

**Supplemental Justification
OMB Clearance
Competition Plans, Passenger Facility Charges
2120-0661**

A. Justification

1. Explanation of Need for Information.

Title 49, United States Code, Sections 40117 (k) and 47106 (f) require that a covered airport submit a written competition plan to the Secretary/Administrator in order to receive approval to impose a Passenger Facility Charge (PFC) or to receive a grant under the Airport Improvement Program (AIP). A covered airport is further defined as a medium or large hub airport at which one or two air carriers control more than 50 percent of the passenger boardings.

As specified by Sections 40117 (k) and 47106 (f), the competition plan must include information on the availability of airport gates and related facilities, leasing and sub-leasing arrangements, gate-use requirements, patterns of air service, gate-assignment policy, financial constraints, airport controls over air- and ground-side capacity, whether the airport intends to build or acquire gates that would be used as common facilities, and airfare levels compared to other large airports. In addition to this information, the Secretary/Administrator is required to review any such plan to ensure it meets these requirements and review the implementation of the plan at each covered airport.

The information collected from this submission allows the FAA to approve the collection of PFC revenue and issue grants-in-aid under the AIP for projects which preserve or enhance safety, security, or capacity of the national air transportation system; or which reduce noise or mitigate noise impacts resulting from an airport; or furnish opportunities for enhanced competition between or among air carriers. These projects meet the DOT strategic goals of safety, mobility, human and natural environment, and national security. The legislative history of the requirement states that "the underlying purpose of the Competition Plan is for the airport to demonstrate how it will provide for new entrant access and expansion by incumbent carriers. By forcing the airport to consider this, it would be more likely to direct its AIP and PFC money to that end." House Report 106-513

The information enables the agency to comply with the policy directive of assuring that its programs are carried out consistently with the goals and objectives of the Airline Deregulation Act of 1978 (49 U.S.C. 40101(a), (b), (d), and (f)) to foster airline competition. 49 U.S.C.47101 (d). Since adoption of the requirement, each covered airport has adopted one or more pro-competitive business practices. Low-fare carriers have benefited from the competitive

actions taken by airport managers. At 29 of the 38 airports analyzed in the chart, new or expanded entry or service has occurred, and large carriers have benefited through new lease arrangements and gate change accommodations.

2. Use of Information.

The DOT/FAA will use any information submitted in response to this requirement to carry out the intent of Sections 40117 (k) and 47106 (f), which is to assure that a covered airport has, and implements, a plan that affects its business practices to provide opportunities for competitive access by new entrant carriers or carriers seeking to expand. In particular, Sections 40117(k) and 47106(f) specify that no PFC may be approved for a covered airport and no AIP grant may be made for a covered airport unless the airport has submitted a written competition plan in accordance with the statute. Without this information, the Secretary/Administrator cannot carry out the specific legislative directives contained in the statute. The collection of information will be required from one group – the approximately 40 public agencies that control covered airports.

3. Use of Improved Technology.

In compliance with the Government Paperwork Elimination Act (GPEA), public agencies will be able to submit the required information 100% electronically.

4. Efforts to Identify Duplication.

The same requirement for the submission of Competition Plans exists for both PFC's and the AIP. However, only one submittal periodically will be necessary to meet the requirements of each program (to qualify for AIP grants and/or new PFC collection approval), so no duplication of effort will occur.

5. If the collection of information involves small businesses or other small entities, describe the methods to minimize burden.

All covered airports are relatively large public entities. There are no small businesses or other small entities required to submit information.

6. Describe the consequence to Federal program or policy activities if the collection were conducted less frequently.

The intent of Sections 40117 (k) and 47106 (f) for DOT/FAA program oversight could not be accomplished. DOT/FAA will keep the burden on respondents to a minimum (consistent with statutory requirements). For instance, updates may be accomplished with minimal new information at most airports. In addition, DOT/FAA has also defined that airports meeting the competition plan requirement need only file an initial competition plan and 2

subsequent plan updates unless certain special conditions are met. These special conditions include: (1) the airport has filed a competitive access report as required by Section 424 of Vision 100, codified as 49 U.S.C. 4717 (s) stating it has denied access to an air carrier for gates or facilities within the last six months; or (2) an airport is executing a new master lease and use agreement, or significantly amending a lease and use agreement, including an amendment due to use of Passenger Facility Charge ((PFC) financing of gates.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5.

