

a strong national air transportation system that is responsive to the needs of airport users;

“(4) the Secretary and the Administrator have not enforced airport revenue diversion rules adequately and must have additional regulatory tools to increase enforcement efforts; and

“(5) sponsors who have been found to have illegally diverted airport revenues—

“(A) have not reimbursed or made restitution to airports in a timely manner; and

“(B) must be encouraged to do so.

“(b) PURPOSE.—The purpose of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title] is to ensure that airport users are not burdened with hidden taxation for unrelated municipal services and activities by—

“(1) eliminating the ability of any State or political subdivision thereof that is a recipient of a project grant to divert airport revenues for purposes that are not related to an airport, in violation of section 47107 of title 49, United States Code;

“(2) imposing financial reporting requirements that are designed to identify instances of illegal diversions referred to in paragraph (1);

“(3) establishing a statute of limitations for airport revenue diversion actions;

“(4) clarifying limitations on revenue diversion that are permitted under chapter 471 of title 49, United States Code; and

“(5) establishing clear penalties and enforcement mechanisms for identifying and prosecuting airport revenue diversion.”

DEFINITIONS

Pub. L. 104-264, title VIII, §803, Oct. 9, 1996, 110 Stat. 3270, provided that: “For purposes of this title [see Short Title of 1996 Amendment note set out under section 40101 of this title], the following definitions apply:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Aviation Administration.

“(2) AIRPORT.—The term ‘airport’ has the meaning provided that term in section 47102(2) of title 49, United States Code.

“(3) PROJECT GRANT.—The term ‘project grant’ has the meaning provided that term in section 47102(14) [now section 47102(19)] of title 49, United States Code.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(5) SPONSOR.—The term ‘sponsor’ has the meaning provided that term in section 47102(19) [now section 47102(26)] of title 49, United States Code.”

REVISION OF POLICIES AND PROCEDURES; DEADLINES

Pub. L. 104-264, title VIII, §805(b)(1), Oct. 9, 1996, 110 Stat. 3273, provided that: “Not later than 90 days after the date of the enactment of this Act [Oct. 9, 1996], the Secretary, acting through the Administrator, shall revise the policies and procedures established under section 47107(l) [now 47107(k)] of title 49, United States Code, to take into account the amendments made to that section by this title.”

FORMAT FOR REPORTING

Pub. L. 103-305, title I, §111(b), Aug. 23, 1994, 108 Stat. 1574, provided that, within 180 days after Aug. 23, 1994, the Secretary of Transportation was to prescribe a uniform simplified format readily comprehensible to the public for reporting applicable to airports.

§ 47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government’s share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Sec-

retary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) or 47114(d)(2)(A) for the fiscal years necessary to pay the Government’s share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b) INCREASING GOVERNMENT SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3), the amount stated in an offer as the maximum amount the Government will pay may not be increased when the offer has been accepted in writing.

(2) EXCEPTION.—For a project receiving assistance under a grant approved under this chapter or chapter 475, the amount may be increased—

(A) for an airport development project, by not more than 15 percent; and

(B) to acquire an interest in land for an airport (except a primary airport), based on creditable appraisals at the time of the acquisition or a court award in a condemnation proceeding, by not more than the greater of—

(i) 15 percent; or

(ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

(3) PRICE ADJUSTMENT PROVISIONS.—

(A) IN GENERAL.—The Secretary may incorporate a provision in a project grant agreement under which the Secretary agrees to pay more than the maximum amount otherwise specified in the agreement if the Secretary finds that commodity or labor prices have increased since the agreement was made.

(B) DECREASE IN COSTS.—A provision incorporated in a project grant agreement under this paragraph shall ensure that the Secretary realizes any financial benefit associated with a decrease in material or labor costs for the project.

(c) CHANGING WORKSCOPE.—With the consent of the sponsor, the Secretary may amend a grant agreement made under this subchapter to change the workscope of a project financed under the grant if the amendment does not result in an increase in the maximum amount the Government may pay under subsection (b) of this section.

(d) CHANGE IN AIRPORT STATUS.—

(1) CHANGES TO NONPRIMARY AIRPORT STATUS.—If the status of a primary airport changes to a nonprimary airport at a time when a development project under a multiyear

agreement under subsection (a) is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the agreement, subject to the availability of funds.

