Moreover, the Regional Education Officers in the Office of Overseas Schools will make presentations on the activities and initiatives in the American-sponsored overseas schools.

Members of the public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the Department of State is controlled, and individual building passes are required for all attendees. Persons who plan to attend should advise the office of Mr. Mark Ulfers, Director of Office of Overseas Schools Department of State, telephone 202–261–8200, prior to January 9, 2024. Each visitor to the Department of State meeting will be asked to provide his/her date of birth and either driver's license or passport number at the time of registration and attendance and must carry a valid photo ID to the meeting.

Personal data is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *https://www.state.gov/wp-content/uploads/2019/05/Security-Records-STATE-36.pdf* for additional information.

Any requests for reasonable accommodation should be made at the time of registration. All such requests will be considered, however, requests made after January 9 might not be possible to fill. All attendees must use the 21st Street entrance to the building for Thursday's meeting.

Mark E. Ulfers,

Executive Secretary, Overseas Schools Advisory Council, Department of State.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–1204]

FAA Policy Regarding Air Carrier Incentive Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final policy statement.

SUMMARY: This policy statement updates FAA policy regarding incentives offered by airport sponsors to air carriers for improved air service. It is longstanding practice for airport operators to offer incentives to air carriers to promote new air service at an airport, including both new air carriers serving the airport and new destinations served. The updated policy statement supersedes the 2010 *Air Carrier Incentive Program Guidebook.* The policy statement includes general principles to assess whether an airport sponsor's air carrier incentive program (ACIP) complies with the sponsor's FAA grant assurances. It also includes guidance on the permissibility of various specific aspects of an ACIP, as well as ACIP implementation.

DATES: This final policy statement is effective December 7, 2023.

ADDRESSES: For information on where to obtain copies of documents and other information related to this policy statement, see ''How To Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kevin C. Willis, Director, Office of Airport Compliance and Management Analysis, ACO, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 267–4629.

SUPPLEMENTARY INFORMATION: Airports obligated under the terms of an Airport Improvement Program (AIP) grant agreement include virtually all commercial airports in the United States. At each of these airports, the airport sponsor must ensure that an air carrier incentive program (ACIP) is consistent with the sponsor's FAA grant agreements, including standard Grant Assurances relating to economic discrimination, reasonable fees, and use of airport revenue. In the 1999 *Policy and Procedures Regarding the Use of Airport Revenue,* the FAA provided that certain costs of activities promoting new air service and competition at an airport are permissible as a tool for commercial airports to establish or retain scheduled air service. In the 2010 *Air Carrier Incentive Program Guidebook,* the FAA provided more detailed guidance on both the use of airport revenue and the temporary reduction or waiver of airport fees as an incentive for carriers to begin serving an airport or begin service on a route not currently served from the airport. A number of U.S. airport sponsors have used ACIPs in recent years, and the agency had the opportunity to review many of these programs for consistency with the sponsor's grant agreements, Grant Assurances, and other Federal obligations. Based on that experience, the FAA is publishing its revised agency policy on ACIPs.

I. Authority for the Policy

This policy is published under the authority described in title 49 of the United States Code, subtitle VII, part B, chapter 471, section 47122(a). The policy will not have the force and effect of law and is not meant to bind the public in any way, and the publication of this policy is intended only to provide information to the public regarding existing requirements under the law and agency policies. Mandatory terms such as ''must'' in this notice describe established statutory or regulatory requirements.

II. Background

A. Overview of Air Carrier Incentive Programs

Airports and communities of all sizes use air carrier incentives in order to attract new air service. Incentives may be offered to new entrant carriers to begin service at an airport or to incumbent carriers at an airport to add new routes. Incentives may apply to international or domestic service.

ACIPs can be divided into two primary categories: programs funded by the airport itself (''airport-sponsored incentives'') and those funded by the local community (''community-sponsored incentives''). The primary distinction between these two groups relates to the funding used for an incentive. For airport-sponsored incentives using airport funds, the use of the funds must comply with the requirements of Federal law and FAA grant agreements for use of airport revenue. In contrast, community-sponsored incentives using non-airport funds may be used in a broader set of ways. Community-sponsored incentives have been funded by various community groups, including local governments, local chambers of commerce and tourism organizations and local businesses. Airport-sponsored incentives largely involve a reduction or waiver of landing fees and other airport fees. Airport sponsors may also contribute to marketing programs, provided the marketing focuses on the airport rather than destination marketing. Community-sponsored incentives can include more direct financing of routes, including minimum revenue guarantees, travel banks, and marketing funding that may include destination marketing. Another

important distinction is the role played by the airport sponsor. The sponsor may have a direct management role of the airport-sponsored incentive program, or a limited role advising the non-airport entity responsible for the community-sponsored incentive program.

B. Federal Obligations

Airport sponsors that have accepted grants under the AIP have agreed to comply with certain Federal requirements included in each AIP grant agreement as sponsor assurances. The Airport and Airway Improvement Act of 1982 (AAIA) (Pub. L. 97–248), as amended and recodified at 49 U.S.C. 47101 *et seq.,* requires that the FAA obtain certain assurances from an airport sponsor as a condition of receiving an AIP grant. Several of these standard Grant Assurances relate to the extent to which an airport sponsor can provide incentives to an air carrier in return for new air service at the airport.

Grant Assurance 22: Economic discrimination: Grant Assurance 22, paragraph 22.a. requires the airport sponsor to allow access by aeronautical operators and services on reasonable terms and without unjust discrimination. Paragraph 22.e. of Grant Assurance 22 further requires: ''Each air carrier using such airport . . . shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers.''

The FAA has determined that a carrier starting new service at an airport is temporarily not similarly situated to carriers with established route service at the same airport. Accordingly, an airport sponsor may offer a waiver or reduction of fees and jointly market new service, for a fixed time and within certain limits, without unjustly discriminating against carriers not offering new service and not participating in the air carrier incentive program.

Grant Assurance 22 also serves to prohibit an airport sponsor from charging carriers and other operators not participating in an incentive program for any costs of an air carrier incentive program. Charging non-participating operators for the costs of an incentive would be a cross-subsidy of the incentive program, and therefore not a reasonable fee component for nonparticipating operators.

The FAA's Policy Regarding Airport Rates and Charges provides detailed guidance on the acceptable components of carrier and other aeronautical user fees. Any ACIP adopted under this Policy must conform to the Policy Regarding Airport Rates and Charges.

Grant Assurance 24, Fee and Rental Structure: Grant Assurance 24 generally requires that an airport sponsor maintain an airport rate structure that makes the airport as self-sustaining as possible. For purposes of planning and implementing an ACIP, the airport sponsor must assure that a marketing program to promote increases in air passenger service does not adversely affect the airport's self-sustainability and the existing resources needed for the operation and maintenance of the airport. The Policy Regarding Airport Rates and Charges provides further guidance on compliance with Grant Assurance 24.

Grant Assurance 25, Airport Revenues: Grant Assurance 25, which implements 49 U.S.C. 47107(b), generally requires that airport revenues be used for the capital and operating costs of the airport or local airport system. Title 49 U.S.C. 47133 imposes the same requirement directly on obligated airport sponsors. The FAA Policy and Procedures Regarding the Use of Airport Revenue (Revenue Use Policy), in section V.A.2, provides that expenditures for the promotion of an airport, promotion of new air service and competition at the airport, and marketing of airport services are legitimate costs of an airport's operation. Air carrier operations are not a capital or operating cost of an airport; therefore, use of airport revenue for a carrier's operations is a prohibited use of airport revenue. Accordingly, while an airport sponsor can assume certain marketing costs relating to service at the airport, the sponsor may not make payments in any form from airport revenue to a carrier for operating at the airport, including for providing air service at the airport.

C. Related Federal Programs

Essential Air Service Program: Following deregulation of the airline industry, the Essential Air Service (EAS) program was put into place to guarantee that communities that were served by certificated air carriers before airline deregulation maintain a minimal level of scheduled air service. The United States Department of Transportation (Department) implements this program by subsidizing at least a minimum of daily flights from each designated EAS community/airport, usually to a large- or medium-hub airport, except for within Alaska. As of May 2023, the Department subsidizes commuter and air carriers, and air taxis to serve 61 communities in Alaska and 111 communities in the 48 contiguous states and Puerto Rico that otherwise would not receive any passenger air transportation. Because the EAS program largely involves Federal payments to air carriers, the EAS program does not affect the responsibilities of an airport. Eleven (11) communities receive funding, via grant agreements, through the Alternate Essential Air Service (AEAS) program. Those 11 communities obtain their own air service, currently all from a commuter air carrier, operating all flights as public charters under DOT Part 380 regulations.

