

Subsec. (c). Pub. L. 103-305, § 114(2), struck out subsec. (c) which read as follows: “(c) LIMITATION.—Notwithstanding subsections (a) and (b) of this section, the Government’s share of project costs allowable under section 47110(d) of this title may not be more than 75 percent, except that the Government’s share shall be 85 percent for a project at a commercial service airport that does not have more than .05 percent of the total annual passenger boardings in the United States.”

#### 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.

##### EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

##### OUTREACH EFFORTS

Pub. L. 117-254, § 2(b), Dec. 20, 2022, 136 Stat. 2361, provided that: “Not later than 90 days after the date of enactment of this Act [Dec. 20, 2022], the Administrator of the Federal Aviation Administration shall conduct an outreach effort to make airports aware of the higher cost share authority established in section 47109(g) of title 49, United States Code, as added by subsection (a).”

##### AUTHORIZATION OF APPROPRIATIONS

Pub. L. 117-254, § 2(d), Dec. 20, 2022, 136 Stat. 2362, provided that: “The amendments made by this Act [amending this section] shall apply to amounts that first become available in fiscal year 2023 or thereafter.”

##### TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS

Pub. L. 108-176, title I, § 161, Dec. 12, 2003, 117 Stat. 2513, as amended by Pub. L. 110-190, § 4(c), Feb. 28, 2008, 122 Stat. 644; Pub. L. 110-253, § 3(c)(3), June 30, 2008, 122 Stat. 2418; Pub. L. 110-330, § 5(i), Sept. 30, 2008, 122 Stat. 3718; Pub. L. 111-12, § 5(h), Mar. 30, 2009, 123 Stat. 1458; Pub. L. 111-69, § 5(i), Oct. 1, 2009, 123 Stat. 2055; Pub. L. 111-116, § 5(h), Dec. 16, 2009, 123 Stat. 3032; Pub. L. 111-153, § 5(h), Mar. 31, 2010, 124 Stat. 1085; Pub. L. 111-161, § 5(h), Apr. 30, 2010, 124 Stat. 1127; Pub. L. 111-197, § 5(h), July 2, 2010, 124 Stat. 1354; Pub. L. 111-216, title I, § 104(h), Aug. 1, 2010, 124 Stat. 2350; Pub. L. 111-249, § 5(i), Sept. 30, 2010, 124 Stat. 2628; Pub. L. 111-329, § 5(h), Dec. 22, 2010, 124 Stat. 3567; Pub. L. 112-7, § 5(h), Mar. 31, 2011, 125 Stat. 32; Pub. L. 112-16, § 5(h), May 31, 2011, 125 Stat. 219; Pub. L. 112-21, § 5(h), June 29, 2011, 125 Stat. 234; Pub. L. 112-27, § 5(h), Aug. 5, 2011, 125 Stat. 271; Pub. L. 112-30, title II, § 205(i), Sept. 16, 2011, 125 Stat. 358; Pub. L. 112-91, § 5(i), Jan. 31, 2012, 126 Stat. 4, provided that: “Notwithstanding section 47109(a) of title 49, United States Code, the Government’s share of allowable project costs for a grant made in any of fiscal years 2009 through 2011, or in the portion of fiscal year 2012 ending before February 18, 2012, under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.”

[Pub. L. 110-253, § 3(c)(3), which directed amendment of section 161 of Pub. L. 108-176, set out above, by substituting “fiscal year 2008.” for “fiscal year 2008 before

July 1, 2008.”, was executed by substituting “fiscal year 2008,” for “fiscal year 2008 before July 1, 2008,” to reflect the probable intent of Congress.]

