

necessary to carry out this subchapter, including conducting investigations and public hearings, prescribing regulations and procedures, and issuing orders.

(b) **CONDUCTING INVESTIGATIONS AND PUBLIC HEARINGS.**—In conducting an investigation or public hearing under this subchapter, the Secretary has the same authority the Secretary has under section 46104 of this title. An action of the Secretary in exercising that authority is governed by the procedures specified in section 46104 and shall be enforced as provided in section 46104.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1275.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47122(a) .....	49 App.:2218(a).	Sept. 3, 1982, Pub. L. 97–248, §519(a), 96 Stat. 694; Dec. 30, 1987, Pub. L. 100–223, §112(1), 101 Stat. 1504.
47122(b) .....	49 App.:1354(c) (related to Airport and Airway Improvement Act of 1982).	Aug. 23, 1958, Pub. L. 85–726, §313(c) (related to Airport and Airway Improvement Act of 1982), 72 Stat. 753; Sept. 3, 1982, Pub. L. 97–248, §524(a)(2), 96 Stat. 696.

Subsection (a) is substituted for 49 App.:2218(a) to eliminate unnecessary words.

#### § 47123. Nondiscrimination

(a) **IN GENERAL.**—The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received under a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Act.

(b) **INDIAN EMPLOYMENT.**—

(1) **TRIBAL SPONSOR PREFERENCE.**—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on a project or contract at—

(A) an airport sponsored by an Indian tribal government; or

(B) an airport located on an Indian reservation.

(2) **STATE PREFERENCE.**—A State may implement a preference for employment of Indians on a project carried out under this subchapter near an Indian reservation.

(3) **IMPLEMENTATION.**—The Secretary shall consult with Indian tribal governments and cooperate with the States to implement this subsection.

(4) **INDIAN TRIBAL GOVERNMENT DEFINED.**—In this section, the term “Indian tribal government” has the same meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1275; Pub. L. 115–254, div. B, title I, §153, Oct. 5, 2018, 132 Stat. 3216.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47123 .....	49 App.:2219.	Sept. 3, 1982, Pub. L. 97–248, §520, 96 Stat. 694.

The words “as the Secretary deems” and “the purposes of” are omitted as surplus. The words “The regulations shall be similar to those in effect under” are substituted for “and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under” for clarity and to eliminate unnecessary words and because “rules” and “regulations” are synonymous. The words “The provisions of . . . and not in lieu of the provisions of” are omitted as surplus. The word “is” is substituted for “shall be considered to be” to eliminate unnecessary words.

#### Editorial Notes

##### REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

##### AMENDMENTS

2018—Pub. L. 115–254 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

#### § 47124. Agreements for State and local operation of airport facilities

(a) **GOVERNMENT RELIEF FROM LIABILITY.**—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.

(b) **AIR TRAFFIC CONTROL CONTRACT PROGRAM.**—

(1) **CONTRACT TOWER PROGRAM.**—

(A) **CONTINUATION.**—The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

(B) **SPECIAL RULE.**—If the Secretary determines that a tower already operating under the Contract Tower Program has a benefit-to-cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit—

(i) for the 1-year period after such determination is made; or

(ii) if an appeal of such determination is requested, for the 1-year period described in subsection (d)(4)(D).

(C) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the Cost-share Program.

(2) GENERAL AUTHORITY.—

(A) IN GENERAL.—The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(B) SMALL OR MEDIUM HUB AIRPORTS.—In the case of a contract entered into on or after the date of enactment of this subparagraph to operate an airport traffic control tower at a small or medium hub airport, the contract shall require the Secretary, after coordination with the airport sponsor and the entity, State, or subdivision, and not later than 18 months after the date of enactment of the FAA Reauthorization Act of 2024, to provide funding sufficient for the cost of wages and benefits of at least 2 air traffic controllers for each tower operating shift.

(3) COST-SHARE PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish a program to contract for air traffic control services at nonapproach control towers, as defined by the Secretary, that do not qualify for the Contract Tower Program.

(B) PROGRAM COMPONENTS.—In carrying out the Cost-share Program, the Secretary shall—

(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Secretary; and

(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a 1-to-1 benefit-to-cost ratio using actual site-specific contract tower operating costs in any case in which there is an operating air traffic control tower or a remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration, as required for eligibility under the Contract Tower Program.

(C) PRIORITY.—In selecting facilities to participate in the Cost-share Program, the Secretary shall give priority to the following facilities:

(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Secretary has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

(ii) Air traffic control towers that the Secretary determines have a benefit-to-cost ratio of at least .50.

(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

(iv) Air traffic control towers located at airports or points at which an air carrier is receiving compensation under the essential air service program under this chapter.

(v) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

(vi) Air traffic control towers located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

(vii) Air traffic control towers located at an airport at which the community has been operating the tower at its own expense.

(viii) Air traffic control towers at airports with safety or operational problems related to the lack of an existing tower.

(ix) Air traffic control towers at airports with projected commercial and military increases in aircraft or flight operations.

(x) Air traffic control towers at airports with a variety of aircraft operations, including a variety of commercial and military flight operations.