Small Community Air Service Development Program. The Small Community Air Service Development Program (SCASDP) is a Federal grant program designed to provide financial assistance to small communities to help them enhance their air service. The program is managed by the Associate Director, Small Community Air Service Development Program, under the Office of Aviation Analysis, in the Office of the Secretary of Transportation. Grantees must be public entities and can include local governments and airport operators. Grant funds may be used for a variety of measures to promote air service and are dispersed on a reimbursable basis. SCASDP grant funds are not airport revenue and may be used for purposes for which airport revenue is prohibited, including direct subsidy of air carrier operations.

Holding a SCASDP grant does not affect an airport sponsor's obligations under its AIP grant agreements. The Department's order awarding SCASDP grants states that a SCASDP grant does not relieve the airport sponsor from the obligation to use airport revenues only for purposes permitted by the AIP Grant Assurances and Federal law. Accordingly, if airport revenues are used as local match funds for a SCASDP grant, those funds remain subject to Grant Assurance 25; however, this would not prevent an airport sponsor using airport revenue as a local match to SCASDP grants similar to airport revenue being used as a local match to AIP grants. This permits airport sponsors to pursue reasonable strategies to promote the airport and provide incentives to encourage new air service.

D. The 2010 Air Carrier Incentive Guidebook

Previous FAA policy on ACIPs was published in the *Air Carrier Incentive Program Guidebook,* issued in September 2010 (and referred to below as ''the Guidebook'' or ''the 2010 Guidebook''). While the Guidebook served as a useful description of FAA policy on ACIPs, with the publication of this policy update, the FAA is grounding the policy more in basic principles rather than in a detailed list of prohibited practices. The intention is to provide more flexibility for airport sponsors to design particular incentive programs while remaining in compliance with Federal obligations regarding economic discrimination, reasonable fees, and use of airport revenue.

E. FAA Experience With ACIPs

In the last 20 years, and particularly since the publication of the 2010 Guidebook, there has been a proliferation of ACIPs. ACIPs have been implemented at more than 250 U.S. commercial service airports. Some airport sponsors have used ACIPs on occasion or intermittently, while others have maintained ACIPs on a recurring and renewable annual basis. ACIPs have been used at smaller airports seeking to acquire and maintain any level of air carrier service, while sponsors of larger hub airports have also used ACIPs to add to existing service patterns. While most ACIPs have complied with Federal obligations as outlined in the 2010 Guidebook, several practices have raised issues of compliance:

- There have been cases where an airport sponsor has sought service from a specific air carrier and tailored its ACIP for that purpose, which can present an issue of unjust discrimination.
- While sponsors have avoided direct cash subsidies to carriers, some ACIPs have included incentives that could be seen as efforts to circumvent the clear prohibition on the use of airport revenue for subsidy of carrier operations.
- Sponsors have made direct cash payments to carriers for marketing costs under a joint marketing program without appropriate documentation.
- Use of a sponsor's community funds for practices such as airline subsidies and revenue guarantees for a carrier may be inconsistent with the sponsor's Grant Assurances.
- Sponsors have entered into incentive arrangements with a carrier with no notice to the public or other carriers of the terms of the incentive program. Non-participating carriers may have no means of determining whether and how the incentive program affects aeronautical fees at the airport.

In consideration of agency experience with the oversight of ACIPs in recent years, the FAA is issuing this restatement of the agency policy on ACIPs.

F. Summary of the Notice of Proposed Policy

The FAA published a proposed policy on ACIPs on February 3, 2023, with a request for public comment. The proposed policy articulated five general principles to summarize the framework under which an airport sponsor can implement an ACIP:

- Discrimination between carriers participating in an ACIP and non-participating carriers must be justified and time-limited.
- A sponsor may not use airport revenues to subsidize air carriers.
- A sponsor may not cross-charge non-participating carriers or other aeronautical users to subsidize ACIP carriers.
- The terms of an ACIP should be made public.
- Use of airport funds for an incentive program must not adversely affect the resources needed for operation and maintenance of the airport.

The proposed policy also included a number of updates and clarifications, several of which differ from the material in the *2010 Guidebook.* Key provisions in the proposed policy include:

- Revising the definition of *new service* to comprise ''any nonstop service to an airport destination not currently served with nonstop service, or any service to an airport by a new entrant carrier.'' This proposed definition would modify the definition in 2010 Guidebook primarily by eliminating increased frequencies from the definition of *new service,* and by clarifying that only nonstop service qualifies.
- Allowing incentives for three seasons (up to three years from the start of service) for *seasonal service,* which is defined as service offered for less than six months of the year.
- Clarifying that an ACIP may be offered for new cargo service, separate from any ACIP offered for new passenger service.
- Clarifying that incentives may be based on the number of passengers actually carried or the seat-miles associated with new service, as long as they are constructed in a way that avoids unjust discrimination and so that the resulting reduction in fees does not exceed the amount of the standard fees the carrier receiving the incentive would have been charged without the incentive.
- Articulating expectations for ACIP transparency, including the disclosure of proposed ACIPs and incentives granted.
- Modifying the 2010 Guidebook's prohibition of airport sponsor staff from assisting or advising a non-airport entity on an ACIP that used general community funds, and clarifying the circumstances and limitations under which an airport sponsor can provide technical assistance to non-airport entities.
- Clarifying that payments of marketing and advertising costs directly to a carrier under an ACIP will be considered a prohibited diversion of airport revenue, and allowing payments of airport revenue for marketing only to the entity providing the marketing services.
- Modifying the expected process for airports with a limited ACIP budget that may limit incentives to a single carrier so that a request for proposals (RFP) process is no longer the stated preferred way to award the incentive. Instead, the availability of an ACIP, along with any limitations, needs to be publicly disclosed at least 30 days prior to entering an agreement with a carrier. Another difference from the 2010 Guidebook is that the proposed policy in this area does not distinguish based on an airport's size.
- Clarifying that airport sponsors have discretion as to whether their ACIP applies to an air carrier restarting service that was previously subject to an incentive but had been canceled due to various reasons.
- Allowing carrier incentives that were initiated prior to the issuance date of the new policy to continue until they expire, as long as they complied with the FAA's previous policy guidance (with a maximum timeframe of two years, consistent with the 2010 Guidebook). However, incentives initiated on or after the issuance date of the final policy must conform to the guidance in the final policy statement.

The FAA also requested comments on whether incentives for upgauging to a larger aircraft type should continue to be allowed consistent with the petition partially granted to the Clark County Department of Aviation, Nevada, in 2012.

The proposed policy also addressed several other aspects of ACIPs and the ACIP process.

The FAA invited comments on the proposed ACIP policy for 60 days, and the comment period closed on April 4, 2023.

G. General Overview of Comments

The FAA received comments from 19 industry stakeholders. Commenters included Airlines for America (A4A), the American Association of Airport Executives (AAAE), Airports Council International—North America (ACI–NA), 15 airport sponsors, and one private company. The majority of individual airport sponsor comments represent large hub airports; however, the FAA also received several comments from sponsors for smaller airports.

Commenters generally supported the FAA's initiative to update its ACIP policy and guidance given the evolution of the aviation industry since the publication of the 2010 Guidebook. Most commenters, particularly airport stakeholders, supported the FAA's stated goal of providing additional flexibility to airport sponsors to design ACIPs within the framework of the sponsors' federal obligations, although there were differing perspectives on whether the proposed policy accomplishes that goal.

Commenters had suggestions for modifications to several aspects of the proposed policy. Some areas of the proposed policy generated numerous and/or particularly strong comments, including:

- The definition of *new service,* particularly the exclusion of new frequencies on routes that already have nonstop service;
- Procedures in cases where an ACIP has a limited budget and can only be awarded to one carrier;
- Incentives for upgauging, as well as incentives that vary based on passengers or seat-miles;
- ACIP transparency expectations;
- Technical assistance for non-airport entities; and
- Whether funds can be paid directly to an air carrier as part of a marketing incentive.

Comments on these and other areas of the proposed policy, as well as the FAA's responses and, in some cases, changes to the proposed policy, are discussed in greater detail below.

III. Discussion of Public Comments and the Final Policy

The FAA has made changes to this policy in response to comments made by the public. Some of the changes are to terminology to improve clarity, while other more substantive changes are in response to comments raised by stakeholders. Summaries of the comments and the FAA's responses are grouped by category in the following subsections.

A. Policy Approach, ACIP Flexibility and Guiding Principles

ACI–NA and four individual airport sponsors affirmed their support for the FAA's stated goal of providing more flexibility to airport sponsors, but commented that they believe the proposed policy did not live up to this intention. These commenters recommended that the FAA adopt less prescriptive language in order to place fewer limits on airport sponsors' ability to design ACIPs. ACI–NA went on to request that the FAA clearly state that the final policy has no force of law and eliminate any suggestion that airport sponsors must comply with it.

Tampa International Airport (TPA) requested that the policy explicitly reaffirm that certain uses of airport revenue are permissible in accordance with the Revenue Use Policy.

The FAA notes that without a policy that articulates criteria for which incentives are allowed, there would be no protected ACIPs, as such programs are inherently discriminatory. Grant Assurance 22 prohibits unjust discrimination and requires substantially comparable fees for all air carriers that make similar use of the airport and utilize similar facilities (subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers). The FAA is providing this policy to guide airports regarding the FAA's interpretation of the grant assurances and to avoid unjust discrimination.