#### § 47110. Allowable project costs

(a) GENERAL AUTHORITY.—Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1)(A) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type; or

(B) if the cost is an incentive payment incurred in carrying out the project described in subparagraph (A) that is to be provided to a contractor upon early completion of a project, if—

(i) such payment does not exceed the lesser of 5 percent of the initial construction contract amount or \$1,000,000;

(ii) the level of contractor’s control of, or access to, the worksite necessary to shorten the duration of the project does not negatively impact the operation of the airport;

(iii) the contract specifies application of the incentive structure in the event of unforeseeable, non-weather delays beyond the control of the contractor;

(iv) nothing in any agreement with the contractor prevents the airport operator from retaining responsibility for the safety, efficiency, and capacity of the airport during the execution of the grant agreement; and

(v) the Secretary determines that the use of an incentive payment is likely to increase airport capacity or efficiency or result in cost savings as a result of shortening the project’s duration;

(2)(A) if the cost is incurred after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed;

(B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;

(C) if the Government’s share is paid only with amounts apportioned under paragraphs (1) and (2) of section 47114(c) or section 47114(d)(3)(A)<sup>1</sup> and if the cost is incurred—

(i) after September 30, 1996;

(ii) before a grant agreement is executed for the project; and

<sup>1</sup> See References in Text note below.

(iii) in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after the grant agreement had been executed; or

(D) if the cost is for airport development and is incurred before execution of the grant agreement, but in the same fiscal year as execution of the grant agreement, and if—

(i) the cost was incurred before execution of the grant agreement because the airport has a shortened construction season due to climatic conditions in the vicinity of the airport;

(ii) the cost is in accordance with an airport layout plan approved by the Secretary and with all statutory and administrative requirements that would have been applicable to the project if the project had been carried out after execution of the grant agreement, including submission of a complete grant application to the appropriate regional or district office of the Federal Aviation Administration;

(iii) the sponsor notifies the Secretary before authorizing work to commence on the project;

(iv) the sponsor has an alternative funding source available to fund the project; and

(v) the sponsor's decision to proceed with the project in advance of execution of the grant agreement does not affect the priority assigned to the project by the Secretary for the allocation of discretionary funds;

(3) to the extent the cost is reasonable in amount;

(4) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted;

(5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title);

(6) if the cost is for a project not described in section 47102(3) for acquiring for use at a commercial service airport vehicles and ground support equipment owned by an airport that include low-emission technology, but only to the extent of the incremental cost of equipping such vehicles or equipment with low-emission technology, as determined by the Secretary; and

(7) if the cost is incurred on a measure to improve the efficiency of an airport building (such as a measure designed to meet one or more of the criteria for being considered a high-performance green building as set forth under section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13))) and—

(A) the measure is for a project for airport development;

(B) the measure is for an airport building that is otherwise eligible for construction assistance under this subchapter; and

(C) if the measure results in an increase in initial project costs, the increase is justified

by expected savings over the life cycle of the project.

(c) CERTAIN PRIOR COSTS AS ALLOWABLE COSTS.—The Secretary may decide that a project cost under subsection (b)(2)(A) of this section incurred before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating or preparing for an airport development project, including costs incurred for field surveys, plans and specifications, property interests in land or airspace, utility relocation, work site preparation, and administration or other incidental items that would not have been incurred except for the project; or

(2) necessarily and directly incurred in developing the work scope of an airport planning project.

(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

(1) the Government's share of such costs will be paid with funds apportioned to the airport sponsor under section 47114 or distributed from the small airport fund under section 47116;

(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary's design standards; and

(3) the Secretary determines that the change is beyond the control of the airport sponsor.

(e) LETTERS OF INTENT.—(1) The Secretary may issue a letter of intent to the sponsor stating an intention to obligate from future budget authority an amount, not more than the Government's share of allowable project costs, for an airport development project (including costs of formulating the project) at a primary or reliever airport. The letter shall establish a schedule under which the Secretary will reimburse the sponsor for the Government's share of allowable project costs, as amounts become available, if the sponsor, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(2) Paragraph (1) of this subsection applies to a project—

(A) about which the sponsor notifies the Secretary, before the project begins, of the sponsor's intent to carry out the project;

(B) that will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter; and

(C) that meets the criteria of section 47115(d) and, if for a project at a medium hub airport or large hub airport, the Secretary decides will enhance system-wide airport capacity significantly.

(3) A letter of intent issued under paragraph (1) of this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation laws.

(4) The total estimated amount of future Government obligations covered by all outstanding letters of intent under paragraph (1) of this subsection may not be more than the amount authorized to carry out section 48103 of this title, less an amount reasonably estimated by the Secretary to be needed for grants under section 48103 that are not covered by a letter.