(2) CHANGES TO NONCOMMERCIAL SERVICE AIRPORT STATUS.—If the status of a commercial service airport changes to a noncommercial service airport at a time when a terminal development project under a phased-funding arrangement is not yet completed, the project shall remain eligible for funding from discretionary funds under section 47115 at the funding level and under the terms provided by the arrangement subject to the availability of funds.

(3) CHANGES TO NONHUB PRIMARY STATUS.—If the status of a nonhub primary airport changes to a small hub primary airport at a time when the airport has received discretionary funds under this chapter for a terminal development project in accordance with section 47119(a), and the project is not yet completed, the project shall remain eligible for funding from the discretionary fund and the small airport fund to pay costs allowable under section 47119(a). Such project shall remain eligible for such funds for three fiscal years after the start of construction of the project, or if the Secretary determines that a further extension of eligibility is justified, until the project is completed.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1262; Pub. L. 106–181, title I, §135(c), Apr. 5, 2000, 114 Stat. 84; Pub. L. 108–176, title I, §149(a), Dec. 12, 2003, 117 Stat. 2505; Pub. L. 109–115, div. A, title I, §176(a), Nov. 30, 2005, 119 Stat. 2427; Pub. L. 112–95, title I, §152(e)(2), Feb. 14, 2012, 126 Stat. 34; Pub. L. 118–63, title VII, §707, May 16, 2024, 138 Stat. 1251.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47108(a)	49 App.:2211(a).	Sept. 3, 1982, Pub. L. 97–248, §512(a), 96 Stat. 688; Dec. 30, 1987, Pub. L. 100–223, §§106(b)(4), 110(c), 101 Stat. 1498, 1502.
47108(b)	49 App.:2211(b).	Sept. 3, 1982, Pub. L. 97–248, §512(b), 96 Stat. 688; re-stated Dec. 30, 1987, Pub. L. 100–223, §110(a), 101 Stat. 1502; Oct. 31, 1992, Pub. L. 102–581, §109, 106 Stat. 4879.
47108(c)	49 App.:2211(c).	
47108(d)	49 App.:2211(d).	Sept. 3, 1982, Pub. L. 97–248, 96 Stat. 324, §512(d); added Dec. 30, 1987, Pub. L. 100–223, §110(b), 101 Stat. 1502.

In subsection (a), the words “on behalf of the United States” are omitted as surplus. The words “or sponsors” are omitted because of 1:1. The words “of the application” are omitted as surplus. The words “under section 47110 of this title” are added for clarity. The words “and conditions” are omitted as being included in “terms”. The words “for the project” are added for clarity. The words “an offer of a grant for a project” are substituted for “In any case where the Secretary approves a project grant application for a project . . . the offer” to eliminate unnecessary words. The words “(including future fiscal years)” are omitted as surplus. The words “An offer that is accepted in writing by the sponsor is an agreement binding on the Government

and the sponsor” are substituted for “If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor” to eliminate unnecessary words. The words “which have been or may be incurred” are omitted as surplus.

In subsection (b)(1), the words “by a sponsor” are omitted as surplus. The words “amount the Government will pay” are substituted for “obligation of the United States” for clarity and consistency in this section.

In subsection (b)(2), the text of 49 App.:2211(b)(2) (last sentence) is restated to apply only to 49 App.:2211(b)(2) (1st sentence) to carry out the probable intent of Congress.

In subsection (b)(3)(B), the words “for fiscal year 1993 and thereafter” are omitted as unnecessary.

In subsection (c), the words “Notwithstanding any other provision of law” are omitted as surplus. The words “a project receiving assistance under” are added for consistency.

In subsection (d), the word “sponsor” is substituted for “grant recipient” for clarity. The words “amount the Government may pay” are substituted for “obligation of the United States authorized” for clarity and consistency in this section.

Editorial Notes

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2)(A), (3), is title V of Pub. L. 97–248, Sept. 3, 1982, 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–63, §707(1), substituted “47114(d)(2)(A)” for “47114(d)(3)(A) of this title”.

Subsec. (b). Pub. L. 118–63, §707(2), added subsec. (b) and struck out former subsec. (b) which allowed increasing Government’s share after an offer has been accepted in writing in certain circumstances.