For further clarity, and to address TPA's comment, the FAA has added a sentence to the second principle in the policy affirmatively stating, ''Fee reductions, fee waivers, and marketing assistance as incentives to new service are permitted to the extent described in the Policy and Procedures Concerning the Use of Airport Revenue.''

Regarding ACI–NA's comment about the final policy having no force of law, the notice of proposed policy contained the following statement: ''The policy proposed under this notice will not have the force and effect of law and is not meant to bind the public in any way, and the notice is intended only to provide information to the public regarding existing requirements under the law and agency policies. Mandatory terms such as ''must'' in this notice describe established statutory or regulatory requirements.'' The FAA has maintained a similar statement in the ''Authority for this Policy'' section of this final policy statement.

B. Definitions

New Service: There were numerous comments on the definition of new service, particularly focused on whether additional service to existing markets should be included as eligible for an ACIP.

A4A and Rick Husband Amarillo International Airport (AMA) commented that the proposed policy's definition of new service was too broad. Some A4A members and AMA believe that new entrants who did not previously serve an airport and enter a market that already has nonstop service should not be eligible for incentives, as this may unfairly advantage the new entrant carrier at the expense of the incumbent carrier on the route.

ACI–NA, AAAE, and nine airport sponsors commented that the proposed policy's definition of new service was too restrictive. All of these commenters believe that ACIPs should be permitted to provide incentives for frequency increases in existing markets, as stated in the 2010 Guidebook. Several commenters specifically raised discrimination concerns or questions about situations where a new entrant carrier (that previously did not provide any service to an airport) could receive an incentive for starting service on a route that already had nonstop service from another carrier, whereas a carrier that already serves a different market from that airport could not receive an incentive for starting service on that same route. Similarly, several commenters believe that incumbent carriers should be eligible for incentives if they add frequencies in markets that they already serve.

Some commenters had specific suggestions to limit the applicability of incentives for additional frequencies. Denver International Airport (DEN) recommended setting a minimum increased frequency that would qualify as an incentive, such as 50% over the previous year, and specifying the markets that qualify. Similarly, the Metropolitan Washington Airports Authority (MWAA) and the City of Phoenix Aviation Department (PHX) suggested that increased frequency incentives would be most appropriate for markets that the airport sponsor identifies as underserved.

Multiple commenters linked their comments on incentives for frequency increases to incentives for upgauging, noting that both represent increases in capacity in markets that already have nonstop service and therefore it is logical that either both types of incentives be permitted or both types be prohibited.

Finally, ACI–NA also commented that the definition of new service should be expanded to include direct, one-stop service. Houston Airport System (HAS) had a similar comment, noting that international air service to interior U.S. destinations in particular may often begin on a one-stop basis and that cargo service often has enroute stops. DEN also requested clarification about whether ''any service by a new entrant carrier'' includes both direct and nonstop service.

The FAA recognizes the logic in maintaining a consistent approach between different forms of additional capacity on existing routes, and that in many cases increased capacity on an existing route can be very valuable to an airport and the community it serves. At the same time, the FAA believes that there is a distinction between, on the one hand, a route going from twice a week service to daily service (or daily service to three times a day service), and, on the other hand, a route going from 10 flights a day to 12 flights a day. Therefore, the FAA has modified the definition of new service in the final policy to include ''a significant increase in capacity on preexisting service to a specific airport destination'' as permissible for airport sponsors to include in an ACIP. While the FAA is leaving the definition of ''significant'' to each airport sponsor to articulate in its ACIP based on local circumstances, the agency encourages sponsors who choose to offer incentives for frequency increases to consider defining a threshold percentage increase in order to qualify for incentives.

The FAA has also added language to the *Service Frequency* section of the final policy to clarify that if an airport sponsor chooses to offer incentives for frequency increases on preexisting service, these incentives:

- Are limited to one year;
- May not discriminate based on whether the frequency addition is from a carrier that already serves the route;
- Cannot be the only type of incentive in a sponsor's ACIP; and
- Should only apply to the increased frequencies to the extent that those frequencies result in a significant net increase in seat capacity to the specific airport destination. (In other words, if a carrier adds frequency on smaller aircraft so that there is not a significant increase in seat capacity, the frequency increase would not be eligible for an incentive.)

The FAA is not adopting the suggestion to expand the proposed definition of new service to incorporate one-stop service in addition to nonstop service. While the FAA understands that there may be some value in one-stop service as a way for an air carrier to test a market, the value of one-stop service is significantly lower than nonstop service from a passenger's perspective. In addition, the FAA is concerned that, in a predominantly hub-and-spoke aviation system, the different combinations and permutations of one-stop service would make this very difficult to monitor.

Seasonal Service: A4A and San Diego International Airport (SAN) both supported the proposed definition of seasonal service. However, DEN and the Greater Orlando Aviation Authority (MCO) commented that the International Air Transport Association (IATA) summer season lasts approximately seven months, from March to October and suggested that the FAA should define seasonal service as being offered less than seven months per year rather than six months, as in the proposed policy.

The FAA agrees with the logic of matching IATA seasonal definitions and has modified the final policy to define seasonal service as nonstop service offered for less than seven months of the calendar year.

New Entrant Carrier and Incumbent Carrier: ACI–NA objected to the proposed policy's definition of ''new entrants'' on the grounds that there is a definitional gap between incumbent carriers (who are defined as ''actively providing service'') and new entrant carriers (who are defined as ''not previously providing any air service'') because a carrier could have provided air service to a particular airport in prior years, but not be actively flying to that airport. ACI–NA recommended that the FAA not define ''new entrant carrier'' and ''incumbent carrier'' in this policy and instead allow individual airport sponsors to define these terms in their ACIPs. ACI–NA also commented that some air carriers have recently begun serving smaller communities by contractual arrangement with bus companies and requested that such service be eligible for incentives if it sold by air carriers, even if it is not aeronautical.

Two airport sponsors, TPA and the Port of Seattle (SEA), recommended modifying the new entrant definition so that new entrants can be considered carriers that are new to a particular market rather than a new carrier at a sponsor airport; several airports raised similar comments under the new service definition.

The FAA's intent in defining new entrants as carriers who were ''not previously providing any air service'' was that the new entrant carrier was not providing air service to the particular airport immediately prior to starting service. To clarify, the FAA has modified the final policy to use the word ''currently'' consistently to refer to the state of air service at the origin airport immediately prior to the execution of an incentive agreement (and has defined the term accordingly). In addition, the flexibility that the policy affords to airport sponsors regarding choosing whether to offer incentives for the restart of service that had previously been offered at the airport should help address the concern about the definitional gap. The FAA is not expanding the definition of carriers to include bus operators. Bus service is not considered to be aeronautical activity and is not ''a local facility owned or operated by the airport owner or operator.'' Accordingly, use of airport revenue and resources to incentivize bus service would be inconsistent with the requirements for the use of airport revenue. The FAA believes that the modifications in the final policy to allow incentives for incumbent carriers who add service in markets that they did not previously serve effectively address the comments from TPA and SEA on the new entrant definition.

Preexisting Service: SAN commented that there should be a threshold of at least two flights per week on an annualized or a seasonal basis in order to qualify as preexisting service. MWAA commented that the seasonal service provisions should allow for a market to be considered unserved during the months that the seasonal service does not operate so that a carrier entering the market during the off-season could also receive incentives.

The FAA believes that the modifications in the final policy to allow incentives for significant frequency increases on preexisting service obviates the justification for a minimum threshold for preexisting service, as airport sponsors may offer incentives for frequency increases, as long as they are consistent with the limitations of the final policy. The FAA has modified the definition of preexisting service to clarify that an airport destination served nonstop on a seasonal basis is considered not to be currently served nonstop in other months for the purposes of this policy.

Other Clarifications: The FAA has made several other clarifications to the definitions and terminology throughout the policy. Based on several comments, the proposed policy may have been unclear at times when using the word ''airport'' whether the policy was referring to the airport offering the incentive or the airport destination.

Therefore, the FAA has introduced and defined the term ''origin airport'' as the airport which is offering an incentive under an ACIP and clarified that references to the ''airport sponsor'' in the policy are to the sponsor of the origin airport. The final policy also defines ''airport destination'' as the airport receiving new service from the origin airport and uses that term consistently throughout the policy.

In response to comments from ACI–NA, HAS and MWAA, the FAA has also clarified that it is permissible for ACIPs to define each airport within a metropolitan area as a separate airport destination.

Finally, the FAA also re-ordered the definitions so that terms are in alphabetical order.