(5) **LETTERS OF INTENT.**—The Secretary may not require an eligible agency to impose a passenger facility charge under section 40117 in order to obtain a letter of intent under this section.

(6) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(7) **PARTNERSHIP PROGRAM AIRPORTS.**—The Secretary may issue a letter of intent under this subsection to an airport sponsor with an approved application under section 47134(b) if—

(A) the application was approved in fiscal year 2019; and

(B) the project meets all other requirements set forth in this chapter.

(f) **NONALLOWABLE COSTS.**—Except as provided in subsection (d) of this section and section 47118(f) of this title, a cost is not an allowable airport development project cost if it is for—

(1) constructing a public parking facility for passenger automobiles;

(2) constructing, altering, or repairing part of an airport building, except to the extent the building will be used for facilities or activities directly related to the safety of individuals at the airport;

(3) decorative landscaping; or

(4) providing or installing sculpture or art works.

(g) **USE OF DISCRETIONARY FUNDS.**—A project for which cost reimbursement is provided under subsection (b)(2)(C) shall not receive priority consideration with respect to the use of discretionary funds made available under section 47115 of this title even if the amounts made available under paragraphs (1) and (2) of section 47114(c) or section 47114(d)(3)(A)<sup>1</sup> are not sufficient to cover the Government's share of the cost of the project.

(h) **NONPRIMARY AIRPORTS.**—The Secretary may decide that the construction costs of revenue producing aeronautical support facilities are allowable for an airport development project at a nonprimary airport if the Government's share of such costs is paid only with funds apportioned to the airport sponsor under section 47114(c)(1)(D) or section 47114(d)(2)(A) and if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.

(i) **SMALL AIRPORT LETTERS OF INTENT.**—

(1) **IN GENERAL.**—The Secretary may issue a letter of intent to a sponsor stating an intention to obligate an amount from future budget authority for an airport development project (including costs of formulating the project) at a nonhub airport or an airport that is not a primary airport.

(2) **CONTENTS.**—In the letter issued under paragraph (1), the Secretary shall establish a

schedule under which the Secretary will reimburse the sponsor for the Government's share of allowable project costs, as amounts become available, if the sponsor, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(3) **LIMITATIONS.**—The amount the Secretary intends to obligate in a letter of intent issued under this subsection shall not exceed the larger of—

(A) the Government's share of allowable project costs; or

(B) \$10,000,000.

(4) **FINANCING.**—Allowable project costs under paragraphs (1) and (2) may include costs associated with making payments for debt service on indebtedness incurred to carry out the project.

(5) **REQUIREMENTS.**—The Secretary shall issue a letter of intent under paragraph (1) only if—

(A) the sponsor notifies the Secretary, before the project begins, of the intent of the sponsor to carry out the project and requests a letter of intent; and

(B) the sponsor agrees to comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter.

(6) **ASSESSMENT.**—In reviewing a request for a letter of intent under this subsection, the Secretary shall consider the grant history of an airport, the enplanements or operations of an airport, and such other factors as the Secretary determines appropriate.

(7) **PRIORITIZATION.**—In issuing letters of intent under this subsection, the Secretary shall—

(A) prioritize projects that—

(i) cannot reasonably be funded by an airport sponsor using funds apportioned under section 47114(c), 47114(d)(2)(A), or 47114(d)(6), including funds apportioned under such sections in multiple fiscal years pursuant to section 47117(b)(1); and

(ii) are necessary to the continued safe operation or development of an airport; and

(B) structure the reimbursement schedules under such letters in a manner that minimizes unnecessary or undesirable project segmentation.

(8) **NO OBLIGATION OR COMMITMENT.**—

(A) **IN GENERAL.**—A letter of intent issued under this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing.

(B) **OBLIGATION OR COMMITMENT.**—An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation Acts.

