



Federal Aviation Administration

Memorandum

Date: January 24, 2022

To: Dr. Sharon Block, Acting Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President

From: Robin K. Hunt, Manager, FAA Office of Airport BIL Implementation Team

Subject: OMB Emergency Clearance for New Information Collection Request (ICR): Bipartisan Infrastructure Law Airport Terminal and Tower Project Information

This is a request for an emergency clearance for a new information collection, titled “Bipartisan Infrastructure Law Airport Terminal and Tower Project Information.” This collection is necessary for implementation of the Bipartisan Infrastructure Law (BIL) (P.L. 117-58)¹ which tasks the FAA to address the nation’s aging airport infrastructure. If the FAA does not receive emergency approval, the nation’s airports will not get much needed funding in a timely manner and will not meet the statutory timeline provided by Congress. Also, without approval of emergency processing, the FAA will not be able to fulfill its expanded mission, as directed under the BIL.

Pursuant to 5 Code of Federal Regulations § 1320.13, emergency processing is appropriate where (1) the collection of information is needed prior to the expiration of time periods established under the Paperwork Reduction Act and that collection is essential to the mission of the Agency; and (2) the Agency cannot reasonably comply with the normal clearance procedures because public harm is likely to result if normal clearance procedures are followed. The regulation also provides that emergency processing is appropriate where the use of normal clearance procedures is reasonably likely to cause a statutory deadline to be missed.

¹ Full text available at www.congress.gov/bill/117th-congress/house-bill/3684/text.

This Information Collection is Necessary and Essential to the Mission of the FAA

This information collection is necessary for the FAA to comply with the BIL and perform its mission of providing funding for the nation's airports and aviation facilities. The distribution of funds under BIL will rebuild America's airports and air traffic control towers, as well as bridges, rails, roads, and other critical infrastructure. The BIL identifies project considerations that will help FAA and the nation's airports address safety, environmental, access and equity issues. These considerations include increasing terminal capacity and passenger access, replacing aging infrastructure, achieving compliance with the Americans with Disabilities Act, improving airport access for historically disadvantaged populations, improving energy efficiency, improving airfield safety through terminal relocation and encouraging actual and potential competition. A safe and efficient airspace system is essential to the mission of the FAA.

Without this information, the FAA will not be able to fund airport terminal and tower projects based on considerations outlined in the BIL.

Public Harm is Likely to Result if Emergency Processing is Not Granted

Public harm will likely result if the FAA cannot issue BIL Airport Terminal and Tower Programs grants in a timely manner. The nation's airport infrastructure has many needs including rehabilitation and new development. It is the intent of the BIL to get these much needed funds out to airports as quickly as possible so the flying public will have improved airport infrastructure. The BIL designates the appropriation of BIL funds for airport terminals and towers as an emergency requirement under Congressional spending legislation. This demonstrates Congress's recognition of a necessary and compelling need for immediate funding action to improve this area of the nation's infrastructure. In addition, delay in implementing provisions in the BIL, such as the Airport Terminal and Tower Programs, would delay needed improvements to the nation's aging airport infrastructure. The rapid timeline in the BIL to distribute grant funds shows Congress's intent to get this funding out to the nation's airports quickly.

Use of Normal Clearance Procedures is Reasonably Likely to Cause a Statutory Deadline to be Missed

The BIL was signed on November 15, 2021, and the law directed the FAA to publish a Notice of Funding Opportunity within 60 days of the BIL being signed. However, in consultation with OST, the Notice of Funding Opportunity (NOFO) is planned to be published within 90 days of the BIL being signed. It is reasonably likely that the FAA would miss these statutory deadlines if required to use normal clearance procedures for this information collection. The normal clearance procedures would require separate public comment periods of 30 and 60 days, subsequent review of comments, submission to OMB, and OMB review and approval. It would not be possible to complete these activities within 60 days, as required under the BIL, or even the 90 days currently anticipated from BIL enactment. Emergency clearance for this information collection is therefore requested to enable FAA to meet BIL statutory requirements.

The FAA's Role

To fulfill FAA's mission and the intent of the BIL, FAA is working quickly to get information on needed airport terminal and tower projects. FAA's request for information addresses areas of consideration outlined in the BIL. Historically, part of FAA's mission has been administering airport development grants and has thus been tasked with administering BIL Airport Terminal Program and Tower Program grants.

Upon OMB approval of the emergency clearance, the FAA will publish a 30-day Federal Register Notice to solicit public comments on the collection. The FAA will then complete the normal OMB review process, considering any comment received, and post the required 60-day and 30-day Federal Register Notices.

Due to the compressed timeline set in the BIL and the requirement to release the NOFO no later than February 15, 2022, the FAA respectfully requests approval by February 11, 2022