C. Seasonal Service Applicability

Three airport sponsors commented that they support the proposed policy's provision that permits incentives for up to three years for new seasonal service to an airport destination that was previously unserved. AAAE generally supports increased flexibility for incentives for new seasonal service, but commented that the FAA should not be prescriptive in terms of defining the eligible timeframe. TPA commented that a two-year limit should be sufficient to establish a new seasonal service in the market. A4A commented that seasonal service incentive time limits should mirror time limits for other types of new service (two years for previously unserved markets and one year for new service in previously served markets).

The FAA believes that the rationale for allowing incentives for seasonal service to continue for up to three years in order to build the market remains valid, and therefore has finalized this aspect of the policy as proposed.

D. New Entrant Incentives

The proposed policy reiterated the 2010 Guidebook in stating that new entrants who begin nonstop service on a previously unserved route from the origin airport can receive incentives for up to two years, and that ACIPs may offer incentives to new entrant carriers for providing service to an airport destination with preexisting service, while excluding incumbent air carriers. In that case, the new entrant incentives are limited to no more than one year.

PHX objected to the exclusion of incumbent carriers from incentives that a new entrant carrier would be eligible for, and stated that an airport should have flexibility to determine whether a destination should be eligible for incentives, rather than limit incentives based on whether the carrier is a new entrant. In addition, two commenters asked for clarification regarding this provision. TPA asked what happens if a second carrier begins nonstop service following the first entrant in the same market but within the two-year incentive period and specifically whether the first entrant would no longer be eligible for a two-year incentive. MCO asked about a similar scenario, but whether the second new entrant would also be eligible for two years of incentives if minimal time has passed between start dates.

The FAA believes that the modifications to the new service definition would allow ACIPs to provide incentives to incumbent carriers who provide new service to an airport destination with preexisting service. However, the FAA has retained the new entrant language from the proposed policy, which gives airport sponsors latitude to limit incentives to new entrants on routes with preexisting service if they choose to do so, on the grounds that a new entrant carrier is temporarily not similarly situated to an incumbent carrier at the origin airport.

Regarding the questions raised by TPA and MCO, the FAA's interpretation is that a second new entrant into a given market would only be eligible for one year of incentives, as the airport destination in question would no longer be ''not currently served nonstop from the origin airport.'' The timeframe of incentives for the first new entrant would need to be addressed according to the airport sponsor's ACIP and the contract with the carrier. As discussed below, the FAA encourages airport sponsors to define the criteria for the ''first air carrier to establish service'' in their ACIPs in order to avoid disputes.

E. Procedures If ACIP Has a Limited Budget

ACI–NA, DEN, and SAN expressed support for the proposed policy's provisions that permit airport sponsors of any size to limit incentives to one carrier in cases where the sponsor has a limited budget, provided that information regarding the ACIP, including the limited availability, is disclosed at least 30 days prior to signing a contract with a carrier. AAAE supports the flexibility to limit incentives but commented that the FAA's proposed language on how to do so was too restrictive.

A4A expressed general support for the disclosure provisions, along with concern that the proposal may be insufficient to prevent undisclosed dealings with a favored carrier. A4A recommended that the policy state that disclosure is a requirement rather than an expectation, that ''posting'' the ACIP on a website is insufficient and should be replaced by direct communication to carriers, and that an airport sponsor should not be allowed to commence individual carrier discussions regarding incentives under a limited ACIP until after the ACIP (including limitations) is disclosed. A4A also requested that the FAA clarify what it means to be the first carrier to ''establish new service'' or ''enter the market'' because these may have different interpretations and pointed out that the proposed policy uses different phrasing in the *New Service vs Preexisting Service* compared to the *New Entrant Carriers* section. In contrast, ACI–NA recommended that the FAA leave the interpretation of these phrases to the reasonable discretion of airport sponsors.

The FAA believes that the proposed policy generally strikes an appropriate balance between practicality and the benefits of disclosure. The FAA remains convinced that it is appropriate for disclosure to be an expectation rather than a requirement due to the non-regulatory nature of this policy.

Regarding the definition of the ''first carrier'' that ''establishes new service'' or ''enters the market,'' the FAA agrees with A4A that the language should be more consistent between the two referenced sections of the policy (although not exactly the same because the sections are describing different cases). The final policy uses ''establishes service to the origin airport'' in the *New Entrant Carriers* section. The FAA agrees with ACI–NA that the definition of establishing service is best left to individual airport sponsors rather than prescribed by the FAA; however, the FAA agrees with A4A that the criteria should be clearly defined and disclosed. Therefore, the final policy adds ''criteria by which the first air carrier to establish service is determined'' to what airport sponsors are expected to disclose at least 30 days prior to signing a contract with a carrier.

Finally, in response to comments discussed in the *ACIP Transparency* section, and to be consistent with modifications made to that section of the policy to clarify that airport sponsors are not expected to disclose detailed air carrier incentives for specific routes in advance of signing a contract, the FAA has removed language about posting planned incentives as part of the disclosure expectations.

F. Service Frequency

The FAA received no comments on the proposed language to permit airport sponsors to allow different incentive levels for different frequencies of service

(*e.g.,* three flights per week versus five flights per week), and has maintained this language in the final policy.

The FAA has also expanded this section to describe the conditions under which an airport sponsor may choose to offer incentives for frequency increases on preexisting service, as detailed above under *Definitions.*

G. Cargo Carriers

A4A, AAAE, and DEN all expressed support for the proposed policy's clarification that it is not unjustly discriminatory for an ACIP to distinguish between passenger and cargo carriers. The FAA has maintained this language in the final policy.

H. Incentives Based on Number of Passengers or Seat-Miles

ACI–NA, along with three individual airport sponsors, expressed support for the proposed policy regarding incentives that are based on the number of passengers or seat-miles flown on new service. SAN, while supporting the proposed policy, also commented that the FAA should also consider incentives on a per passenger basis relative to the proportion of total passengers that an incentivized airline carries at the airport. A4A expressed strong opposition to these types of incentives, alleging that they violate the Airline Deregulation Act (ADA), the FAA's guiding principles on economic nondiscrimination, and the prohibition on use of airport revenues to subsidize air carriers.

The FAA believes that the underlying rationale for these types of incentives, as discussed in the proposed policy, continues to justify incentives that vary based on passengers or seat-miles flown and that, provided that ACIPs are not restricted to particular aircraft types, these types of incentives do not violate the ADA or other restrictions. In addition, the FAA notes that in many cases airport charges increase based on the size of the aircraft or number of passengers carried, and the policy limits fee reductions to the charges that an air carrier would have otherwise incurred. The FAA has made minor wording changes to this section in the final policy to improve clarity. Based on the modification to the final policy to allow incentives for frequency increases, the FAA believes that the scenario outlined by SAN in its comment would generally be consistent with the policy, subject to review of a particular incentive for discriminatory effect.

In the section on aircraft type, the FAA has clarified in the final policy that incentives based on *specific* aircraft types are unjustly discriminatory, in order to distinguish from incentives that vary based on the size of an aircraft.

I. Incentives for Upgauging

ACI–NA, AAAE, and eight individual airport sponsors expressed general support for upgauging incentives. Several of these individual airport sponsors suggested specific limitations. MCO and the Gerald R. Ford International Airport Authority (GRR) commented that incentives for upgauging should be permitted if there is a net increase in service offered. DEN suggested a minimum capacity increase threshold, such as 50 percent above the previous year, in order to qualify for an upgauging incentive and that airport sponsors should clearly designate markets that qualify. AMA similarly recommended limiting upgauging incentives to cases where the new aircraft has at least 50 percent more seats than the previous aircraft. In addition, AMA suggested restricting upgauging incentives so that upgauging cannot be the only incentive in the sponsor's ACIP, upgauging cannot be the only incentive granted to a carrier for any specific incentive period, and the carrier receiving an upgauging incentive cannot contract its schedule in order to operate fewer flights with the larger aircraft or cancel other routes to the airport during the incentive period. SAN does not take a stance on upgauging incentives, but notes that upgauging could be a useful tool for airports in the future to maximize airfield capacity.

A4A, ACI–NA, and TPA all noted that there is a link between upgauging and frequency additions on preexisting service, in that both represent capacity increases in markets that are already served, and therefore they should be treated consistently. ACI–NA and TPA asserted that incentives should be permitted in both cases. A4A stated that upgauging does not fit the definition of new service in the policy as proposed. However, A4A added that if the FAA does not adopt the previously proposed definition of new service, then A4A takes no position on whether incentives for upgauging should be permitted, as their members have different views on the issue.

The FAA agrees with the commenters that there should be consistency in the treatment of increased capacity in markets that are already served. Therefore, in the final policy, the FAA adopts similar language for upgauging as described for frequency additions above, which also incorporates many of the suggestions from AMA, DEN, GRR, and MCO. Specifically, if upgauging incentives are permitted as part of a sponsor's ACIP, those incentives are limited to one year, and cannot be the only incentive in the sponsor's ACIP. In addition, in order to receive incentives, the upgauging must result in a significant net increase in seat capacity to the airport destination involved. As in the case of incentives for frequency increases, the FAA is leaving the definition of ''significant'' to each airport sponsor to articulate in its ACIP based on local circumstances, but encourages sponsors who choose to offer incentives for upgauging to consider defining a threshold percentage increase in order to qualify for incentives. The FAA is not adopting AMA's suggested restriction that upgauging cannot be the only incentive granted to a carrier for any specific incentive period, but notes that an airport sponsor could choose to add that provision in its published ACIP if deemed appropriate for its local circumstances.