Subsecs. (c) to (e). Pub. L. 118–63, §707(3), (4), redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: “For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under the Act.”

2012—Subsec. (e)(3). Pub. L. 112–95 substituted “accordance with section 47119(a)” for “accordance with section 47110(d)(2)” and “allowable under section 47119(a)” for “allowable under section 47110(d)”.

2005—Subsec. (e)(3). Pub. L. 109–115 added par. (3).

2003—Subsec. (a). Pub. L. 108–176 inserted “or 47114(d)(3)(A)” after “under section 47114(c)”.

2000—Subsec. (e). Pub. L. 106–181 added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

LAND ACQUISITION COSTS

Pub. L. 107-71, title I, §143, Nov. 19, 2001, 115 Stat. 644, provided that: "In the case of a grant for land acquisition issued to an airport under chapter 471 of title 49, United States Code, prior to January 1, 1995, the Secretary of Transportation may waive the provisions of section 47108 of such title and provide an upward adjustment in the maximum obligation of the United States under that chapter to assist the airport in funding land acquisition costs (and associated eligible costs) that increased as a result of a judicial order."

[For definitions of "airport" and "United States" used in section 143 of Pub. L. 107-71, set out above, see section 133 of Pub. L. 107-71, set out as a note under section 40102 of this title.]

§ 47109. United States Government's share of project costs

(a) GENERAL.—Except as otherwise provided in this section, the United States Government's share of allowable project costs is—

(1) 75 percent for a project at a medium or large hub airport;

(2) not more than 90 percent for a project funded by a grant issued to and administered by a State under section 47128, relating to the State block grant program;

(3) 90 percent for a project at any other airport;

(4) 70 percent for a project funded by the Administrator from the discretionary fund under section 47115 at an airport receiving an exemption under section 47134; and

(5) 95 percent for a project that—

(A) the Administrator determines is a successive phase of a multiphase construction project for which the sponsor received a grant in fiscal year 2011; and

(B) for which the United States Government's share of allowable project costs would otherwise be capped at 90 percent under paragraph (2) or (3).

(b) INCREASED GOVERNMENT SHARE.—If, under subsection (a) of this section, the Government's share of allowable costs of a project in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970, the Government's share under subsection (a) of this section shall be increased by the lesser of—

(1) 25 percent;

(2) one-half of the percentage that the area of unappropriated and unreserved public lands and nontaxable Indian lands in the State is of the total area of the State; or

(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act.

(c) GRANDFATHER RULE.—

(1) IN GENERAL.—In the case of any project approved after September 30, 2003, at a small hub airport or nonhub airport that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the

State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project.

(2) The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b), except that at a primary non-hub and non-primary commercial service airport located in a State as set forth in paragraph (1) of this subsection that is within 15 miles of another State as set forth in paragraph (1) of this subsection, the Government's share shall be an average of the Government share applicable to any project in each of the States.

(d) SPECIAL RULE FOR PRIVATELY OWNED RELIEVER AIRPORTS.—If a privately owned reliever airport contributes any lands, easements, or rights-of-way to carry out a project under this subchapter, the current fair market value of such lands, easements, or rights-of-way shall be credited toward the non-Federal share of allowable project costs.

(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS.—If the status of a small hub airport changes to a medium hub airport, the Government's share of allowable project costs for the airport may not exceed 90 percent for the first 2 fiscal years after such change in hub status.

(f) SPECIAL RULE FOR ECONOMICALLY DISTRESSED COMMUNITIES.—The Government's share of allowable project costs shall be 95 percent for a project at an airport that—

(1) is receiving essential air service for which compensation was provided to an air carrier under subchapter II of chapter 417; and

(2) is located in an area that meets one or more of the criteria established in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)), as determined by the Secretary of Commerce.

(g) SPECIAL RULE FOR COVERED EQUIPMENT.—

(1) IN GENERAL.—The Government's share of allowable project costs for covered equipment and its installation shall be 100 percent.

(2) DEFINITION OF COVERED EQUIPMENT.—For purposes of this subsection, the term "covered equipment" means aqueous film forming foam input-based testing equipment that is eligible for Airport Improvement Program funding based on Federal Aviation Administration PGL 21-01, titled "Extension of Eligibility for stand-alone acquisition of input-based testing