

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, gate-assignment policy, financial constraints, airport controls over air- and ground-side capacity, and whether the airport intends to build or acquire gates that would be used as common facilities. In addition to this information, the Secretary/Administrator is required to review any such plan to ensure it meets these requirements and review, from time to time, the implementation of the plan at each covered airport.

The information collected from this submission allows the FAA to issue grants-in-aid under the AIP for airport improvement projects and to approve the collection of PFC revenue and 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 (106th Cong., 2d Sess. 2000, at 165).

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. Many of the airports have designated competition access officials to assist accommodation by new entrant carriers or those carriers seeking to expand at the airport, and have modified or streamlined requirements that previously delayed or barred access by new entrants or by a potential competitor to the dominant airline. A large number of the covered airports have provided for pre-approval of sublease fees, thereby ensuring that a carrier subleasing a gate is paying only a reasonable fee to the tenant airline. Covered airports additionally are using PFC revenue to finance terminal expansion projects with short-term, preferential or common-use gate arrangements, benefiting both new entrant and legacy carriers.

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), 44 U.S.C. § 3501, *et seq.*, 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. 47107 (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 June 27, 2013, vol. 78, no. 124, page 38794-38795. 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; gate-assignment policy; financial constraints; airport controls over air- and ground-side capacity; and whether the airport intends to build or acquire gates that would be used as common facilities. 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 40-180 hours or more depending on the currency of its management systems, the complexity of the airport, and its gate and leasing arrangements. At seven submittals annually at a 120 hour rate = 840 hours. Costs associated with meeting this requirement for the seven submittals at the 120 hour rate = 840 hours x \$51 per hour = \$42,840.

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 seven locations per year at the 30 hour rate = 210 hours. Costs associated with

meeting this requirement for the seven submittals at the 30 hour rate = 210 hours x \$51 per hour = \$10,710.

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 1,050 hours.

The total cost to the Respondents is \$53,550.

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 \$10,710. The cost was determined as follows:

Section 155 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) Pub. L. No. 106–181, 114 Stat. 61 (Apr. 5, 2000) 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 \$51 (equating to an average pay rate for a GS-14 employee). At Seven submittals per year at the 20 hour rate = 140 hours x \$51 per hour = \$7,140.

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 five hours per proposed plan per year of a DOT/FAA employee’s time at an average pay per hour of \$51 (equating to an average pay rate for a GS-14 employee). At Seven locations per year at the five hour rate = 35 hours x \$51 per hour = \$1,785.

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 five hours per location at the \$51 per hour rate. At seven locations per year at the five hour rate = 35 hours x \$51 per hour = \$1,785.

15. Explanation of Changes.

The FAA Modernization and Reform Act of 2012, Pub. L. No. 112-95, 126 Stat. 11 (February 14, 2012) removed the requirements that a covered airport provide information on patterns of air service and airfare levels compared to other large airports thereby reducing the workload for preparation of Competition Plans.

FAA has revised the estimated number of Competition Plans and Competition Plan updates reviewed each year from 5 to 7, resulting in an overall increase in the reported burden.

A review of the previous computation for determining Secretary/Administrator recordkeeping for this requirement showed an error and this computation was revised accordingly.

Salary figures have been updated to reflect current wage rates.

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.