J. Legacy vs Low-Cost Carriers

The FAA received no comments regarding the proposed provision to prohibit ACIPs from targeting carriers with particular types of business models or being designed for a preferred carrier; the final policy adopts this provision as proposed with one minor clarifying change.

K. ACIP Transparency

A4A and five individual airport sponsors expressed general support for the proposed policy's provisions regarding ACIP transparency. However, several of these commenters also gave specific suggestions for modifications in this area. A4A recommended that the policy state that disclosure is a requirement rather than an expectation and that the airport sponsor be required to provide direct notification to the air carriers through their designated airport affairs representative, as posting the ACIP on the airport sponsor's public website or notifying industry trade groups may not constitute sufficient notification. A4A also recommended expansion of the provision regarding airport sponsors providing the necessary financial documentation to demonstrate that there is no cross-charging and that an ACIP has no effect on rates and charges of other aeronautical users. A4A stated that the only way to demonstrate that landing fee and terminal rental waivers meet these requirements is for the airport sponsor to include the associated landed weight and/or terminal space in the rates and charges calculation along with an associated credit for the waived fees, and also suggested the addition of language

specifying that an ACIP may not reduce payments or credits that a non-incentivized carrier would otherwise receive from the airport sponsor in the absence of the incentivized service.

While supporting most of the transparency provisions, three airport sponsors raised concerns that the proposed policy could be interpreted as calling for airport sponsors to provide advanced notice of each specific incentive agreement with an air carrier, which may be impractical and raises competitive issues. ACI–NA and several other airport sponsors also raised concerns or questions regarding this issue. While expressing general support for transparency, West Virginia International Yeager Airport (CRW) requested that the final policy clarify that the airport sponsor may negotiate and adjust the published ACIPs on a case-by-case basis (so long as the agreed-to elements of the incentives comply with the ACIP policy), depending on the needs of the airline and the airport for the new service offered.

ACI–NA, AAAE and five individual airport sponsors generally objected to the transparency policy as proposed. Most of these commenters expressed concern that the public disclosure provisions were overly burdensome, in some cases impractical, and unnecessary because the information is in many cases already publicly available or would be obtainable through a public records request. Several of these commenters suggested eliminating the transparency section entirely and allowing airport sponsors to determine what and when to disclose. ACI–NA expressed support for the public notice not being an ''absolute requirement.''

Several stakeholders also raised clarifying questions regarding the interpretation of proposed provisions regarding ACIP transparency. A4A requested clarification on whether the transparency provisions are intended to apply to air carriers as well as the public, noting potential inconsistent use of terms in the proposed policy. DEN requested clarification as to whether the policy calls for airport sponsors to post incentives actually granted under incentive agreements with carriers or incentives dispersed, since these may not be the same thing. TPA requested that the FAA provide a more specific definition of ''periodic'' in terms of how frequently airport sponsors should post listings of carriers benefiting from incentives. TPA also inquired whether full incentive agreements and the financial documentation need to be published as public notice documents.

The FAA believes that increased transparency is a necessary element in the policy, both in terms of public availability before an ACIP is implemented and disclosure once it is in effect, because the transparency helps to ensure compliance with Grant Assurances 22, 23, 24, and 25 and related policies, including Rates and Charges and Revenue Use. The policy attempts to strike a balance of setting an expectation of reasonable disclosure without being overly burdensome. The final policy largely adopts the proposed policy in this area with some clarifications.

The intent of the policy is that airport sponsors disclose the existence of an ACIP and its terms and conditions at least 30 days in advance of signing an incentive agreement with a carrier so that all carriers are aware of the existence of an incentive program and have an opportunity to participate or raise concerns. However, there is not an expectation for advance notice of a specific incentive agreement because, as noted in several comments, such notice would potentially prematurely disclose competitive commercial information. Such information would be published periodically on a retroactive basis. Therefore, the FAA has added a clause in the final policy to clarify that advance notice of specific incentive agreements is not expected as long as those agreements comply with the terms and conditions of the previously published ACIP. The FAA notes that if an airport sponsor were to adjust the published ACIP as a result of negotiations with a particular air carrier so that the terms would be different than those previously published, the FAA's expectation would be that the airport sponsor would publish the revised terms of conditions of its ACIP at least 30 days prior to signing an incentive agreement. Such a modification of the terms of an ACIP for a specific carrier without notice would potentially raise concerns of unjust discrimination.

In response to one of A4A's comments, the FAA is adding language to the third guiding principle to clarify that non-incentivized carriers may not be charged ''directly or indirectly'' for the costs of an ACIP unless all non-participating carriers agree.

The FAA remains convinced that it is appropriate for disclosure to be an expectation rather than a regulatory requirement due to the non-regulatory nature of this policy. The FAA believes that posting an ACIP on an airport sponsor's public website or providing information through appropriate industry trade groups likely provides broader notice than communicating an ACIP through the designated airport affairs representative; notification through the airport affairs representative may provide effective notice to incumbent carriers serving the airport, but may not reach potential new entrant carriers, who would also be interested parties.

Regarding A4A's comments requesting clarification, the transparency provisions are primarily intended to apply to airport sponsors disclosing information to air carriers, although the information should be available to the broadest possible universe of carriers (*i.e.,* those who currently serve the airport and those who do not). To avoid confusion, the final policy deletes the phrase ''for the public'' from the first clause of the proposed policy on ACIP transparency. In response to DEN's question about whether airport sponsors are expected to post incentives granted or actual dispersed funds, the policy does set expectations of posting the incentives granted undersigned agreements, although nothing prevents an airport sponsor from also disclosing the actual dispersed funds if the sponsor believes that doing so would provide a more complete picture. A sponsor may also have separate obligations to disclose rate information to incumbent carriers. Regarding TPA's request for a more specific definition of ''periodic,'' the FAA expects each airport sponsor to determine a reasonable frequency for publishing this information, given that a ''one size fits all'' solution is likely not appropriate as incentive programs may be utilized differently at different airports. Similarly, in response to TPA's inquiry about whether documents must be published as public notice documents, the FAA is not prescribing particular means of issuing notice and recognizes that local public information requirements may vary, but whatever means are used must be effective in advising carriers potentially eligible for or affected by the ACIP of its existence.

L. Subsidies/Third-Party Costs

ACI–NA, GRR, and the Port Authority of New York and New Jersey (PANYNJ) expressed opposition to the proposed policy's statement that ''a waiver or assumption of costs that would normally be charged by a third party (ground handling, fuel, etc.) would be considered a subsidy and is not permissible for an ACIP.'' ACI–NA commented that ''costs that would normally be charged by a third party'' has different meanings at different airports and states that the airport sponsor should be able to waive costs such as ground handling or fuel service fees under an ACIP when the sponsor is

the sole provider of those services at the airport. ACI–NA and PANYNJ suggested that airport sponsors should be able to waive fees that the sponsor charges to third parties that are then passed on to air carriers. GRR commented that several successful incentive programs have included ground handling waivers and airport sponsors should have flexibility to provide such a waiver if/when appropriate.

The final policy makes no changes to the proposed policy in this area. The FAA is concerned that permitting waivers of charges for ground handling by a commercial operator would cross a line into subsidies prohibited by the requirements for use of airport revenue. Allowing the sponsor to pay these charges would also potentially result in inequitable treatment across airports depending on whether the airport sponsor is the sole provider of ground handling services. Therefore, the final policy maintains the prohibition on including costs that are normally charged by a third party, with ''normal'' having the meaning of standard practice industrywide.

M. Airport v. Non-Airport Revenues and Technical Assistance

A4A, AAAE, ACI–NA, and five individual airport sponsors expressed general support for the FAA's proposed policy regarding distinctions between airport revenues and non-airport revenues, including the proposal that airport staff be permitted to provide certain types of technical assistance to non-airport entities regarding ACIPs that do not use airport revenue, which represents a change to the 2010 Guidebook.

A4A commented that the policy should be modified to have airport staff disclose the details of their technical assistance to the air carrier airport affairs representative (or designee), and to clarify that the policy prohibits airport staff from handling or co-mingling non-airport funds. ACI–NA, AAAE and the Cedar Rapids Airport Commission (CID) commented that the policy should not list three specific types of technical assistance that airport staff can provide, should include an expanded list, or should clarify that the list is a non-exhaustive set of examples. AAAE also commented that many of its members believe that the policy should be modified to allow airport staff to participate in decision-making processes (including voting) regarding non-airport ACIPs and/or handle non-airport funds in certain limited circumstances. CRW requested that the FAA clarify that the term ''local'' as used throughout the policy includes programs sponsored by state governments and other non-federal entities.