(9) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1264; Pub. L. 103-305, title I, §115, Aug. 23, 1994, 108 Stat. 1579; Pub. L. 103-429, §6(64), Oct. 31, 1994, 108 Stat. 4385; Pub. L. 104-264, title I, §144, Oct. 9, 1996, 110 Stat. 3222; Pub. L. 106-181, title I, §127, Apr. 5, 2000, 114 Stat. 76; Pub. L. 107-71, title I, §119(a)(2), Nov. 19, 2001, 115 Stat. 628; Pub. L. 108-176, title I, §§145, 149(b), 159(c), Dec. 12, 2003, 117 Stat. 2504, 2505, 2511; Pub. L. 109-115, div. A, title I, §176(b), Nov. 30, 2005, 119 Stat. 2427; Pub. L. 112-95, title I, §§111(c)(2)(A)(ii), 138, Feb. 14, 2012, 126 Stat. 18, 25; Pub. L. 115-254, div. B, title I, §184(b), title V, §539(n), Oct. 5, 2018, 132 Stat. 3234, 3371; Pub. L. 117-186, §2, Oct. 10, 2022, 136 Stat. 2199; Pub. L. 118-63, title VII, §§709-710(b)(1), May 16, 2024, 138 Stat. 1252, 1253.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47110(a) .....	49 App.:2212(a) (1st, last sentences).	Sept. 3, 1982, Pub. L. 97-248, §513(a), 96 Stat. 689; Aug. 4, 1989, Pub. L. 101-71, §3, 103 Stat. 181.
47110(b) .....	49 App.:2212(a) (2d sentence cls. (1), (2) (words before period), (3), (4)).	
47110(c) .....	49 App.:2212(a) (2d sentence cl. (2) (words after period)).	
47110(d) .....	49 App.:2212(b)(1), (6).	Sept. 3, 1982, Pub. L. 97-248, §513(b)(1), (6), 96 Stat. 691; Oct. 31, 1992, Pub. L. 102-581, §110(a), 106 Stat. 4879.
47110(e) .....	49 App.:2212(d).	Sept. 3, 1982, Pub. L. 97-248, 96 Stat. 324, §513(d); added Dec. 30, 1987, Pub. L. 100-223, §111(c), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102-581, §111, 106 Stat. 4880.
47110(f) .....	49 App.:2212(c).	Sept. 3, 1982, Pub. L. 97-248, §513(c), 96 Stat. 691; Dec. 30, 1987, Pub. L. 100-223, §111(b), 101 Stat. 1503; Oct. 31, 1992, Pub. L. 102-581, §107(c)(2), 106 Stat. 4879.

In subsection (a), the words “for airport development or airport planning” are omitted because of the definition of “project” in section 47102 of the revised title. The text of 49 App.:2212(a) (last sentence) is omitted as surplus because of 49:322(a).

In subsection (b)(1), the word “approved” is omitted as surplus because a project that was not approved could not be carried out in compliance with a grant agreement. The words “in compliance with the grant agreement made for the project under this subchapter” are substituted for “in conformity with the terms and conditions of the grant agreement entered into in connection with the project” to eliminate unnecessary words. The word “sponsor” is substituted for “recipient” for clarity.

In subsection (b)(2)(A), the words “with respect to the project” are omitted as unnecessary because “the grant agreement” means “the grant agreement made for the project” referred to in clause (1) of this subsection. The words “under the project” are omitted as surplus.

Subsection (b)(3) is substituted for “in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable” to eliminate unnecessary words.

Subsection (b)(5) is substituted for “except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 2211(b) of this Appendix” for consistency in this section.

In subsection (c), before clause (1), the words “The Secretary may decide that a project cost . . . is allowable” are substituted for “However, the allowable costs of a project . . . may include . . . and the allowable costs of a project . . . may include” for clarity and consistency in the revised title. The words “incurred after May 13, 1946, and before the date the grant agreement is executed” are substituted for “which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946” and “which were incurred subsequent to May 13, 1946” to eliminate unnecessary words. In clause (1), the words “preparation of”, “acquisition of”, “by the sponsor specifically in connection with the accomplishment of the project for airport development” are omitted as surplus. The words “property interests in land or airspace” are substituted for “land or interests therein or easements through or other interests in airspace” to eliminate unnecessary words.

In subsection (d)(1), before clause (A), the words “The Secretary may decide that the cost . . . is allowable” are substituted for “the Secretary may approve, as allowable project costs” and “The Secretary shall approve project costs allowable under paragraph (1) of this subsection” for clarity and consistency in this section. In clause (B), the words “the boundaries of” are omitted as surplus. In clause (C), the words “and conditions” are omitted as being included in “terms”.

In subsection (d)(2), the words “In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs” are substituted for “In the case of a commercial service airport . . . the Secretary may approve, under the preceding sentence as allowable project costs” for consistency in this subsection.

In subsection (e)(1), the word “sponsor” is substituted for “applicant” for consistency. The words “stipulated as” and “Subject to the provisions of this paragraph” are omitted as surplus. The word “reimburse” is substituted for “make payments under paragraph (2) of this subsection” and “pay” for clarity. The words “payable on account of such project in accordance with such letter of intent” are omitted as surplus.

In subsection (e)(2), before clause (A), the text of 49 App.:2212(d)(1)(C) (last sentence) is omitted as obsolete.

In subsection (e)(3), the words “A letter of intent issued” are substituted for “action” for clarity. The word “deemed” before “an obligation” is omitted as surplus.

In subsection (f)(2), the words “of a hangar or” are omitted as being included in “airport building”.

PUB. L. 103-429

The source credits for all of subsection (b) are included for clarity though only subsection (b)(2) is affected by the amendment. The source credits for 49:47110(c) are included to correct a mistake on p. 405 of H. R. Rept. 103-180 (103d Cong., 1st Sess., July 15, 1993).

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47110(b) .....	49 App.:2212(a) (2d sentence cls. (1), (2)(A) (words before period), (B), (3), (4)).	Sept. 3, 1982, Pub. L. 97-248, §513(a) (2d sentence), as amended May 26, 1994, Pub. L. 103-260, §106, 108 Stat. 699.
47110(c) .....	49 App.:2212(a) (2d sentence cl. (2)(A) (words after period)).	

In subsection (b)(2)(C)(ii), the words “before the cost is incurred” are added for clarity.

Editorial Notes

REFERENCES IN TEXT

Section 47114(d)(3)(A), referred to in subsecs. (b)(2)(C) and (g), was redesignated section 47114(d)(2)(A) by Pub. L. 118-63, title VII, §712(b)(6), May 16, 2024, 138 Stat. 1256.

## AMENDMENTS

2024—Subsec. (c). Pub. L. 118–63, § 709(1)(A), struck out “after May 13, 1946, and” after “this section incurred” in introductory provisions.

Subsec. (c)(1). Pub. L. 118–63, § 709(1)(B), inserted “or preparing for” after “formulating” and “utility relocation, work site preparation,” before “and administration”.

Subsec. (d)(1). Pub. L. 118–63, § 709(2), substituted “section 47114 or distributed from the small airport fund under section 47116” for “section 47114(c)(1) or 47114(d)”.

Subsec. (e)(2)(C). Pub. L. 118–63, § 709(3), substituted “medium hub airport or large hub airport” for “commercial service airport having at least 0.25 percent of the boardings each year at all such airports”.

Subsec. (e)(7). Pub. L. 118–63, § 710(b)(1), substituted “under this subsection” for “under this section” in introductory provisions.

Subsec. (h). Pub. L. 118–63, § 709(4), substituted “section 47114(c)(1)(D) or section 47114(d)(2)(A)” for “section 47114(d)(3)(A)”.

Subsec. (i). Pub. L. 118–63, §§ 709(5), 710(a), added subsec. (i) and struck out former subsec. (i) which related to bird-detecting radar systems.

2022—Subsec. (b)(1). Pub. L. 117–186, § 2(a), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (e)(7). Pub. L. 117–186, § 2(b), substituted “PARTNERSHIP PROGRAM AIRPORTS” for “PARTNERSHIP PROGRAM AIRPORTS” in heading.

2018—Subsec. (b)(2)(B). Pub. L. 115–254, § 539(n)(1), substituted “compatibility” for “compatability”.

Subsec. (b)(2)(D)(i). Pub. L. 115–254, § 539(n)(2), substituted “climatic” for “climactic”.

Subsec. (e)(7). Pub. L. 115–254, § 184(b), added par. (7).

2012—Subsec. (b)(2)(D). Pub. L. 112–95, § 138(a), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “if the cost is incurred after September 11, 2001, for a project described in section 47102(3)(J), 47102(3)(K), or 47102(3)(L) and shall not depend upon the date of execution of a grant agreement made under this subchapter;”.

Subsec. (b)(7). Pub. L. 112–95, § 138(b), added par. (7).

Subsec. (d). Pub. L. 112–95, § 138(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to terminal development costs.

Subsec. (e)(5). Pub. L. 112–95, § 111(c)(2)(A)(ii), substituted “charge” for “fee”.

Subsec. (h). Pub. L. 112–95, § 138(d), inserted “construction” before “costs of revenue producing” and struck out “, including fuel farms and hangars,” before “are allowable”.

Subsec. (i). Pub. L. 112–95, § 138(e), added subsec. (i).

2005—Subsec. (d)(2)(A). Pub. L. 109–115, which directed amendment of section 47110(d)(2)(A), without specifying the title to be amended, by substituting “(A) except as provided in section 47108(e)(3), the” for “(A) the”, was executed to this section, to reflect the probable intent of Congress.

2003—Subsec. (b)(1). Pub. L. 108–176, § 145, inserted “and any cost of moving a Federal facility impeding the project if the rebuilt facility is of an equivalent size and type” before semicolon at end.

Subsec. (b)(2)(C). Pub. L. 108–176, § 149(b)(1), substituted “or section 47114(d)(3)(A)” for “of this title” in introductory provisions.

Subsec. (b)(6). Pub. L. 108–176, § 159(c), added par. (6).

Subsec. (g). Pub. L. 108–176, § 149(b)(2), inserted “or section 47114(d)(3)(A)” after “of section 47114(c)” and substituted “of the project” for “of project”.

Subsec. (h). Pub. L. 108–176, § 149(b)(3), added subsec. (h).

2001—Subsec. (b)(2)(D). Pub. L. 107–71 added subpar. (D).

2000—Subsec. (e)(2)(C). Pub. L. 106–181, § 127(1), added subpar. (C) and struck out former subpar. (C) which read as follows: “the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title.”

Subsec. (e)(5). Pub. L. 106–181, § 127(2), added par. (5) and struck out former par. (5) which read as follows: “A letter of intent issued under paragraph (1) of this subsection may not condition the obligation of amounts on the imposition of a passenger facility fee.”

1996—Subsec. (b)(2)(C). Pub. L. 104–264, § 144(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “if the Government’s share is paid only with amounts apportioned under section 47114(c)(1)(A) and (2) of this title and if the cost is incurred—

“(i) during the fiscal year ending September 30, 1994;

“(ii) before a grant agreement is executed for the project but according to an airport layout plan the Secretary approves before the cost is incurred and all applicable statutory and administrative requirements that would apply to the project if the agreement had been executed; and

“(iii) for work related to a project for which a grant agreement previously was executed during the fiscal year ending September 30, 1994;”.

Subsec. (g). Pub. L. 104–264, § 144(b), added subsec. (g). 1994—Subsec. (b)(2). Pub. L. 103–429 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “if the cost is incurred—

“(A) after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed; or

“(B) after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;”.

Subsec. (e)(6). Pub. L. 103–305 added par. (6).

## 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.

## EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104–264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104–264, set out as a note under section 106 of this title.

## LETTERS OF INTENT FOR AIRPORT SECURITY IMPROVEMENT PROJECTS

Pub. L. 108–7, div. I, title III, § 367, Feb. 20, 2003, 117 Stat. 423, provided that:

“(a) The Under Secretary of Transportation for Security [now Administrator of the Transportation Security Administration] may issue a letter of intent to an airport committing to obligate from future budget authority an amount, not more than the Federal Government’s share of the project’s cost, for an airport security improvement project (including interest costs and costs of formulating the project) at the airport. The letter shall establish a schedule under which the Under Secretary will reimburse the airport for the Government’s share of the project’s costs, as amounts become available, if the airport, after the Under Secretary issues the letter, carries out the project without receiving amounts under Chapter 471 of title 49 [United States Code].

“(b) The airport shall notify the Under Secretary of the airport’s intent to carry out the airport security improvement project before the project begins.”

