costs).
- i. Cost to the FAA: post-transfer life-cycle operating and maintenance costs.

2.7 Schedule Summary

Applications may be submitted at any time during the fiscal year. The time required for reviewing and approving/disapproving the typical application is outlined below.

Milestone	Time Frame
Applications	
Applications due to FAA	Anytime
FAA Responses to Sponsors' Application requesting additional information (may not be necessary)	one month after receipt of application
FAA Announcement of Decision	Three months after receipt of application

2.8 Project Implementation Information

During the life of the project, the FAA may collect data from the sponsor and conduct (with non-project funds) independent evaluations of the project's impact on safety,

efficiency, and mobility objectives. This will allow the FAA to ascertain the success of the program.

3. Impact of Revised Guidelines

Under the Vision 100-- Section 183, the guidelines shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5.'

4. References

The following list outlines references cited above:

OMB Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments*, revised August 29, 1997.

Report FAA-APO-98-4, *Economic Analysis of Investment and Regulatory Programs – Revised Guide*. Available upon request from the FAA's Office of Aviation Policy and Plans, telephone 202-267-3308. It may also be found on the Internet at: http://api.hq.faa.gov/apo_pubs.htm.

Report FAA-APO-98-8, *Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs*. Available upon request from the FAA's Office of Aviation Policy and Plans, telephone 202-267-3308. It may also be found on the Internet at: http://api.hq.faa.gov/apo_pubs.htm.

FAA Order 6030.1, *FAA Policy on Relocation*. Available upon request from the FAA telephone 202 646-2310

FAA Order 7031.2C, *Airway Planning Standard Number One*, through Change 12. Available upon request from the FAA's Office of Aviation Policy and Plans, Telephone 202-267-3308.

FAA Order 6700.20, *Non-Federal Navigational Aids and Air Traffic Control Facilities*. Available upon request from the FAA's NAS Operations Program Office, telephone 202-267-3034.

Issued in Washington, DC on NOTE: PLACE DATE OF SIGNATURE HERE.

J. Robbins Tucker, Jr.

Director of Finance Capital Expenditures