In the final policy, the FAA has updated references to ''local'' governments to include state and other non-federal entities. In addition, the final policy explicitly clarifies that airport staff may not have responsibility for the handling and disposition of non-airport funds. The FAA did not adopt the suggestion to set an expectation that airport staff disclose the details of their technical assistance to their air carrier airport affairs representative, as doing so could reveal confidential commercial information. The FAA believes that having airport staff participate in decision-making processes or handle non-airport funds crosses the line between technical assistance and active participation and therefore the final policy continues to prohibit these activities. The FAA also believes that it is helpful to list types of technical assistance that are permitted and notes that these are fairly broad categories that encompass the longer list of examples of technical assistance that were included in ACI–NA's comment. The final policy therefore maintains this listing. However, the FAA has added text to clarify that other similar types of technical assistance consistent with the intent and parameters of this section are also permitted.

N. Marketing Incentives

A4A, AAAE, ACI–NA, and 13 individual airport sponsors commented that the FAA's proposal to prohibit airport sponsors from transferring marketing incentive funds to a carrier was infeasible and inconsistent with industry practice for how marketing programs are executed. Several of these commenters stated that it would be impractical for airport sponsors, particularly as public entities, to execute individual contracts with marketing service providers, as called for under the proposed policy. Many commenters suggested alternate approaches that are closer to current practice and would permit airport sponsors to transfer marketing incentive funds to a carrier provided that there is appropriate documentation of the expenditures. PANYNJ suggested that in order for an airport sponsor to transfer marketing ACIP funds directly to an air carrier, the sponsor should maintain sufficient documentation that demonstrates that funds would be used only for approved marketing activities and that those funds are not transferred until after services have been rendered.

The FAA appreciates the unified insight from the industry on this issue and believes that PANYNJ's suggestion strikes an appropriate balance between practicality and ensuring that prohibited subsidies are avoided. The final policy incorporates the suggested language describing the requisite documentation to support the payment of marketing funds directly to an air carrier.

O. Incentives for Individual Travelers

The FAA received no comments regarding the proposed provision; the final policy adopts this provision as proposed.

P. Charges for Non-Participating Carriers

A4A expressed support for the proposed policy's provision that an ACIP may not increase fees charged to non-participating carriers or other aeronautical users and tenants of the airport subject to the requirement for reasonable fees under 49 U.S.C. 47107(a)(1) and Grant Assurance 22.

A4A provided a recommendation to clarify that an ACIP may not reduce payments or credits that would otherwise be received from the airport sponsor in the absence of the incentivized service because cash payments are not always provided to air carriers.

The FAA has incorporated the proposed clarification into the final policy, as this is consistent with the intent of the policy language.

Q. Self-Sustaining Rate Structure

The FAA received no comments regarding the proposed provision; the final policy adopts this provision as proposed.

R. Restart of Previous Service

AAAE, ACI–NA, PANYNJ, and SAN all expressed general support for the proposed policy's provision to permit airport sponsors to use their own discretion when choosing whether to offer incentives for a carrier to restart service that the same carrier had offered previously but cancelled due to significant external circumstances or poor route performance, with examples of the COVID–19 pandemic or the 9/11 terrorist attacks provided as circumstances where such flexibility would be helpful. A4A expressed conceptual support of the discretion to provide incentives to restart service that ended due to significant external circumstances but opposition to the inclusion of poor route performance as a justification, on the grounds that this raises concerns of unjust discrimination and potential abuse by an air carrier. A4A also recommended that the policy include specific waiting periods in

order to qualify for incentives related to the restart of service. DEN also requested more specific guidelines in this area, and expressed concern that leaving incentives for the restart of service to the discretion of individual airport sponsors may put some airports at a competitive disadvantage due to varying interpretations.

The FAA has made two modifications to the final policy as a result of the comments. The FAA's intent was that this flexibility would be exercised in the aftermath of extraordinary external events such as natural or manmade disasters, including (for example) the COVID–19 pandemic. To convey this, the final policy refers to ''extraordinary'' external circumstances rather than ''significant,'' and eliminates the reference to ''poor route performance in past years'' as a justification for an airport sponsor to offer incentives for the restart of previously cancelled service. After this adjustment, the FAA believes it is not necessary to add a specific waiting period or further guidelines regarding the implementation of incentives for the restart of previous service, given that the impact of an extraordinary external circumstance may vary depending on the event and may be quite different in different locations. Therefore, airport sponsors should have flexibility to implement such an incentive if they choose to do so based on their individual circumstances, as long as it is consistent with other provisions in the final policy (including the limits on the length of time an incentive can be in effect).

S. FAA Review of ACIPs

The proposed policy stated that the FAA will review an ACIP for compliance with an airport sponsor's Federal obligations if the airport sponsor requests such a review, but that the agency does not approve ACIPs. A4A commented that air carriers should also be permitted to request that the FAA review an airport sponsor's ACIP. HAS commented that if an airport sponsor seeks FAA's input on an ACIP, the agency should provide either approval or a detailed explanation of what specifically needs to be changed. DEN recommended that the FAA develop and implement a mechanism for airport sponsors to request formal written approval that a proposed ACIP is consistent with the five general principles of acceptable ACIPs.

The FAA agrees that it would be appropriate for an air carrier to request FAA review of an ACIP and notes that this informal review could reduce the likelihood of more formal disputes; therefore, the final policy permits a potentially affected air carrier to request FAA review of an ACIP. While the FAA does not formally approve ACIPs, the agency would provide feedback on whether the ACIP appears to be in line with Grant Assurances and will provide recommendations for modification if appropriate. The FAA also notes that ACIPs are typically reviewed as part of the agency's regular airport financial reviews.

T. Existing Incentives/Effective Date

SAN expressed support for the proposed policy's provision allowing existing ACIPs that complied with the 2010 Guidebook to sunset as programs compliant with the new policy are brought online. DEN commented that it would be better for the FAA to set a firm date when the final policy would be effective and noted that airports would need at least 60 days' notice from the date of publication of a final policy in order to provide time to revise and gain internal approval of the revised ACIP and provide the requisite 30 day notice to air carriers. PHX noted that the FAA should allow ample time for airports to respond to proposed changes and implement them, given that the ACIP guidance has remained unchanged since 2010.

The FAA recognizes DEN's comment about the logistics involved in revising an ACIP and posting it for 30 days in compliance with this policy. At the same time, FAA believes it is important to minimize the transition period. Therefore, the agency has modified the final policy so that incentive agreements contracted under ACIPs 60 days or more after the issuance date must comply with the new policy. The agency notes that any specific incentive agreements contracted prior to that point under ACIPs that were in effect prior to this new policy being issued should comply with the 2010 Guidebook and all grant assurances and other FAA policies. The FAA has also clarified that the relevant date is when the contract is signed, as the terms ''initiated'' and ''provided'' may have been unclear. Finally, the FAA has clarified that any new ACIP or modification to an existing ACIP (as opposed to a specific incentive agreement under an ACIP that was already in effect) after the issuance of this new policy must comply with the new policy (*i.e.,* without a 60-day grace period).

U. Other Topics/Miscellaneous

CRW commented that the FAA should provide clarification as to the circumstances when a sponsor can use airport funds as a SCASDP match without violating Grant Assurance 25. The relationship of SCASDP to FAA grant assurances and the Revenue Use Policy is discussed in Section C. (*Related Federal Programs*) under the Background section of this document.

CID's comments raised the question of whether those portions of the 2010 Guidebook not addressed in the updated policy will continue to apply. The FAA reiterates that the updated policy entirely supersedes the 2010 Guidebook.

A4A suggested that FAA consider developing a supplemental document, such as a frequently asked questions (FAQs) or quick reference guide, in conjunction with the final policy. The FAA will consider developing such a document on an as-needed basis.

ACI–NA requested that the FAA allow incentives based on time of day to allow airport sponsors to provide incentives to air carriers to fly at off-peak times. The FAA believes that the suggestion by ACI–NA is effectively a congestion management program using airport fees. As such, it is outside the scope of this policy.

Exhaustless, Inc., objected to what it characterizes as FAA and State interference in the open, competitive market for air transportation. Exhaustless recommended that all states, airports, cities, and any other governmental entity stop all activity to subsidize air carriers to comply with various laws and air transport agreements. The FAA notes that air service incentives are standard practice within the aviation industry, including in other countries. Incentives offered by airport sponsors are intended to be temporary and justified on the basis of unique issues associated with the start-up of new air service. No changes to the policy were adopted in response to this comment.

MWAA commented that the FAA should engage in more meaningful dialogue with airport sponsors, and that a 60-day comment period is insufficient for sponsors to provide meaningful input. The FAA disagrees with this comment and notes that the development of the draft policy included discussions with industry stakeholders. FAA chose to engage in a formal public comment process and believes that the 60-day comment period is sufficient given the scope of the policy.