“(c) A letter of intent may be issued under this section only if—

“(1) The airport security improvement project to which the letter applies involves the replacement of baggage conveyer systems or the reconfiguration of terminal baggage areas in order to install explosive detection systems; and

“(2) The Under Secretary determines that the project will improve security or will improve the efficiency of the airport without lessening security.

“(d) A letter of intent issued under this section is not an obligation of the Government under section 1501 of title 31 [United States Code], and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

“(e) The Government’s share of the project’s cost shall be 75 percent for a project at an airport having at least 0.25 percent of the total number of passenger boardings each year at all airports and 90 percent for a project at any other airport.

“(f) Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this section in the same fiscal year as the letter of intent is issued.

“(g) The Under Secretary shall notify the House and Senate Committees on Appropriations, the House Transportation and Infrastructure Committee, and the Senate Commerce, Science, and Transportation Committee at least 3 days prior to the issuance of a letter of intent under this section.

“(h) There is authorized to be appropriated to carry out this section \$500,000,000 in each of fiscal years 2003, 2004, 2005, 2006, and 2007.”

LETTERS OF INTENT; DURATION OF AUTHORITY AND APPROVAL BY CONGRESS

Pub. L. 102-388, title III, §320, Oct. 6, 1992, 106 Stat. 1546, provided that: “The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended [see subsec. (e) of this section], to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act [substantially repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by first section thereof as this subchapter]: *Provided*, That, notwithstanding any other provision of law, all such letters of intent in excess of \$10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives.” Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-143, title III, §320, Oct. 28, 1991, 105 Stat. 942.

Pub. L. 101-516, title III, §320, Nov. 5, 1990, 104 Stat. 2181.

Pub. L. 101-164 title III, §326, Nov. 21, 1989, 103 Stat. 1096.

Pub. L. 100-457, title III, §334, Sept. 30, 1988, 102 Stat. 2153.

**§ 47111. Payments under project grant agreements**

(a) GENERAL AUTHORITY.—After making a project grant agreement under this subchapter and consulting with the sponsor, the Secretary of Transportation may decide when and in what amounts payments under the agreement will be made. Payments totaling not more than 90 percent of the United States Government’s share of the project’s estimated allowable costs may be made before the project is completed if the spon-

sor certifies to the Secretary that the total amount expended from the advance payments at any time will not be more than the cost of the airport development work completed on the project at that time.

(b) RECOVERING PAYMENTS.—If the Secretary determines that the total amount of payments made under a grant agreement under this subchapter is more than the Government’s share of the total allowable project costs, the Government may recover the excess amount. If the Secretary finds that a project for which an advance payment was made has not been completed within a reasonable time, the Government may recover any part of the advance payment for which the Government received no benefit.

(c) PAYMENT DEPOSITS.—A payment under a project grant agreement under this subchapter may be made only to an official or depository designated by the sponsor and authorized by law to receive public money.

(d) WITHHOLDING PAYMENTS.—(1) The Secretary may withhold a payment under a grant agreement under this subchapter for more than 180 days after the payment is due only if the Secretary—

(A) notifies the sponsor and provides an opportunity for a hearing; and

(B) finds that the sponsor has violated the agreement.

(2) The 180-day period may be extended by—

(A) agreement of the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding a payment may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The petition must be filed not later than 60 days after the order is served on the petitioner.

(e) ACTION ON GRANT ASSURANCES CONCERNING AIRPORT REVENUES.—If, after notice and opportunity for a hearing, the Secretary finds a violation of section 47107(b) of this title, as further defined by the Secretary under section 47107(k) of this title, or a violation of an assurance made under section 47107(b) of this title, and the Secretary has provided an opportunity for the airport sponsor to take corrective action to cure such violation, and such corrective action has not been taken within the period of time set by the Secretary, the Secretary shall withhold approval of any new grant application for funds under this chapter, or any proposed modification to an existing grant that would increase the amount of funds made available under this chapter to the airport sponsor, and withhold approval of any new application to impose a charge under section 40117 of this title. Such applications may thereafter be approved only upon a finding by the Secretary that such corrective action as the Secretary requires has been taken to address the violation and that the violation no longer exists.