(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic tower under the Cost-share Program exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefit, with the maximum allowable local cost share capped at 20 percent. Airports with air service provided under part 121 of title 14, Code of Federal Regulations, and more than 25,000 passenger enplanements in calendar year 2014 shall be exempt from any cost-share requirement under this paragraph.

(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k)(1), not more than \$10,350,000 for each of fiscal years 2012 through 2018 may be used to carry out this paragraph.

(F) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the Contract Tower Program.

(G) BENEFIT-TO-COST CALCULATION.—Not later than 90 days after receiving an application to the Contract Tower Program, the Secretary shall calculate a benefit-to-cost ratio (as described in subsection (d)) for the

applicable air traffic control tower for purposes of selecting towers for participation in the Contract Tower Program.

(H) PERIOD FOR COMPLETION OF AN OPERATIONAL READINESS INSPECTION.—The Secretary shall provide airport sponsors acting in good faith 7 years to complete an operational readiness inspection after receiving a benefit-to-cost ratio of air traffic control services for an airport.

(4) CONSTRUCTION OF AIR TRAFFIC CONTROL TOWERS.—

(A) GRANTS.—The Secretary may provide grants to a sponsor of—

(i) a primary airport—

(I) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996, including remote air traffic control tower equipment certified by the Federal Aviation Administration or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration; and

(ii) a public-use airport that is not a primary airport—

(I) from amounts made available under subsections (c) and (d) of section 47114 for the construction or improvement of a nonapproach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c) and 47114(d)(2)(A) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c) and 47114(d)(2)(A) for reimbursement for the cost of acquiring and installing in that tower air traf-

fic control, communications, and related equipment that was acquired or installed after October 1, 1996, including remote air traffic control tower equipment certified by the Federal Aviation Administration or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration.

(B) ELIGIBILITY.—An airport sponsor shall be eligible for a grant under this paragraph only if—

(i)(I) the sponsor is a participant in the Federal Aviation Administration Contract Tower Program or the Cost-share Program; or

(II) construction of a nonapproach control tower would qualify the sponsor to be eligible to participate in such program;

(ii) the sponsor certifies that it will pay not less than 10 percent of the cost of the activities for which the sponsor is receiving assistance under this paragraph;

(iii) the Secretary affirmatively accepts the proposed contract tower into a contract tower program under this section and certifies that the Secretary will seek future appropriations to pay the Federal Aviation Administration's cost of the contract to operate the tower to be constructed under this paragraph;

(iv) the sponsor certifies that it will pay its share of the cost of the contract to operate the tower to be constructed under this paragraph; and

(v) in the case of a tower to be constructed under this paragraph from amounts made available under section 47114(d)(2)(B), the Secretary certifies that—

(I) the Federal Aviation Administration has consulted the State within the borders of which the tower is to be constructed and the State supports the construction of the tower as part of its State airport capital plan; and

(II) the selection of the tower for funding is based on objective criteria.

(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for regular safety assessments of air traffic control towers that receive funding under this section.

(d) CRITERIA TO EVALUATE PARTICIPANTS.—

(1) TIMING OF EVALUATIONS.—

(A) TOWERS PARTICIPATING IN COST-SHARE PROGRAM.—In the case of an air traffic control tower that is operated under the Cost-share Program, the Secretary shall annually calculate a benefit-to-cost ratio with respect to the tower.

(B) TOWERS PARTICIPATING IN CONTRACT TOWER PROGRAM.—In the case of an air traffic control tower that is operated under the Contract Tower Program, the Secretary shall not calculate a benefit-to-cost ratio after the date of enactment of this subsection with respect to the tower unless the Secretary determines that the annual aircraft traffic at the airport where the tower is located has decreased—

(i) by more than 25 percent from the previous year; or

(ii) by more than 55 percent cumulatively in the preceding 3-year period.

(2) COSTS TO BE CONSIDERED.—In establishing a benefit-to-cost ratio under this section with respect to an air traffic control tower, the Secretary shall consider only the following costs:

(A) The Federal Aviation Administration's actual cost of wages and benefits of personnel working at the tower.

(B) The Federal Aviation Administration's actual telecommunications costs directly associated with the tower.

(C) The Federal Aviation Administration's costs of purchasing and installing any air traffic control equipment that would not have been purchased or installed except as a result of the operation of the tower.

(D) The Federal Aviation Administration's actual travel costs associated with maintaining air traffic control equipment that is owned by the Administration and would not be maintained except as a result of the operation of the tower.

(E) Other actual costs of the Federal Aviation Administration directly associated with the tower that would not be incurred except as a result of the operation of the tower (excluding costs for noncontract tower-related personnel and equipment, even if the personnel or equipment is located in the contract tower building).

(3) OTHER CRITERIA TO BE CONSIDERED.—In establishing a benefit-to-cost ratio under this section with respect to an air traffic control tower, the Secretary shall add a 10 percentage point margin of error to the benefit-to-cost ratio determination to acknowledge and account for the direct and indirect economic and other benefits that are not included in the criteria the Secretary used in calculating that ratio.