IV. Availability of Documents

A. Policy Documents

You can get an electronic copy of this policy using the internet by:

(1) Searching the Federal eRulemaking portal (*www.regulations.gov*);

(2) Visiting FAA's Regulations and Policies web page at (*https://www.faa.gov/regulations_policies;* or

(3) Accessing the Government Printing Office's web page at (heep://*www.gpoaccess.gov/index.html*).

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Airport Compliance and Management Analysis, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–3085. Make sure to identify the docket number, notice number, or amendment number of this proceeding.

B. Comments Submitted to the Docket

Comments received may be viewed by going to *https://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *https://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

The Policy

In consideration of the foregoing, the FAA issues the following statement of policy on air carrier incentive programs, to supersede the *Air Carrier Incentive Program Guidebook* issued in 2010.

Air Carrier Incentive Programs

Many U.S. airport sponsors have found it beneficial to encourage new air service and new carriers at their airports by offering air carrier incentive programs (ACIPs), in the form of reductions or waivers of airport charges, and/or support for marketing new service.

ACIPs represent a limited exception to the general rule stated in Grant Assurance 22 paragraph 22.e., guaranteeing all carriers non-discriminatory and equivalent rates and charges for each carrier's category. FAA has reconciled this exception with the general rule on the understanding that a new carrier operating at an airport, or a carrier starting a new route, operates at a disadvantage with established carriers until the new service becomes known and accepted. In that sense, the carrier operating new service is not similarly situated to established carriers, and a sponsor may reduce charges to the new service carrier in some circumstances, for a limited time, without violating Grant Assurances 22, 23, 24, or 25.

In considering whether an ACIP complies with a sponsor's Federal grant agreements, the FAA will apply these general principles to the particular elements of the ACIP:

- *Discrimination between carriers participating in an ACIP and non-participating carriers must be justified and time-limited.* Differences in airport charges for carriers under an ACIP from those charged to other carriers at an airport must not be unjustly discriminatory. Differences in charges must be justified by differences in the carriers' costs of starting and marketing new service at the airport and must be temporary.
- *A sponsor may not use airport revenues to subsidize air carriers.* Using airport revenue for cash payments and other forms of subsidy for a carrier providing new service is considered revenue diversion and is therefore prohibited by grant agreements and Federal law. Fee reductions, fee waivers, and marketing assistance as incentives to new service are permitted to the extent described in the Policy and Procedures Concerning the Use of Airport Revenue.
- *A sponsor may not cross-charge non-participating carriers or other aeronautical users to subsidize ACIP carriers.* Carriers not participating in an ACIP may not be charged directly or indirectly for the costs of the ACIP or for airport costs left uncovered as a result of the reduction or waiver of charges for an ACIP carrier, unless all non-participating carriers agree.
- *The terms of an ACIP should be made public.* Publishing the intent to implement an ACIP, as well as information on how the ACIP is being used, ensures all eligible carriers are aware of the program, allows nonparticipating operators to review the potential effect of the ACIP on standard airport rates and charges, and minimizes the grounds for complaints of unjust discrimination.
- *Use of airport funds for an ACIP must not adversely affect airport operations or maintenance.* A sponsor adopting an ACIP must maintain a self-sustaining rate structure that continues to provide funds for necessary operations and maintenance responsibilities, without increasing rates charged to non-participating operators.

Guidance on particular program elements in this policy applies generally to each of those elements. For variations on those elements, or program elements not specifically addressed in this guidance, the above five principles will govern the agency's ultimate determination of whether a particular ACIP is consistent with the sponsor's AIP Grant Assurances.

I. Definitions

A. *Airport destination:* The airport receiving new service from the origin airport. Each airport within a metropolitan area may be defined as a separate airport destination for purposes of this policy.

B. *Currently:* For the purposes of this policy, ''currently'' means the time immediately prior to the signing of an incentive agreement.

C. *Incumbent Carrier:* An air carrier currently providing air service to the origin airport.

D. *New Entrant Carrier:* An air carrier that is not currently providing any air service to the origin airport.

E. *New Service:*

1. Any nonstop service to an airport destination not currently served with nonstop service from the origin airport;

2. Any service to the origin airport by a new entrant carrier; or

3. A significant increase in capacity on preexisting service to a specific airport destination.

F. *Origin airport:* The airport that is providing an incentive under an ACIP. For the purposes of this policy, the ''airport sponsor'' is the sponsor of the origin airport.

G. *Preexisting service:* Service to any airport destination that is currently served nonstop from the origin airport. An airport destination served nonstop only in one season is considered not currently served nonstop during the off-season.

H. *Seasonal Service:* Nonstop service that is offered for less than 7 months of the calendar year.

II. An ACIP May Contain Any of Several Elements That Do Not Unjustly Discriminate Against Non-Participating Carriers, Consistent With Grant Assurances 22 and 23

A. New Service v. Preexisting Service

1. Limiting an incentive to new service is not in itself unjust discrimination. Incentives for flights to an airport destination not currently served with nonstop service may be provided for up to two years.

2. New seasonal services (to an airport destination not currently served) are allowed to receive incentives for 3 seasons of service, up to 3 consecutive years from the start of the incentive.

3. Generally, new service incentives must be available to all carriers offering new service on the same basis but are subject to the distinctions permitted under other paragraphs in Section II of this policy.

a. However, airport sponsors are allowed to restrict incentives for new service if they have a limited budget. Airport sponsors are allowed to restrict incentives to one carrier if they have disclosed to all carriers that they are limiting incentives to only the first air carrier that establishes new service.

b. Airport sponsors are expected to provide public notification of the availability of an ACIP, including any limits on availability and criteria by which the first air carrier to establish service is determined, for a minimum of 30 days before signing a contract with a carrier.

B. New Entrant Carriers

1. Incentives for a new entrant carrier on nonstop service to an airport destination that is not currently served nonstop from the origin airport can be provided for up to two years.

2. Incentives can be offered to new entrant carriers for providing service to an airport destination with preexisting service, while excluding incumbent air carriers. In that case, the new entrant incentives are limited to no more than one year. After one year, the new entrant would be considered an incumbent air carrier, and similarly situated to other carriers at the airport. This applies to new entrants providing seasonal service as well as those providing year-round service.

3. Generally, new entrant incentives must be available to all new entrant carriers on the same basis. The ACIP may not select one new entrant and deny the program to another new entrant.

a. However, if an airport sponsor has a limited budget and has disclosed to all carriers that they are restricting incentives to only the first new entrant that establishes service to the origin airport, then the airport sponsor is allowed to limit incentives to one carrier.

b. Airport sponsors are expected to provide public notification of the availability of an ACIP, including any limits on availability and criteria by which the first air carrier to establish service is determined, for a minimum of 30 days before signing a contract with a carrier.

C. Service Frequency

1. It is not unjustly discriminatory to offer different levels of incentives for different frequencies of service (*i.e.,* daily versus less than daily). For example, incentives typically offered for 5 days a week service can be discounted 40% for 3 days a week service.

2. If an airport sponsor offers incentives for increased frequencies on preexisting service, these incentives are limited to no more than one year. If offered, this incentive must be made available to any carrier adding frequencies to the airport destination, regardless of whether the carrier previously provided nonstop service to that airport destination.

a. Incentives for increased frequencies on preexisting service are considered supplemental to other incentives and cannot be the only incentive in the sponsor's ACIP.

b. Incentives should only apply to the increased frequencies to the extent that those frequencies result in a significant net increase in seat capacity to the specific airport destination.

D. Cargo Carriers

1. It is not unjustly discriminatory for incentives to distinguish between passenger and cargo carriers.

E. Per-Passenger and Per-Seat Mile Incentives

1. Incentives that vary on a per passenger or per seat-mile basis are not inherently unjustly discriminatory, but the airport sponsor should ensure that the incentives offered would not be considered a subsidy and would not result in unjust discrimination against non-participating carriers.

2. The total value of fee reductions offered as an incentive on a per passenger or per seat-mile basis cannot exceed the amount of the fees that otherwise would have been incurred by a carrier for its operations at the airport.

F. Aircraft Type

1. Incentives based on specific aircraft types are unjustly discriminatory because they could unreasonably exclude certain carriers that do not operate the type of aircraft identified.

2. Incentives for upgauging, to the extent they are allowed as a significant increase in capacity on a preexisting route, must be structured to avoid limitation to a particular aircraft type or types and are limited to no more than one year.

a. Incentives for upgauging on preexisting service are considered supplemental to other incentives and cannot be the only incentive in the sponsor's ACIP.

b. Upgauging incentives should only apply to the increased capacity if there is a significant net increase in seat capacity to the specific airport destination.

G. Legacy v. Low-Cost Carriers

1. Incentives cannot target carriers with particular types of business models (*e.g.,* legacy versus low-cost carriers), nor should they be designed for a preferred carrier.