There are no exceptions to 5 CFR 1320.5.

8. Consultation Outside the Agency.

Public comments were requested with the publication of a 60 day notice in the Federal Register on November 13, 2009, vol. 74, no. 218, page 58676. No comments were received.

9. Payments.

There are no payments or gifts to respondents.

10. Assurance of Confidentiality.

No assurance of confidentiality is given.

11. Sensitive Questions.

No personal information is collected.

12. Estimate of Burden.

The requirements for competition plans affect public agencies controlling medium and large hub airports. These airports generally collect the information required to produce such plans now. Accordingly, the information should be readily available to input into a competition plan.

Specific requirements are as follows:

Title 49, U.S.C. Sections 40117 (k) and 47106 (f) require that the following information serve as the basis for an airport's competition plan: availability of airport gates and related facilities; leasing and sub-leasing arrangements; gate-use requirements; patterns of air service; gate-assignment policy; financial constraints; airport controls over air- and ground-side capacity; whether the airport intends to build or acquire gates that would be used as

common facilities; and airfare levels compared to other large airports. Although this information should be readily available to the airports, it will be necessary for each airport to coordinate, compile, and produce the information in the form of a competition plan. Time to compile the information and produce updates and revisions to each plan could range from 40-200 hours or more depending on the currency of its management systems, the complexity of the airport, and its gate and leasing arrangements. At 5 submittals annually at a 120 hour rate = 600 hours. Costs associated with meeting this requirement for the 5 submittals at the 120 hour rate = 600 hours x \$48 per hour = \$28,800.

NOTE: This workload estimate assumes that public agencies meet minimum information requirements. Some public agencies may prepare more thorough plans, at their option, to fulfill airport management objectives and/or to assist in the justification of airport infrastructure development.

Title 49, U.S.C. Sections 40117 (k) and 47106 (f) also require that the Secretary/Administrator review any plan submitted to ensure that it meets requirements and review its implementation to ensure that each plan is successfully implemented. Accordingly, each covered airport must keep sufficient records for the Secretary/Administrator to make these determinations. Time for recordkeeping associated with this requirement could range from 8-56 hours or more. At 5 locations per year at the 30 hour rate = 80 hours. Costs associated with meeting this requirement for the 5 submittals at the 30 hour rate = 80 hours x \$48 per hour = \$3,840.

NOTE: We do not know the hourly wage for or number of particular employees that may be utilized by public agencies to carry out this program. In addition, some public agencies may opt to use paid consultants. Therefore, the hourly rates used above are estimates.

The total burden is 680 hours.

The total cost to the Respondents is \$32,640.

13. Cost Estimates – Respondents.

There are no additional costs not already included in question 12.

14. Cost Estimates – Federal Government.

The total estimated annual cost to the Federal Government is \$3,840. The cost was determined as follows:

Section 155 of AIR 21 will require DOT/FAA coordination, review, and approval of the plans submitted by airports. Such activities are estimated to entail 20 hours per proposed plan per year of a DOT/FAA employee's time at an

average pay per hour of \$35 (equating to an average pay rate for a GS-14 employee). At 5 submittals per year at the 20 hour rate = 100 hours x \$48 per hour = \$4,800.

Section 155 of AIR 21 also requires that the Secretary/Administrator to ensure that each plan be successfully implemented. Such activities are estimated to entail 5 hours per proposed plan per year of a DOT/FAA employee's time at an average pay per hour of \$48 (equating to an average pay rate for a GS-14 employee). At 5 locations per year at the 5 hour rate = 25 hours x \$48 per hour = \$1,200.

Other Federal Burden. It is estimated that in addition to the above requirements there will be a Federal burden associated with administrative functions to generally oversee the coordination and review of the plans, such as miscellaneous recordkeeping and training functions. Such additional oversight is estimated to entail approximately 5 hours per location at the \$48 per hour rate. At 5 locations per year at the 5 hour rate = 25 hours x \$48 per hour = \$1,200.

15. Explanation of Changes.

There are no changes to existing requirements or forms from the previous submission.

16. Publication.

There are no publications issued.

17. Expiration Date for OMB Approval.

No exemption from displaying the expiration date is requested.

18. Certification for Paperwork Reduction Act Submissions.

There are no exceptions to this certification.