(4) REVIEW OF COST-BENEFIT DETERMINATIONS.—In issuing a benefit-to-cost ratio determination under this section with respect to an air traffic control tower located at an airport, the Secretary shall implement the following procedures:

(A) The Secretary shall provide the airport (or the State or local government having jurisdiction over the airport) at least 90 days following the date of receipt of the determination to submit to the Secretary a request for an appeal of the determination, together with updated or additional data in support of the appeal.

(B) Upon receipt of a request for an appeal submitted pursuant to subparagraph (A), the Secretary shall—

(i) transmit to the Administrator of the Federal Aviation Administration any updated or additional data submitted in support of the appeal; and

(ii) provide the Administrator not more than 90 days to review the data and provide a response to the Secretary based on the review.

(C) After receiving a response from the Administrator pursuant to subparagraph (B), the Secretary shall—

(i) provide the airport, State, or local government that requested the appeal at least 30 days to review the response; and

(ii) withhold from taking further action in connection with the appeal during that 30-day period.

(D) If, after completion of the appeal procedures with respect to the determination, the Secretary requires the tower to transition into the Cost-share Program, the Secretary shall not require a cost-share payment from the airport, State, or local government for 1 year following the last day of the 30-day period described in subparagraph (C).

(e) DEFINITIONS.—In this section:

(1) CONTRACT TOWER PROGRAM.—The term “Contract Tower Program” means the level I air traffic control tower contract program established under subsection (a) and continued under subsection (b)(1).

(2) COST-SHARE PROGRAM.—The term “Cost-share Program” means the cost-share program established under subsection (b)(3).

(f) IMPROVING CONTROLLER SITUATIONAL AWARENESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall allow air traffic controllers at towers operated under the Contract Tower Program to use approved advanced equipment and technologies to improve operational situational awareness, including Standard Terminal Automation Replacement System radar displays, Automatic Dependent Surveillance-Broadcast, Flight Data Input/Output, and Automatic Terminal Information System.

(2) INSTALLATION AND MAINTENANCE.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall allow airports to—

(A) procure a Standard Terminal Automation Replacement System or any equivalent system through the Federal Aviation Administration, and install and maintain such system using Administration services; or

(B) purchase a Standard Terminal Automation Replacement System, or any equivalent system, and install and maintain such system using services directly from an original equipment manufacturer.

(3) REQUIREMENTS.—To help facilitate the integration of the equipment and technology described in paragraph (1), the Secretary—

(A) shall establish minimum performance and technical standards that ensure the safe use of equipment and technology, including commercial radar displays capable of displaying primary and secondary radar targets, for use by controllers in contract towers to improve situational awareness;

(B) shall identify approved vendors for such equipment and technology, to the maximum extent practicable;

(C) shall establish, in consultation with contract tower operators, an appropriate

training program to periodically train air traffic controllers employed by such operators to ensure proper and efficient integration and use of the situational awareness equipment and technology described in paragraph (1) into contract tower operations;

(D) may add Standard Terminal Automation Replacement System equipment or any equivalent system to the minimum level of equipment necessary for Federal contract towers to perform the function of such towers, as applicable; and

(E) shall require that any technology, system, or equipment procured pursuant to this subsection be procured using non-Federal funds, except as made available under a grant issued pursuant to 47124(b)(4).<sup>1</sup>

(g) LIABILITY INSURANCE.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall consult with aviation industry experts, including air traffic control contractors and aviation insurance professionals, to determine adequate limits of liability for the Contract Tower Program.

(2) INTERIM STEPS.—Not later than 6 months after the date of enactment of this subsection and until the Secretary makes a determination on liability limits under paragraph (1), the Secretary shall require air traffic control contractors to have excess liability insurance (as determined by the Secretary) to ensure continuity of such coverage should a major accident occur.

(3) BRIEFING.—Not later than 24 months after the date of enactment of this subsection, the Secretary shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Commerce,<sup>2</sup> Science, and Transportation of the Senate on the findings, conclusions, and actions taken and planned to be taken to carry out this subsection.

(h) MILESTONES FOR DESIGN APPROVAL OF REMOTE TOWERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Administrator of the Federal Aviation Administration shall create a program and publish milestones to achieve system design and operational approval for a remote tower system.

(2) REQUIREMENTS.—In carrying out paragraph (1), the Administrator shall—

(A) rely on support from the Office of Airports of the Federal Aviation Administration and the Air Traffic Organization of the Federal Aviation Administration, including the Air Traffic Services Service Unit and the Technical Operations Service Unit;

(B) consult with relevant stakeholders, as the Administrator determines appropriate;

(C) establish requirements for the system design and operational approval of remote towers, including—

(i) visual siting processes and requirements for electro-optical sensors;

(ii) datalink latency requirements;

(iii) visual presentation design requirements for monitors used to display sensor and camera feeds; and

(iv) any other wireless telecommunications infrastructure requirements to enable the operation of such towers;

(D) use a safety risk management panel process to address any safety issues with respect to a remote tower;

(E) if a remote tower is intended to be installed at a non-towered airport, assess the safety benefits of the remote tower against the lack of an existing tower;

(F) allow the use of surface surveillance technology, either standalone or integrated into the visual automation platform, as a situational awareness tool;

(G) establish protocols for contingency operations and procedures in the event of remote tower technology failures and malfunctions; and

(H) support active testing of a remote tower system that has achieved system design approval by the William J. Hughes Technical Center at an airport that has installed remote tower infrastructure to support such system.

(3) SYSTEM DESIGN APPROVAL AND EVALUATION PROCESS.—Not later than December 31, 2024, the Administrator shall expand the system design approval and evaluation process for a digital or remote tower system to not less than 3 airports at which a digital or remote tower will be installed or operated at airports not located at the William J. Hughes Technical Center and using the criteria under section 161 of the FAA Reauthorization Act of 2018 (49 U.S.C. 47104 note), to the extent the Administrator has willing technology providers and airports interested in the installation and operation of such towers.

(4) PRESERVATION OF EXISTING DESIGN APPROVALS.—Nothing in this subsection shall be construed to invalidate any system design approval activity carried out by the William J. Hughes Technical Center prior to the date of enactment of this subsection.

(5) PRIORITIZATION FOR REMOTE TOWER CERTIFICATION.—In carrying out the program established under paragraph (1), the Administrator shall prioritize system design and operational approval for a remote tower system at—

(A) airports that do not have a permanent air traffic control tower at the time of application;

(B) airports that would provide small and rural community air service; or

(C) airports that have been newly accepted as of the date of enactment of this subsection into the Contract Tower Program.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1276; Pub. L. 106-181, title I, §131, Apr. 5, 2000, 114 Stat. 78; Pub. L. 108-7, div. I, title III, §370(b)(1), (2), Feb. 20, 2003, 117 Stat. 425, 426; Pub. L. 108-176, title I, §105, Dec. 12, 2003, 117 Stat. 2498; Pub. L. 112-55, div. C, title I, §119, Nov. 18, 2011, 125 Stat. 649; Pub. L. 112-95, title I, §147, Feb. 14, 2012, 126 Stat. 30; Pub. L. 113-76, div. L, title I, §118, Jan.

<sup>1</sup> So in original. Probably should be preceded by "section".

<sup>2</sup> So in original. Probably should be preceded by "Committee on".

17, 2014, 128 Stat. 581; Pub. L. 113–235, div. K, title I, § 118, Dec. 16, 2014, 128 Stat. 2704; Pub. L. 114–55, title I, § 102(c), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, § 102(c), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, § 1102(c), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, § 102(d), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, § 102(c), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, § 133(a)–(c), Oct. 5, 2018, 132 Stat. 3206–3208; Pub. L. 118–63, title VI, §§ 620, 621(a), (c), 625(b), (c), title VII, § 712(c)(2), title XI, § 1101(v), May 16, 2024, 138 Stat. 1234, 1235, 1237, 1242, 1256, 1414.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47124(a) .....	49 App.:2222.	Sept. 3, 1982, Pub. L. 97–248, § 526, 96 Stat. 698.
47124(b)(1) ..	49 App.:2222 (note).	Dec. 30, 1987, Pub. L. 100–223, § 306, 101 Stat. 1526.
47124(b)(2) ..	49 App.:1344(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, § 303(h); added Oct. 31, 1992, Pub. L. 102–581, § 201(a), 106 Stat. 4890.

In subsection (a), the words “In the powers granted under section 2218 of this Appendix” and “contract or other” are omitted as surplus. The word “relieves” is substituted for “contain, among others, a provision relieving”, and the words “from any liability arising out of, or related to” are substituted for “of any and all liability for the payment of any claim or other obligation arising out of or in connection with”, to eliminate unnecessary words.

In subsection (b)(1), the words “in effect” are omitted as surplus. The words “on December 30, 1987” are added for clarity.

In subsection (b)(2), the word “Secretary” is substituted for “Administrator” for consistency in the chapter.

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this subparagraph, referred to in subsec. (b)(2)(B), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

The date of enactment of the FAA Reauthorization Act of 2024, referred to in subsec. (b)(2)(B), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

The date of enactment of this subsection, referred to in subsec. (d)(1)(B), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

The date of enactment of this subsection, referred to in subsecs. (f)(1), (2), (g), and (h)(1), (4), (5)(C), is the date of enactment of Pub. L. 118–63, which was approved May 16, 2024.

Section 161 of the FAA Reauthorization Act of 2018, referred to in subsec. (h)(3), is section 161 of Pub. L. 115–254, which is set out as a note under section 47104 of this title.

AMENDMENTS

2024—Subsec. (b)(1)(B)(ii). Pub. L. 118–63, § 1101(v), struck out second period at end.

Subsec. (b)(2). Pub. L. 118–63, § 625(b), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (b)(3)(B)(ii). Pub. L. 118–63, § 621(c)(1), inserted “or a remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration” after “an operating air traffic control tower”.

Subsec. (b)(3)(C)(viii) to (x). Pub. L. 118–63, § 625(c), added cls. (viii) to (x).

Subsec. (b)(3)(H). Pub. L. 118–63, § 620(1), added subpar. (H).

Subsec. (b)(4)(A)(i)(III). Pub. L. 118–63, § 621(c)(2)(A), inserted “or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration” after “certified by the Federal Aviation Administration”.

Subsec. (b)(4)(A)(ii)(D). Pub. L. 118–63, § 712(c)(2)(A)(i), substituted “subsections (c) and (d) of section 47114” for “sections 47114(c)(2) and 47114(d)”.

Subsec. (b)(4)(A)(ii)(II). Pub. L. 118–63, § 712(c)(2)(A)(ii), substituted “sections 47114(c) and 47114(d)(2)(A)” for “sections 47114(c)(2) and 47114(d)(3)(A)”.

Subsec. (b)(4)(A)(ii)(III). Pub. L. 118–63, § 712(c)(2)(A)(iii), substituted “sections 47114(c) and 47114(d)(2)(A)” for “sections 47114(c)(2) and 47114(d)(3)(A)”.

Pub. L. 118–63, § 621(c)(2)(B), inserted “or remote air traffic control tower equipment that has received System Design Approval from the Federal Aviation Administration” after “certified by the Federal Aviation Administration”.

Subsec. (b)(4)(B)(v). Pub. L. 118–63, § 712(c)(2)(B), substituted “section 47114(d)(2)(B)” for “section 47114(d)(2) or 47114(d)(3)(B)”.

Subsecs. (f), (g). Pub. L. 118–63, § 620(2), added subsecs. (f) and (g).

Subsec. (h). Pub. L. 118–63, § 621(a)(1), added subsec. (h).

2018—Subsec. (b)(1)(B). Pub. L. 115–254, § 133(a)(1), substituted “under the Contract Tower Program” for “under the program continued under this paragraph” and “exceeds the benefit—” and cls. (i) and (ii) for “exceeds the benefit for a period of 18 months after such determination is made”.

Subsec. (b)(1)(C). Pub. L. 115–254, § 133(c)(1), substituted “the Cost-share Program” for “the program established under paragraph (3)”.

Subsec. (b)(3). Pub. L. 115–254, § 133(c)(2)(A), substituted “Cost-share program” for “Contract air traffic control tower program” in heading.

Subsec. (b)(3)(A). Pub. L. 115–254, § 133(c)(2)(B), substituted “Contract Tower Program” for “contract tower program established under subsection (a) and continued under paragraph (1) (in this paragraph referred to as the ‘Contract Tower Program’)”.

Subsec. (b)(3)(B). Pub. L. 115–254, § 133(c)(2)(C), substituted “In carrying out the Cost-share Program” for “In carrying out the program” in introductory provisions.

Subsec. (b)(3)(C). Pub. L. 115–254, § 133(c)(2)(D), substituted “participate in the Cost-share Program” for “participate in the program” in introductory provisions.

Subsec. (b)(3)(D). Pub. L. 115–254, § 133(a)(2), substituted “under the Cost-share Program” for “under the program” and inserted at end “Airports with air service provided under part 121 of title 14, Code of Federal Regulations, and more than 25,000 passenger enplanements in calendar year 2014 shall be exempt from any cost-share requirement under this paragraph.”

Subsec. (b)(3)(E). Pub. L. 115–141 substituted “2012 through 2018” for “2012 through 2017 and not more than \$5,160,822 for the period beginning on October 1, 2017, and ending on March 31, 2018,”.

Subsec. (b)(3)(F). Pub. L. 115–254, § 133(c)(2)(E), substituted “the Contract Tower Program” for “the program continued under paragraph (1)”.

Subsec. (b)(3)(G). Pub. L. 115–254, § 133(a)(4), added subpar. (G).

Subsec. (b)(4)(A)(i)(III), (ii)(III). Pub. L. 115–254, § 133(a)(3)(A), inserted “, including remote air traffic control tower equipment certified by the Federal Aviation Administration” after “1996”.

Subsec. (b)(4)(B)(i)(D). Pub. L. 115–254, § 133(a)(3)(B), substituted “Contract Tower Program” for “contract tower program established under subsection (a) and continued under paragraph (1) or the pilot program established under paragraph (3)”.

Subsec. (b)(4)(C). Pub. L. 115-254, § 133(a)(3)(C), struck out subpar. (C). Text read as follows: “The Federal share of the cost of construction of a nonapproach control tower under this paragraph may not exceed \$2,000,000.”

Subsecs. (d), (e). Pub. L. 115-254, § 133(b), added subsecs. (d) and (e).

2017—Subsec. (b)(3)(E). Pub. L. 115-63 inserted “and not more than \$5,160,822 for the period beginning on October 1, 2017, and ending on March 31, 2018,” after “fiscal years 2012 through 2017”.

2016—Subsec. (b)(3)(E). Pub. L. 114-190 substituted “fiscal years 2012 through 2017” for “fiscal years 2012 through 2015 and not more than \$8,193,750 for the period beginning on October 1, 2015, and ending on July 15, 2016.”

Pub. L. 114-141 substituted “\$8,193,750 for the period beginning on October 1, 2015, and ending on July 15, 2016,” for “\$5,175,000 for the period beginning on October 1, 2015, and ending on March 31, 2016.”

2015—Subsec. (b)(3)(E). Pub. L. 114-55 inserted “and not more than \$5,175,000 for the period beginning on October 1, 2015, and ending on March 31, 2016,” after “fiscal years 2012 through 2015”.

2014—Subsec. (b)(3)(D). Pub. L. 113-76 and Pub. L. 113-235, which identically directed substitution of “benefit, with the maximum allowable local cost share capped at 20 percent.” for “benefit.”, could not be executed because of the prior amendment by Pub. L. 112-55. See 2011 Amendment note below.

2012—Subsec. (b)(1). Pub. L. 112-95, § 147(a)(1), designated existing provisions as subpar. (A), inserted par. and subpar. headings, and added subpars. (B) and (C).

Subsec. (b)(2). Pub. L. 112-95, § 147(a)(2), inserted heading.

Subsec. (b)(3)(E), (F). Pub. L. 112-95, § 147(b), added subpars. (E) and (F) and struck out former subpar. (E). Prior to amendment, text of subpar. (E) read as follows: “Of the amounts appropriated pursuant to section 106(k), not more than \$6,500,000 for fiscal 2004, \$7,000,000 for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007 may be used to carry out this paragraph.”

Subsec. (b)(4)(C). Pub. L. 112-95, § 147(c), substituted “\$2,000,000” for “\$1,500,000”.

Subsec. (c). Pub. L. 112-95, § 147(d), added subsec. (c). 2011—Subsec. (b)(3)(D). Pub. L. 112-55 substituted “benefit, with the maximum allowable local cost share capped at 20 percent.” for “benefit.”

2003—Subsec. (a). Pub. L. 108-176, § 105(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “The Secretary of Transportation shall ensure that an agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility.”

Subsec. (b)(2). Pub. L. 108-176, § 105(2), added par. (2) and struck out former par. (2) which read as follows: “The Secretary may make a contract, on a sole source basis, with a State or a political subdivision of a State to allow the State or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the State or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the State or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.”

Subsec. (b)(3). Pub. L. 108-176, § 105(3)(A), (B), struck out “PILOT” before “PROGRAM” in par. heading, before “program to contract” in subpar. (A), before “program, the Secretary” in subpars. (B) and (C), and before “program exceed” in subpar. (D).

Subsec. (b)(3)(A). Pub. L. 108-7, § 370(b)(2)(A), substituted “nonapproach control towers, as defined by

the Secretary,” for “Level I air traffic control towers, as defined by the Secretary.”

Subsec. (b)(3)(E). Pub. L. 108-176, § 105(3)(C), substituted “\$6,500,000 for fiscal 2004, \$7,000,000 for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007” for “\$6,000,000 per fiscal year”.

Pub. L. 108-7, § 370(b)(2)(B), substituted “Of” for “Subject to paragraph (4)(D), of”.

Subsec. (b)(4). Pub. L. 108-7, § 370(b)(1), reenacted heading without change and amended text generally. Prior to amendment, par. authorized the Secretary to provide grants under this subchapter to not more than two airport sponsors for the construction of a low-level activity visual flight rule (level 1) air traffic control tower.

Subsec. (b)(4)(C). Pub. L. 108-176, § 105(4), substituted “\$1,500,000” for “\$1,100,000”.

2000—Subsec. (b)(3), (4). Pub. L. 106-181 added pars. (3) and (4).

### 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.

#### SAVINGS PROVISION

Pub. L. 108-7, div. I, title III, § 370(b)(3), Feb. 20, 2003, 117 Stat. 426, provided that: “Notwithstanding the amendments made by this section [amending this section and section 47102 of this title], the towers for which assistance is being provided on the day before the date of enactment of this Act [Feb. 20, 2003] under section 47124(b)(4) of title 49, United States Code, as in effect on such day, may continue to be provided such assistance under the terms of such section.”

#### FAA CONTRACT TOWER WORKFORCE AUDIT

Pub. L. 118-63, title VI, § 605, May 16, 2024, 138 Stat. 1224, provided that:

“(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act [May 16, 2024], the inspector general of the Department of Transportation shall initiate an audit of the workforce needs of the Contract Tower Program, as established under section 47124 of title 49, United States Code.

“(b) CONTENTS.—In conducting the audit required under subsection (a), the inspector general shall, at a minimum—

“(1) review the assumptions and methodologies used in assessing FAA [Federal Aviation Administration] contract towers staffing levels and determine the adequacy of staffing levels at such towers;

“(2) evaluate the supply and demand of trained and certificated personnel prepared for work and such towers;

“(3) examine efforts to establish an air traffic controller training program or curriculum to allow contract tower contractors to conduct—

“(A) initial training of controller candidates employed or soon to be employed by such contractors who do not have a Control Tower Operator certificate or a FAA tower credential;

“(B) any initial training for controller candidates who have completed an approved Air Traffic Collegiate Training Initiative program from an accredited school that has a demonstrated successful curriculum; or

“(C) on-the-job training of such candidates described in subparagraphs (A) or (B);

“(4) assess whether establishing pathways to allow contract tower contractors to use the air traffic tech-

nical training academy of the FAA, or other means such as higher educational institutions, to provide initial technical training for air traffic controllers employed by such contractors could improve the workforce needs of the contract tower program and any related impact such training may have on air traffic controller staffing more broadly; and

“(5) consult with the exclusive bargaining representative of the air traffic controllers certified under section 7111 of title 5, United States Code.

“(c) REPORT.—Not later than 90 days after the completion of the audit under subsection (a), the inspector general shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report on the findings of such audit and any recommendations as a result of such audit.

“(d) IMPLEMENTATION.—The Administrator [of the Federal Aviation Administration] shall take such actions as are necessary to implement any recommendations included in the report required under subsection (c) with which the Administrator concurs.

“(e) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as a delegation of authority by the Administrator to air traffic control contractors for the purposes of issuing initial certifications to air traffic controllers.”

#### AIR TRAFFIC CONTROL TOWER SAFETY

Pub. L. 118–63, title VI, §606, May 16, 2024, 138 Stat. 1225, provided that: “In designing, adopting a design, or constructing an air traffic control tower based on a previously adopted design, the Administrator [of the Federal Aviation Administration] shall prioritize the safety of the national airspace system, the safety of employees of the Administration, the operational reliability of such air traffic control tower, and the costs of such tower.”

#### FEDERAL CONTRACT TOWER WAGE DETERMINATIONS AND POSITIONS

Pub. L. 118–63, title VI, §611, May 16, 2024, 138 Stat. 1226, provided that:

“(a) IN GENERAL.—The Secretary [of Transportation] shall request that the Secretary of Labor—

“(1) review and update, as necessary, including to account for cost-of-living adjustments, the basis for the wage determination for air traffic controllers who are employed at air traffic control towers operated under the Contract Tower Program established under section 47124 of title 49, United States Code;

“(2) reassess the basis for air traffic controller occupation codes;

“(3) create a new wage determination category or occupation code for managers of air traffic controllers who are employed at air traffic control towers operated under the Contract Tower Program; and

“(4) consult with the Administrator [of the Federal Aviation Administration] in carrying out the requirements of paragraphs (1) through (3).

“(b) REPORT.—Not later than 2 years after the date of enactment of this Act [May 16, 2024], the Secretary, in consultation with the Secretary of Labor, shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report that includes—

“(1) a description of the findings and conclusions of the review and reassessment made under subsection (a);

“(2) an explanation of and justification for the basis for the wage determination; and

“(3) a description of the actions taken by the Department of Transportation and the Department of Labor to ensure that contract tower air traffic controller wages are adjusted for inflation and are assigned the appropriate occupation codes.”

#### LIST OF REPLACED AIR TRAFFIC CONTROL TOWER FACILITIES

Pub. L. 118–63, title VI, §624(c), May 16, 2024, 138 Stat. 1241, provided that: “The Administrator [of the Federal Aviation Administration] shall establish, maintain, and publish on the website of the FAA [Federal Aviation Administration] a list of the following:

“(1) All air traffic control tower facilities replaced within the 10-year period preceding the date of enactment of this Act [May 16, 2024].

“(2) Any air traffic control tower facilities for which the Administrator has made a determination requiring replacement, but for which such replacement has not yet been completed.”

#### PILOT PROGRAM FOR TRANSITIONING TO FAA TOWERS

Pub. L. 118–63, title VI, §625(a), May 16, 2024, 138 Stat. 1241, provided that:

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [May 16, 2024], the Administrator [of the Federal Aviation Administration] shall establish a pilot program to convert high-activity air traffic control towers operating under the Contract Tower Program as established under section 47124 of title 49, United States Code, (in this section referred to as the ‘Contract Tower Program’) to a level I (Visual Flight Rules) tower staffed by the FAA [Federal Aviation Administration].

“(2) PRIORITY.—In selecting air traffic control towers to participate in the pilot program established under paragraph (1), the Administrator shall prioritize air traffic control towers operating under the Contract Tower Program that—

“(A) either—

“(i) had over 200,000 annual tower operations in calendar year 2022; or

“(ii) served a small hub airport with more than 900,000 passenger enplanements in calendar year 2021;

“(B) are either currently owned by the FAA or are constructed to FAA standards; and

“(C) operate within complex airspace, including airspace that serves air carrier, general aviation, and military aircraft.

“(3) TOWER SELECTION.—The number of air traffic control towers selected to participate in the pilot program established under paragraph (1) shall be determined based on the availability of funds for the pilot program and the interest of the airport sponsor related to such facility.

“(4) CONTROLLER RETENTION.—With respect to any high-activity air traffic control tower selected to be converted under the pilot program established under paragraph (1), the Administrator shall appoint to the position of air traffic controller any air traffic controller who—

“(A) is employed at such air traffic control tower as of the date on which the Administrator selects such tower to be converted;

“(B) meets the qualifications contained in section 44506(f)(1)(A) of title 49, United States Code; and

“(C) has all other pre-employment qualifications required by law to be a certified controller of the FAA.

“(5) SAFETY ANALYSIS.—

“(A) IN GENERAL.—The Administrator shall conduct a safety analysis to determine whether the conversion of any air traffic control tower described in paragraph (1) negatively impacts aviation safety at such air traffic control tower and take such actions needed to address any negative impact.

“(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress [Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives] a report describing the results of the safety analysis under subparagraph (A), any actions taken

to address any negative impacts to safety, and the overall results of the pilot program established under this subsection.

“(6) AUTHORIZATION OF APPROPRIATIONS.—Out of amounts made available under section 106(k) of title 49, United States Code, there is authorized to be appropriated to carry out this subsection \$30,000,000 to remain available for 5 fiscal years.”

APPROVAL OF CERTAIN APPLICATIONS FOR THE  
CONTRACT TOWER PROGRAM

Pub. L. 115-254, div. B, title I, §133(d), Oct. 5, 2018, 132 Stat. 3209, provided that:

“(1) IN GENERAL.—If the Administrator of the Federal Aviation Administration has not implemented a revised cost-benefit methodology for purposes of determining eligibility for the Contract Tower Program before the date that is 30 days after the date of enactment of this Act [Oct. 5, 2018], any airport with an application for participation in the Contract Tower Program pending as of January 1, 2017, shall be approved for participation in the Contract Tower Program if the Administrator determines the tower is eligible under the criteria set forth in the Federal Aviation Administration report entitled ‘Establishment and Discontinuance Criteria for Airport Traffic Control Towers’, and dated August 1990 (FAA-APO-90-7).

“(2) REQUESTS FOR ADDITIONAL AUTHORITY.—The Administrator shall respond not later than 60 days after the date the Administrator receives a formal request from an airport and air traffic control contractor for additional authority to expand contract tower operational hours and staff to accommodate flight traffic outside of current tower operational hours.

“(3) DEFINITION OF CONTRACT TOWER PROGRAM.—In this section [probably means ‘subsection’], the term ‘Contract Tower Program’ has the meaning given the term in section 47124(e) of title 49, United States Code, as added by this Act.”

NONAPPROACH CONTROL TOWERS

Pub. L. 108-7, div. I, title III, §370(c), Feb. 20, 2003, 117 Stat. 426, provided that:

“(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a lease agreement or contract agreement with a private entity to provide for construction and operation of a non-approach control tower as defined by the Secretary of Transportation.

“(2) TERMS AND CONDITIONS.—An agreement entered into under this section—

“(A) shall be negotiated under such procedures as the Administrator considers necessary to ensure the integrity of the selection process, the safety of air travel, and to protect the interests of the United States;

“(B) may provide a lease option to the United States, to be exercised at the discretion of the Administrator, to occupy any general-purpose space in a facility covered by the agreement;

“(C) shall not require, unless specifically determined otherwise by the Administrator, Federal ownership of a facility covered under the agreement after the expiration of the agreement;

“(D) shall describe the consideration, duties, and responsibilities for which the United States and the private entity are responsible;

“(E) shall provide that the United States will not be liable for any action, debt, or liability of any entity created by the agreement;

“(F) shall provide that the private entity may not execute any instrument or document creating or evidencing any indebtedness with respect to a facility covered by the agreement unless such instrument or document specifically disclaims any liability of the United States under the instrument or document; and

“(G) shall include such other terms and conditions as the Administrator considers appropriate.”

USE OF APPORTIONMENTS TO PAY NON-FEDERAL SHARE  
OF OPERATION COSTS

Pub. L. 108-7, div. I, title III, §370(d), Feb. 20, 2003, 117 Stat. 427, provided that:

“(1) STUDY.—The Secretary of Transportation shall conduct a study of the feasibility, costs, and benefits of allowing the sponsor of an airport to use not to exceed 10 percent of amounts apportioned to the sponsor under section 47114 to pay the non-Federal share of the cost of operation of an air traffic control tower under section 47124(b) of title 49, United States Code.

“(2) REPORT.—Not later than 1 year after the date of enactment of this Act [Feb. 20, 2003], the Secretary shall transmit to Congress a report on the results of the study.”

CONTRACT TOWER ASSISTANCE

Pub. L. 103-305, title V, §508, Aug. 23, 1994, 108 Stat. 1596, provided that: “The Secretary shall take appropriate action to assist communities where the Secretary deems such assistance appropriate in obtaining the installation of a Level I Contract Tower for those communities.”

§ 47124a. Accessibility of certain flight data

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term “Administration” means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(3) APPLICABLE INDIVIDUAL.—The term “applicable individual” means an individual who is the subject of an investigation initiated by the Administrator related to a covered flight record.

(4) CONTRACT TOWER.—The term “contract tower” means an air traffic control tower providing air traffic control services pursuant to a contract with the Administration under section 47124.

(5) COVERED FLIGHT RECORD.—The term “covered flight record” means any air traffic data (as defined in section 2(b)(4)(B) of the Pilot’s Bill of Rights (49 U.S.C. 44703 note)), created, maintained, or controlled by any program of the Administration, including any program of the Administration carried out by employees or contractors of the Administration, such as contract towers, flight service stations, and controller training programs.

(b) PROVISION OF COVERED FLIGHT RECORD TO ADMINISTRATION.—

(1) REQUESTS.—Whenever the Administration receives a written request for a covered flight record from an applicable individual and the covered flight record is not in the possession of the Administration, the Administrator shall request the covered flight record from the contract tower or other contractor of the Administration in possession of the covered flight record.

(2) PROVISION OF RECORDS.—Any covered flight record created, maintained, or controlled by a contract tower or another contractor of the Administration that maintains covered flight records shall be provided to the Administration if the Administration requests the record pursuant to paragraph (1).

(3) NOTICE OF PROPOSED CERTIFICATE ACTION.—If the Administrator has issued, or sub-