



MEMORANDUM

TO: Government Affairs Steering Group
Government Affairs Committee

FROM: ACI-NA Government Affairs

DATE: March 31, 2008

SUBJECT: Fiscal Year 2008 AIP Implementation

GA MEMO NO: 2008-21

As you know, on February 29, 2008, the President signed H.R. 5270, the Airport and Airway Extension Act into law. H.R. 5270 extends FAA programs and taxes through June 30, 2008 and also extends Airport Improvement Program (AIP) contract authority through September 30, 2008. However, the legislation also instructed the FAA to treat its AIP formulas as only being 75% whole (including carryover funding). In other words, the FAA could only spend 75% of the \$3.514 billion provided for the program in the Fiscal Year 2008 Omnibus. Thus, the actual number to be released to airports is \$2.756 billion. Since there has been quite a bit of confusion regarding this issue (how and when grants would be dispersed and options available to airports), the FAA today released a guidance document that is excerpted below. You will note that the document presents airports with three options for grants during this Fiscal Year; take the grants now, wait and see, or declare an intention to carryover funds.

Unfortunately, FAA Reauthorization talks in the Senate continue to be at a stalemate regarding the financing issue. If an agreement cannot be made prior to the June 30th deadline, Congress will have to pass another extension to keep programs and taxes going. There have been recent Congressional rumblings that the next extension could go through September of 2009, when a new Congress and Administration would have to pick the issue up. Of course, ACI-NA continues to aggressively advocate for a multi-year FAA Reauthorization bill this year that includes an increase in the Passenger facility Charge (PFC) user fee and full funding for AIP.

FAA Guidance Talking Points on AIP Funding for Fiscal Year 2008.

On February 28th, the Airport and Airway Extension Act of 2008 (Public Law 110-190) was enacted giving FAA nine months, or three quarters of the year, of AIP program authority. The Act also extends aviation taxes and the authority to spend from the Aviation Trust Fund (expenditure authority), through June 30th. In combination with the FY 2008 Consolidated Appropriations Act, passed December 26, 2007, the FAA can now begin awarding grants. Some important aspects of this year's program are:

- Our AIP program authority (also referred to as "contract" authority) is for three quarters of the year (ending June 30, 2008) and gives us \$2.756 billion in funding.
- This funding will remain available for obligation through the end of the fiscal year. However, if the FAA's expenditure authority is not extended, the FAA will be unable to obligate those funds (i.e. put the funds under grant) after June 30 and these unobligated funds will expire at the end of the fiscal year.
- With regard to AIP formula calculations, because of the partial year funding of AIP, the Act protects the AIP program from certain adverse impacts when AIP is below the \$3.2 billion "trigger," thereby avoiding calculations such as reducing primary entitlements by 50%, cutting state apportionment from 20% to 18.5%, and cutting out non-primary entitlement.
- However, the Act requires us to reduce entitlements and carryovers by 25%. So, in this 9-month program, sponsors can expect roughly 75% of their entitlements and carryovers from prior fiscal years.

With regard to AIP discretionary funding, under a partial year AIP program, the FAA needs to prioritize projects that use AIP discretionary funds to ensure that statutory commitments are met and high priority projects are funded. Accordingly:

- Letter of Intent discretionary commitments, Noise and Military Airport Program set-asides will be met.
- The highest-priority safety projects that are ready by sponsors to implement, including Runway Safety Area improvements, Runway Safety Action Team (RSAT) recommendations and Enhanced Taxiway Centerline marking projects (part of the FAA's Call to Action), will be funded.

These priorities absorb almost all the discretionary funds available under the 9-month program.

Given the unusual nature of this year's program, to the extent allowed by the Extension Act, the FAA will remain flexible in administering the fiscal year 08 program. Our regional and district offices will work cooperatively with sponsors as they develop an appropriate strategy for utilization of entitlement/discretionary funds, declaration of carryover entitlements, and implementation of the FY 2008 AIP program. Basically, airport sponsors have three options available for grants this fiscal year:

- **Sponsors can “take grants now,” based on 75% entitlements**, and, should a further FY08 legislative extension be enacted, potentially take a second grant in the 4th quarter using the remaining entitlement and possibly discretionary funds, if available. All projects must be based on usable units of work, so airports would be either reducing the scope of the project, committing their own funds or bidding using add-alternates to tailor the project to available funding, thereby increasing their flexibility to take additional funding, if available. Sponsors that elect to take a grant based on 75% entitlements must have their grant applications to the FAA no later than June 10. Applications must be submitted by June 10 because the FAA must obligate all AIP funds through a fully executed grant agreement by June 20 in the absence of further legislative extension of the program. Having executed grant agreements by June 20 will ensure the obligation is recorded on the FAA’s accounting records before the FAA accounting system is taken off line for month-end closeout.
- **Sponsors can take a “wait and see” approach**, and see if FAA’s expenditure authority is extended and FAA receives additional AIP contract authority. However, the airport assumes a risk when taking this approach. If FAA’s expenditure authority is not extended after June 30th, the airport sponsor will lose the opportunity to use any unobligated entitlement funds, including prior year carryovers, made available to the airport sponsor in FY 08 or convert them to carryover before FY09. The FAA continues to strongly encourage sponsors to declare carryover by no later than the **June 1** deadline published in the Federal Register. Unfortunately, the FAA cannot ensure a sponsor’s entitlement funds and prior year carryover will be protected if a request to carryover these funds is not received on or before this date. The FAA cannot ensure carryover protection if not declared by June 1 because the FAA requires some lead-time to ensure all carryovers declared by airports can be obligated for other AIP projects before the expiration of FAA’s expenditure authority on June 30. Considering that grant agreements must be executed by June 20 to ensure the obligation is recorded in the FAA’s accounting systems by the end of the month, this leaves the FAA with only 20 days to obligate carryover declared on June 1 for other AIP projects. Accordingly, we highly encourage airport sponsors to declare carryover as soon as possible and before June 1.
- **Sponsors can “declare their intention” to carryover their partial year FY 2008 entitlements for use in FY 2009**. If a sponsor does not want to take the “wait and see” approach, and does not think they can use their FY 2008 entitlements apportioned under the Extension Act, they should declare carryover by no later than June 1. By declaring carryover by June 1 a sponsor will ensure that these entitlement funds will be available to them in FY 2009. If an airport sponsor is silent and does not declare its intention to defer these funds, the FAA will be unable to take the necessary actions to designate these as “protected” carryover funds and these funds would “expire” if no extension occurs after June 30. The FAA continues to strongly encourage sponsors to declare carryover by the **June 1** deadline published in the Federal Register.

Although this is a unique year, FAA remains committed to achieving its national grant program administrative goals, including issuing grants based on bids. Basing grants on bids received continues to be good business sense. It protects the sponsors against unexpectedly high bids, and avoids tying up funds unnecessarily in grants where bids come in lower than estimates.