H. ACIP Transparency

1. The FAA expects airport sponsors to provide effective notification of the availability and implementation of ACIPs to both incumbent and potential new entrant carriers (*e.g.,* posting on an airport sponsor's public website; notification to industry trade groups). Information posted should include the incentives offered; the program eligibility criteria; identification of new service; and for incentives awarded, a periodic listing of all carriers benefiting from the ACIP, the incentives received, and identification of the incentivized service.

2. An airport sponsor is expected to provide effective public notice of an ACIP at least 30 days before signing an agreement with a carrier to implement an incentive.

3. Advance public notice is not expected of a specific incentive agreement with a carrier as long as the agreement is consistent with the previously publicized ACIP. Lists of specific incentive agreements should be published periodically as described in paragraph H.1.

4. To ensure transparency, an ACIP agreement should be a standalone document, consistent with the published ACIP information, and not embedded with any other agreement the airport sponsor and the carrier may enter into, such as a lease or operating agreement.

5. Airport sponsors should make information on funding for any ACIP available to all aeronautical users at the airport, and sponsors should be ready to provide the necessary financial

documentation to demonstrate that there is no cross-charging and that the program has no effect on rates and charges of other aeronautical users.

III. An ACIP May Not Include Direct or Indirect Subsidies of Air Carriers, as Prohibited by 49 U.S.C. 47133 and 49 U.S.C. 47107, and Grant Assurance 25

A. Incentives v. Subsidies

1. A subsidy occurs when airport funds flow, under all circumstances or conditionally, to a carrier with no goods or services being provided to the airport in return. For this purpose, air service is not considered a ''service'' provided to the airport. Any incentives where airport funds or assets (*e.g.,* fuel) are transferred to a carrier, directly or indirectly (*e.g.,* revenue or loan guarantees) would be regarded as prohibited subsidies.

2. A waiver of costs that an airport sponsor would otherwise charge a carrier (*e.g.,* landing fees or terminal rents) is not considered a subsidy, if for a limited duration consistent with the policies above. However, a waiver or assumption of costs that would normally be charged by a third party (ground handling, fuel, etc.) would be considered a subsidy and is not permissible for an ACIP. Incentives tied to specific customer service metrics (on-time performance, luggage delivery, etc.) are also not permissible.

B. Airport v. Non-Airport Revenues and Application to Subsidies and Other Revenue Guarantees

1. Airport sponsors are prohibited from using airport funds to subsidize air carrier operations.

2. A sponsor local government, state government, or other non-Federal airport sponsor may use non-airport funds for subsidies and other uses that would be prohibited if airport funds were used. However, any use of funds would still need to meet Grant Assurance obligations prohibiting unjust discrimination.

3. Local and state governments and community organizations not party to an AIP grant agreement, however, can use non-airport funds for incentives that would not be permissible for an obligated airport sponsor, including directing incentives toward a specific carrier and using their non-airport funds for revenue guarantees.

a. If a local or state government or community organization chooses to fund a program to support new air service using non-airport funds, those funds may not be commingled with airport funds, and airport staff may not have responsibility for the handling and disposition of non-airport funds. Any funds placed in an airport's account are treated as airport revenues. As long as community incentives are kept separate from airport funds, the community organization's funding would not be considered airport revenue and therefore not subject to its special requirements.

b. Airport staff can provide technical assistance to non-airport entities regarding ACIPs that do not use airport revenue, where the non-airport entity, and not the airport sponsor, is the agency responsible for decisions on expenditure of the funds. The role of airport staff can be advisory, but the airport staff cannot be involved in the decision-making process or handle non-airport funds. The airport staff's assistance may include:

i. Guidance on the economic viability of prospective markets;

ii. Understanding of carrier business models and aircraft performance characteristics;

iii. Information on the availability of the airport sponsor's ACIP to support the new service within the limits described in this policy;

iv. Other types of technical assistance consistent with the intent and overall parameters of this section.

C. Marketing Incentives

1. Airport sponsors are permitted to contribute to the marketing of new service, but airport funds must either flow directly to the marketing provider, or be provided to a carrier only after the carrier has paid the marketing provider and submitted an invoice to the airport for incentive-related marketing with supporting documentation.

2. A marketing program must promote use of the airport. Use of airport funds for general economic development or for marketing and promotional activities unrelated to the airport is prohibited by 49 U.S.C. 47107(k)(2)(B).

D. Incentives for Individual Travelers

1. Airport sponsors are prohibited from offering cash incentives to travelers for flying a route, as this indirectly subsidizes the carrier serving that route.

2. However, airport sponsors are allowed to offer coupons for food, parking or other benefits tied to general use of the airport, as long as the benefit is not restricted to passengers who fly a specific carrier or route.

IV. An ACIP May Not Result in an Increase in Charges for Non-Participating Carriers or Other Aeronautical Users of the Airport

A. An ACIP May Not Increase Fees Charged to Non-Participating Carriers or Other Aeronautical Users and Tenants of the Airport Subject to the Requirement for Reasonable Fees Under 49 U.S.C. 47107(a)(1) and Grant Assurance 22

1. The costs of an ACIP may not be passed on to non-participating carriers or other aeronautical users in any form. The costs of an ACIP include direct costs, such as marketing, and the general costs of airport operation and maintenance that are not covered by the carrier in an ACIP as a result of a reduction or waiver of fees.

2. An acceptable ACIP will not result in an increase in the sponsor charges to non-participating carriers, *i.e.,* on the charges that carriers would have paid in the absence of the incentivized service.

3. For an airport sponsor with a residual fee methodology, an ACIP may not reduce the residual payment to non-participating carriers each year. An ACIP may not reduce any other payments or credits that would otherwise be received from the airport sponsor in the absence of the incentivized service.

V. An ACIP May Not Adversely Affect an Airport's Self-Sustaining Rate Structure, as Required by Grant Assurance 24

A. An ACIP Must Be Funded From a Source That Not Only Does Not Increase Rates for Non-Participating Parties, But Also Does Not Involve the Use of Funds Necessary for the Proper Operation and Maintenance of the Airport

VI. FAA Oversight/Administration

A. Restart of Previous Service

1. Airport sponsors can use their own discretion when choosing whether to offer incentives for a carrier to restart service that the same carrier had offered previously but cancelled either due to extraordinary external circumstances (*e.g.,* an extreme natural, manmade, or public health crisis, such as hurricanes, terrorism, or pandemic).

2. In any event, discretion for service restart may not be used to extend an incentive beyond the limits provided in this policy.

B. FAA Review

1. The FAA does not approve ACIPs. At the request of an airport sponsor or of an air carrier potentially affected by an ACIP, the FAA will review an ACIP

for compliance with the sponsor's Federal obligations.

C. Existing, New, and Modified Incentives

1. Existing carrier incentives for which contracts are signed prior to the issuance date of this policy and up to 60 days thereafter, under programs that were in effect on the issuance date of this policy and complied with the FAA's previous policy guidance, may continue as implemented until they expire. All such existing incentives will expire within two years of the first flight that is eligible for an incentive.

2. Incentives for which contracts are signed more than 60 days after the issuance date of this policy must conform to the guidance in this policy statement.

3. Any new incentive program or modification of an existing incentive program after publication must comply with the requirements of this policy (*i.e.,* without a 60-day grace period).

Issued in Washington, DC.

Kevin C. Willis,

Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2023–26809 Filed 12–6–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2023–0087]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on October 10, 2023, Union Pacific Railroad (UP) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 225 (Railroad Accidents/Incidents: Reports Classification, and Investigations). FRA assigned the petition Docket Number FRA–2023–0087.

Specifically, UP requests relief from § 225.25(h), *Recordkeeping,* which requires that a railroad post ''a listing of all injuries and occupational illnesses reported to FRA as having occurred at an establishment . . . in a conspicuous location at that establishment.'' In its petition, UP states that it ''maintains a web portal that allows employees to access and review information from internet enabled electronic devices . . . [and] includes a link to UP's posting of all injuries and occupational illnesses reported to the FRA.'' In support of its request, UP states that the digital posting allows employees to access the injury and occupational illness information quickly and easily from any location and at any time of day. Additionally, the reporting team can keep the listings up-to-date and accurate. UP also states that the listing will additionally be available on a television mounted to a wall at work locations where such screens are available, beginning with the Council Bluffs, Iowa, terminal as a pilot site. Moreover, UP notes that ''employees may also request a copy of the logs from their respective supervisor at any time.''

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by February 5, 2024 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2023–26804 Filed 12–6–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2023–0030]

Agency Information Collection Activity Under OMB Review: FTA Program Evaluation for Processes and Outcomes

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve a new information collection titled: FTA Program Evaluation for Processes and Outcomes.

DATES: Comments must be received on or before February 5, 2024.

ADDRESSES: You may send comments, identified by docket number FTA–2023–0030, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov,* insert docket number FTA–2023–0030 in the keyword box and click ''Search.'' Next, choose the notice listed, click on the ''Comment'' button, and follow the online instructions for submitting a comment.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC, 20590–0001.
- *Hand Delivery/Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted