

Order 2006-8-8
Served: August 10, 2006



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 10th day of August, 2006

In the Matter of the

**SMALL COMMUNITY AIR SERVICE
DEVELOPMENT PROGRAM**

under 49 U.S.C. 41743 *et seq.*

DOCKET OST-2006-23671

ORDER AWARDING GRANTS

Summary

By this order, the Department awards financial grants for fiscal year 2006 under the Small Community Air Service Development Program (Small Community Program) to the communities listed in Appendix A to implement the air service initiatives proposed in their grant applications. These grant awards benefit 28 communities in 22 states. Award recipients must execute a grant agreement with the Department before they can begin to spend funds under the grants awarded by this order.

Background

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), P.L. 106-181, 114 Stat. 61, established a new pilot program, to be administered by the Department of Transportation, designed to help smaller communities enhance their air service and address issues related to high airfares.¹ AIR-21 authorized the Small Community Program through FY 2003. Vision 100-Century of Aviation Reauthorization Act (Vision 100), P.L. 108-176, amended the program, reauthorized it for five years (through FY 2008), and eliminated the “pilot” status of the program. The program’s appropriation for FY 2006 is \$10 million.²

¹ See Orders 2002-6-14 and 2003-9-14 for a complete description of the history of the program.

² The FY 2006 rescission reduced the amount available to \$9.9 million.

When selecting applicants to participate in the Small Community Program, the Department is statutorily required to apply the following criteria:

1. For calendar year 1997, the airport serving the community was not larger than a small hub airport, and had insufficient air carrier service or had unreasonably high air fares.
2. The airport presents characteristics, such as geographic diversity or unique circumstances, that demonstrate the need for, and feasibility of, the Small Community Program.
3. Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.
4. No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in a fiscal year.
5. An applicant may not receive an additional grant to support the same project.
6. An applicant may not receive an additional grant, prior to the completion of its previous grant.³

In addition, the law directs the Department to give priority to those communities or consortia of communities⁴ where: a) air fares are higher than the average air fares for all communities; b) a portion of the cost of the activity contemplated by the community is provided from local, non-airport revenue sources; c) a public-private partnership has been or will be established to facilitate air carrier service to the public; d) improved service will bring the material benefits of scheduled air transportation to a broad section of the traveling public, including businesses, educational institutions, and other enterprises whose access to the national air transportation system is limited; and e) the funds will be used in a timely manner.

The Department is authorized to award grants to communities that seek to:

1. provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;
2. provide assistance to an underserved airport to obtain service to and from the underserved airport; and/or
3. provide assistance to an underserved airport to implement such other measures to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.⁵

On January 20, 2006, the Department issued a request for proposals from communities interested in receiving a grant this year, and requested that such proposals be filed no later than April 27 (Order 2006-1-13). For the first time, applicants were required to submit form SF424, a standard federal government application form, in Grants.gov. Communities were requested to provide information that would help in consideration of their grant requests, including details about their existing air services,

³ 49 U.S.C. 41743(c).

⁴ The authorizing statute defines a consortium of communities as a single entity.

⁵ 49 U.S.C. 41743(d).

historical services, current service needs and deficiencies, a full description of the community's proposal, plans for implementation, funding requirements, and plans for monitoring the success of the project, including modifying or discontinuing funding if the project is not meeting expectations. Drawing on our experience over the previous four years, our request for proposals (RFP) clarified various issues relating to the grant application process, including the sources of local funding, the consideration of in-kind contributions, the use of grant funds, and the eligibility to participate by past grant recipients and communities now receiving subsidized air service under the Essential Air Service (EAS) program. The order further emphasized that communities would be expected to meet the financial contributions that they include in their proposals.

Fiscal Year 2006 Grant Applications

In response to the RFP, we received 75 grant applications from communities in 37 states. Collectively, these communities sought more than \$32 million in federal assistance to support new and ongoing air service development projects. The bulk of applications were filed by individual communities while a few were filed by consortia of communities. Additionally, a number of applications were from communities now receiving subsidized air service under the Department's EAS program, with the communities seeking funds to promote those services or to expand their current air services. In most cases, applications were submitted by communities that had filed applications in previous years; only four were submitted by new applicant communities. As required, all applicants provided information on historical and current air service and airfare issues facing their communities, the economic benefits of air service, proposed initiatives to remedy air service or airfare problems, and arguments in support of their proposals. Most of the communities pledged local contributions – funds collected from local, state, airport, or in-kind sources – to complement their requests for federal assistance.

As in previous years, this year's applications included proposals for feasibility studies, new or expanded service initiatives, service upgrades, and assorted combinations thereof. Our review of the applications confirmed that air service issues continue to be of great concern to many small communities. Nearly all of the applicants cited both service deficiencies and high airfares as problems affecting patronage of their air services. Many applicants noted that passengers often drive to other, more distant airports where a wider range of services may be offered to more destinations, or with lower airfares. Despite these "leakage" issues, the communities seeking funds believe that demand for improved service at their local airports can be stimulated with financial assistance.

The large majority of applicants specified the need to attract new and/or additional air services to their communities. Similar to previous years, a majority of applicants also proposed to implement their projects using revenue guarantees or subsidies, together with a variety of marketing and promotional initiatives. A critical component of most proposals was funding to support community-based marketing and promotional initiatives to stimulate demand and community awareness of local airport services. These efforts are directed at publicizing not only the availability of air services, but also the convenience of using the local airport compared to more congested air service hubs or other, larger, nearby airports.

This year, 18 applications did not meet the basic criteria for participation outlined above and were determined ineligible for selection under 49 U.S.C. 41743, the governing statute for our program. Of these, 16 applicants either currently have an active Small Community Program grant and are thus ineligible for another grant until their current grant is complete, or have sought additional funding for

the same project that was funded in a previous grant. Moreover, one application failed to meet numerous minimum eligibility criteria clearly set forth in the RFP, while another was overtaken by events when the applicant community, in lieu of its proposal under the Small Community Program, reinstated air service under the EAS program.

Fiscal Year 2006 Grant Awards

The Small Community Program is unique in that it encourages and affords communities the opportunity to develop their own solutions to their air service problems based on their particular needs and circumstances. By providing communities substantial input and participation in the development and implementation of the air service projects, the program aims to maximize the potential for success in the communities' endeavors. Since the program's inception, the Department has focused on maximizing the number of participating communities, assuring geographic diversity of the selections, and selecting a variety of solutions to the problems identified by applicants in order to provide a wide range of approaches for dealing with the challenges faced by similarly situated communities.

With these considerations in mind, we are selecting 25 grant proposals and will seek to enter into grant agreements with the communities/consortia identified in Appendix A. Grant agreements must be executed with the Department before the recipients can begin to spend funds provided under this order. In addition, grant recipients are subject to all grant conditions and assurances specified in Appendix B to this order. Funds for these awards will be obligated as of the date that each grant agreement is executed with the selected communities. Because the funds for the authorized projects must be obligated before the close of the fiscal year, September 30, 2006, grant agreements must be fully executed expeditiously. Accordingly, the Department's grant offers and agreements will be transmitted to the selected communities upon issuance of this order.

The proposals we selected incorporate the purpose of the statute, and provide an expanded opportunity to test a variety of approaches to improving small community air service in all regions of the country. For example:

- Eight of the grant awards are made to communities experiencing higher-than-average air fares, including Fairbanks, AK; Cedar Rapids, IA; Garden City/Dodge City/Liberal, KS; Grand Forks, ND; Jamestown/Devils Lake, ND; Harrisburg, PA; Longview, TX; and Lynchburg, VA.
- The award to Harrisburg, PA, will enable the community to seek new low-cost air service.
- Four awards go to communities -- Tuscaloosa, AL; Palmdale, CA; Gary, IN; and Gallup, NM -- seeking either their first air service or to restore service previously lost.
- Four awards go to communities -- Melbourne, FL; Brunswick, GA; Grand Forks, ND; and North Bend, OR -- seeking service by a second air carrier.
- Nine grant awards will be given to communities seeking access to additional city-pair markets. These communities include Fairbanks, AK; Chico, CA; Montrose, CO; Springfield, IL; Jackson, MS; Kalispell, MT; Toledo, OH; Abilene, TX; and Lynchburg, VA.

- Six awards will be given to communities seeking to conduct marketing programs to promote increased use of local air services. These communities include Cedar Rapids, IA; Garden City/Dodge/Liberal, KS; Monroe, LA; Jamestown/Devils Lake, ND; Jamestown, NY; and Longview, TX. Garden City/Dodge City/Liberal and Jamestown/Devils Lake now receive subsidized air service under the EAS program and expect to use their grants to reduce the need for their EAS subsidies.

Virtually all of the selected communities are contributing to their respective grant projects from other than airport revenues. Many will also contribute to the project from airport revenues and provide in-kind contributions to further the goals of the proposed service/fare initiatives. In addition to the participation and involvement by the communities/consortia in designing the grant projects, the local contributions reflect a commitment to the grant projects that is important to the success of the proposed service/fare initiatives. Moreover, nearly all of the communities/consortia either have, or will establish, public/private partnerships to enhance community participation and facilitate access to air services, and all have provided a specific plan for using their grant funds.⁶

Grant Agreements

As noted above, the Department will execute grant agreements with each recipient, and upon the issuance of this order we will contact the communities receiving grants to complete execution of those agreements. In the RFP, we stated that communities must establish milestones to monitor the progress of the proposed projects to determine whether amendments are necessary or whether the grant agreement should be terminated. As we have done in the past, milestones and progress reporting requirements will be included in the grant agreements.

Federal funds under this grant program are disbursed on a reimbursable basis, with the communities expending funds for the grant project and then seeking reimbursement. Communities will not be reimbursed for funds expended prior to the date on which the grant agreement is executed. In seeking reimbursements, grant recipients must provide invoices or other evidence of the expenditure, details about the expenditure and how it relates to the grant project, and evidence of payment. In addition, the legal sponsor is required to certify that each invoice is relevant to the authorized grant project and has been paid. Communities will be required to comply fully with the terms of their proposals and the grant agreements. Funds allotted for the program remain available until expended.

AIR SERVICE DEVELOPMENT ZONE

The statute directs the Department to designate an airport in one community awarded a grant under this program as an “Air Service Development Zone” (ASDZ), and to work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options

⁶ We note that some grant applicants that currently receive subsidized air service under the EAS program sought to use grant funds to secure air service by other carriers to additional destinations. As we stated in our RFP (Order 2006-1-13), we are prepared to entertain applications from EAS-subsidized communities that are directed toward improving use of the EAS being provided. We are not prepared to entertain proposals that would conflict with long-standing EAS policies, including financial support through this program of air services that would compete with the EAS, thus drawing traffic from the already subsidized services and increasing the subsidy requirements for those services.

for the area, and to provide data, working with the Department of Commerce and other agencies. 49 U.S.C. 41743(h). For FY 2006, however, none of the communities selected for a grant requested designation as an ASDZ. For this reason, no community is designated as an ASDZ for FY 2006.

ACCORDINGLY,

1. We select the communities/consortia listed in Appendix A to receive grant awards under the Small Community Air Service Development Program for fiscal year 2006 as described in this order;
2. Grant recipients are subject to all grant conditions and assurances specified in Appendix B to this order and FAA Order 5100-38B;
3. Grant recipients must execute a grant agreement with the Department before they can begin to spend funds provided under this order;
4. Grant recipients awarded less than the amount that they requested in their proposals must execute grant agreements with the Department of Transportation, or notify the Department that they do not accept the Department's grant offer, no later than 30 calendar days from the issuance of this order; and
5. A copy of this order will be served on the legal sponsor for each of the communities awarded grants by this order.

By:

MICHAEL W. REYNOLDS
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available
on the World Wide Web at <http://dms.dot.gov>*

SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM
FY 2006 GRANT AWARDS

	<u>COMMUNITY</u>	<u>STATE</u>	<u>GRANT AMOUNT</u>
1	Fairbanks	AK	\$500,000
2	Tuscaloosa	AL	\$400,000
3	Chico	CA	\$472,500
4	Palmdale	CA	\$900,000
5	Montrose	CO	\$450,000
6	Melbourne	FL	\$800,000
7	Brunswick	GA	\$500,000
8	Cedar Rapids	IA	\$200,000
9	Springfield	IL	\$390,000
10	Gary	IN	\$600,000
11	Garden City/Dodge City/Liberal	KS	\$150,000
12	Big Sandy Region	KY	\$90,000
13	Monroe	LA	\$50,000*
14	Jackson	MS	\$400,000
15	Kalispell	MT	\$450,000
16	Grand Forks	ND	\$350,000
17	Jamestown/Devil's Lake	ND	\$100,000
18	Gallup	NM	\$600,000
19	Jamestown	NY	\$150,000
20	Toledo	OH	\$400,000
21	North Bend	OR	\$400,000
22	Harrisburg	PA	\$400,000
23	Abilene	TX	\$465,100*
24	Longview	TX	\$225,000
25	Lynchburg	VA	\$250,000
	Total		\$9,692,600

*Grant amount awarded is less than what the community had requested.

**OFFICE OF THE SECRETARY
DEPARTMENT OF TRANSPORTATION**

TITLE VI ASSURANCE
(Implementing Title VI of the Civil Rights Act of 1964, as amended)

**ASSURANCE CONCERNING NONDISCRIMINATION ON THE
BASIS OF DISABILITY IN FEDERALLY-ASSISTED PROGRAMS
AND ACTIVITIES RECEIVING OR BENEFITING FROM
FEDERAL FINANCIAL ASSISTANCE**

(Implementing the Rehabilitation Act of 1973, as amended, and the
Air Carrier Access Act of 1986)

49 CFR Parts 21 and 27 and 14 CFR Parts 271 and 382

_____ (the Grant Recipient) HEREBY AGREES
(Name of Grant Recipient)

THAT:

I. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply: with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d--42 U.S.C. 2000d-4; all requirements imposed by or pursuant to: Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964; and other pertinent directives so that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, section 21.7(a) and Title 14, Code of Federal Regulations, section 271.9(c).

II. As a condition to receiving any Federal financial assistance from the Department of Transportation, it will comply with: section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794); the Air Carrier Access Act of 1986 (49 U.S.C. 1374(c)); and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, Title 14, Code of Federal Regulations, Part 382, Nondiscrimination on the Basis of Handicap in Air Travel; and other pertinent directives so that no otherwise qualified person with a disability, be excluded from participation in, be denied the benefits of, be discriminated

against by reason of such handicap in the provision of air transportation, or otherwise be subjected to discrimination under any program for which the Recipient receives Federal financial assistance from the Department of Transportation. This assurance is required by Title 49, Code of Federal Regulations, section 27.9 and Title 14, Code of Federal Regulations, sections 271.9(c) and 382.9.

III. It will promptly take any measures necessary to effectuate this agreement. The Recipient further agrees that it shall take reasonable actions to guarantee that it, its contractors and subcontractors subject to the Department of Transportation regulations cited above, transferees, and successors in interest will comply with all requirements imposed or pursuant to the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.

IV. These assurances obligate the Recipient for the period during which Federal financial assistance is extended. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the statutes and Department of Transportation regulations cited above, other pertinent directives, and the above assurances.

V. These assurances are given for the purpose of obtaining Federal grant assistance under the Small Community Air Service Development Pilot Program and are binding on the Recipient, contractors, subcontractors, transferees, successors in interest, and all other participants receiving Federal grant assistance in the Small Community Air Service Development Pilot Program. The person or persons whose signatures appear below are authorized to sign this agreement on behalf of the Grant Recipient.

VI. In addition to these assurances, the Recipient agrees to file: a summary of all complaints filed against it within the past year that allege violation(s) by the Recipient of Title VI of the Civil Rights Act of 1964, as amended, section 504 of the Rehabilitation Act of 1973, as amended, or the Air Carrier Access Act of 1986; or a statement that there have been no complaints filed against it. The summary should include the date the complaint was filed, the nature of the complaint, the status or outcome of the complaint (*i.e.*, whether it is still pending or how it was resolved).

Date

Legal Name of Grant Recipient

By:

Signature of Authorized Official

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
OFFICE OF AVIATION ANALYSIS

CERTIFICATION REGARDING INFLUENCING ACTIVITIES

Certification for Contracts, Grants, Loans,
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Influencing Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Title

Grant Recipient

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
OFFICE OF AVIATION ANALYSIS**

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS
IN THE PERFORMANCE OF SMALL COMMUNITY AIR SERVICE PURSUANT TO
GRANT AWARD UNDER THE SMALL COMMUNITY AIR SERVICE DEVELOPMENT
PROGRAM**

- A. The grant recipient certifies that it will, or will continue, to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grant recipient's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of work supported by the grant award be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment supported by the grant award, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of conviction. Employers of convicted employees must provide notice, including position title, to the Office of Aviation Analysis. Notice shall include the order number of the grant award;
 - (f) Taking one of the following actions, within 30 days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted--
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grant recipient *may*, but is not required to, insert in the space provided below the site for the performance of work done in connection with the specific grant.

Places of Performance (street address, city, county, state, zip code). For the provision of air service pursuant to the grant award, workplaces include outstations, maintenance sites, headquarters office locations, training sites and any other worksites where work is performed that is supported by the grant award.

_____	_____
_____	_____
_____	_____
_____	_____

Check [] if there are workplaces on file that are not identified here.

Grant Recipient Signature

Date

SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

GRANT ASSURANCES

Certification. The Grantee hereby assures and certifies, with respect to this grant, that:

1. General Federal Requirements. It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.
- b. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq. Airport Assurances (9/99)
- c. Hatch Act - 5 U.S.C. 1501, et seq.
- d. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.
- e. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).
- f. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.
- g. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- h. Clean Air Act, P.L. 90-148, as amended.
- i. Coastal Zone Management Act, P.L. 93-205, as amended.
- j. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.1
- k. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- l. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- m. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.
- n. Power Plant and Industrial Fuel Use Act of 1978 - Section 403 - 42 U.S.C.8373.
- o. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.
- p. Copeland Anti-kickback Act - 18 U.S.C. 874.
- q. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- r. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- s. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity
Executive Order 11990 - Protection of Wetlands
Executive Order 11998 – Flood Plain Management
Executive Order 12372 - Intergovernmental Review of Federal Programs.
Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 29 CFR Part 1 - Procedures for predetermination of wage rates.
- d. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.
- e. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction con-

tracts subject to the Contract Work Hours and Safety Standards Act).

f. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).

g. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.

h. 49 CFR Part 23 - Participation by Disadvantaged Business Enterprise in Airport Concessions.

i. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.

j. 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.

k. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

Office of Management and Budget Circulars

a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.

b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Grantee.

a. It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

3. Fund Availability. It has sufficient funds available for that portion of the project costs that are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement that it will own or control.

4. Preserving Rights and Powers.

a. It will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the DOT, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the DOT.

5. Accounting System, Audit, and Record Keeping Requirements.

a. It shall keep all project accounts and records that fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the DOT and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books,

documents, papers, and records of the recipient that are pertinent to the grant. The DOT may require that a recipient conduct an appropriate audit. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

6. Minimum Wage Rates. It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement that involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

7. Economic Nondiscrimination. In any agreement, contract, lease, or other arrangement under any project funded under this grant agreement and for which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the Grantee will insert and enforce provisions requiring the contractor to (1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and (2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

8. Engineering and Design Services. It will award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the Grantee.

9. Foreign Market Restrictions. It will not allow funds provided under this grant to be used to fund any project that uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

10. Relocation and Real Property Acquisition. (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

11. Buy America. In accepting this award, the grant recipient agrees to comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act"). The recipient should review the provisions of the Act to ensure that expenditures made under this award are in accordance with it. In compliance with Section 508 of Public Law 108-447, the grant recipient is hereby notified that it is in the sense of the Congress of the United States that only American-made equipment and products should be purchased with financial assistance provided under this award.

Grant Recipient

Signature of Authorized Grant Recipient Official

Date

OFFICE OF THE SECRETARY OF TRANSPORTATION

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and

frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters -- Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name

Affiliation

Title

Date

OFFICE OF THE SECRETARY OF TRANSPORTATION

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION -- LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge

and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion -- Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name

Title

Affiliation

Date