

Supporting Statement
Competition Plans, Passenger Facility Charges
2120-0661

- Wage estimates were updated to reflect current market rates.

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

Title 49 U.S.C. §§ 40117(k) and 47106(f) require that a covered airport submits 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 in the most recent calendar year for which data exists. (See 49 U.S.C. § 47106(f) (4)).

As specified by §§ 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 Federal Aviation Administration (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 Department of Transportation 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 air carriers. By forcing the airport to consider this, it would be more likely to direct its AIP and PFC money to that end.” House Conference 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 as stated in 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 air 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 air carriers or those air 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 (preferably no more than 5 years), preferential or common-use gate arrangements, benefiting both new entrant and legacy air carriers.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The collection of this information is required from one group of entities – the approximately 39 public agencies that control covered airports¹. The agencies are required to submit this information to obtain the benefit of receiving AIP grants and being approved to collect PFC revenue. In particular, §§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.

This collection asks the public agencies to report 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. The DOT/FAA uses information submitted in response to this requirement to carry out the intent of §§ 40117(k) and 47106(f), which is to assure that a covered airport has, and implements, a plan to provide opportunities for competitive access by new entrant air carriers or air carriers seeking to expand. The information allows FAA to assess the competitive environment at airports and provide feedback to the airport on suggested improvements. Airports are interested in this analysis as the FAA occasionally receives requests from airports to review competition plans outside of the required window in order to receive updated analysis on their competitive environments.

Once an airport qualifies as covered the collection frequency is as follows: it is required to send its initial competition plan as soon as possible. Upon approval by the FAA of the initial competition plan, the public agency must submit two (2) competition plan updates, in 18-month intervals, while it remains a covered airport. Once an airport has submitted, and the FAA has approved, its initial competition plan and the subsequent two (2) updates, a competition plan is only required if the airport (1) has filed a competitive access report as required by Section 424 of Vision 100, codified as 49 U.S.C. § 47107(r) stating it has denied access to an air carrier for gates or facilities within the last six months; or (2) is executing a new master lease and use agreement, or significantly amending a lease and use agreement, including an amendment due to use of PFC financing of gates. If an airport loses its status as a covered airport, no further competition plan updates are required unless or until the airport becomes covered again.

This information is received by FAA and not disseminated further. However, the FAA encourages public agencies to post their submission on their website for public viewing.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

In compliance with the Government Paperwork Elimination Act (GPEA), 44 U.S.C. § 3501, *et seq.*, public agencies are able to submit the required information 100% electronically. The FAA asks each public agency submitting a competition plan to post the plan to the public agency's website for public viewing.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

¹ The number of published covered airports for fiscal years 2021, 2022 and 2023 are 38, 40 and 38 respectively. 39 is the average.

The same requirement for the submission of Competition Plans exists for both PFC's and the AIP. However, only one submittal 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 occurs.

5. If the collection of information involves small businesses or other small entities, describe the methods used 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 is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Without this collection, FAA's responsibilities under §§ 40117(k) and 47106(f) could not be accomplished. DOT/FAA will keep the burden on respondents to a minimum (consistent with statutory requirements). For instance, competition plan updates may be accomplished with minimal new information at most airports. In addition, DOT/FAA has also determined 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 49 U.S.C. § 47107(s) stating that 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 PFC financing of gates.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

There are no exceptions.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on June 23, 2023 (88 FR 41184) solicited public comment. One comment was received.

The Port Authority of New York New Jersey submitted comments in response to the 60-day notice.

1. FAA's estimate of the annual public burden could be improved. FAA estimates the annual public burden per Competition plan to be 150 hours or roughly 19 business days. The Port Authority finds this estimate to be inaccurate, particularly for large hub airports when added due diligence seems to be necessary to ensure comprehensive reporting.

- a. The FAA will take this comment into consideration.

2. The Port Authority assumes the FAA's burden was more than 19 hours, as the FAA reviewed this plan and submitted approval over the course of 293 calendar days, or 197 business days. Notwithstanding any changes to the reporting requirements for covered airports, the Port Authority recommends that FAA modify its estimated administrative burden to provide greater transparency to covered airports regarding how long they would be anticipated to await review and approval of a Competition Plan.

a. The FAA estimates the FAA's burden hours to review each Competition Plan or Plan Update to be 30 hours. The competition plan and plan update require coordination with multiple offices. The burden hours do not include the time allowed for coordination with the offices reviewing the plans. Some Competition Plans or Plan Updates are more complex and/or require further clarification and coordination. Each clarification event requires additional time to allow for review and response of any concerns. Only actual time spent by FAA personnel reviewing the documents is used to calculate the burden hours.

3. FAA may consider improvements that could shorten its review and approval process of submitted competition plans.

a. The FAA will take this comment into consideration.

4. Certain capacity-constrained airports do not have sufficient information regarding air carrier access to airports to prepare meaningful competition plans. FAA's exclusive control over Slot Coordination and Schedule Facilitation severely impacts the ability of those airports to encourage new entrants and incumbents to commence or expand service.

a. The FAA takes into consideration unique circumstances of each airport when reviewing the competition plans.

5. The proposed collection of information may be unnecessary for the FAA's performance when triggered by extraordinary circumstances.

a. 49 U.S.C. 47106(f) does not allow for this exception.

6. The composition of passenger enplanement during the period based on 2020 passenger boardings were highly altered by (1) the effect of the COVID-19 pandemic on global air travel and (certain air carriers' response to FAA's waiver of the slot usage requirement.

a. 49 U.S.C. 47106(f) did not have an exception for the effects of COVID-19 in determining covered airports. JFK continues to be a covered airport in FY 2024 using CY 2022 enplanement numbers.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

There are no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

No assurance of confidentiality is given.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No personal information is collected.

12. Provide estimates of the hour burden of the collection of information.

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. The information should be readily available to input into a competition plan.

Specific requirements are as follows:

Title 49 U.S.C. §§ 40117(k) and 47106(f) require that the following information serves 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. The FAA estimates the average number of hours per response to be **120** hours. Based on prior data, the FAA expects to receive an average of 5 competition plan submittals annually.

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

Title 49, U.S.C. §§ 40117(k) and 47106(f) also require the Secretary/Administrator to review any plan submitted to ensure that it meets requirements and to review the plan's implementation to ensure that each plan is successfully implemented. 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. The FAA estimates an average of **30** hours of record keeping per implementation.

Summary (Annual Numbers)	Reportin g	Recordkeeping
# of Respondents	5	5
# of Responses per respondent	1	1
Hours per Response	120	30
Total # of responses	5	5
Total burden (hours)	600	150

Cost data is taken from US Department of Labor, Bureau of Labor Statistics Occupational Employment Statistics for labor category 13-0000, Business and Financial Operations Occupations because the

collection could be completed by staff in a wide range of business analyst positions and pay ranges, or the respondent can hire a consultant. The 2022 mean hourly wage rate for 13-0000 is \$41.39 (<https://www.bls.gov/oes/current/oes130000.htm>). The average fringe benefit rate for government employees is 38% (U.S. Department of Labor, Bureau of Labor Statistics News Release 10:00 ET, Friday March 17, 2023; <https://www.bls.gov/news.release/pdf/ecec.pdf>); and the average overhead rate is 17% (Cody Rice, U.S. Environmental Protection Agency, “Wage Rates for Economic Analyses of the Toxics Release Inventory Program” (June 10, 2002), <https://www.regulations.gov/document?D=EPA-HQ-OPPT-2014-0650-0005>). We calculate the total as follows

2022 Mean Hourly Wage Rate	\$41.39
Average Fringe Benefit Rate	38%
Total Hourly Benefit Rate	\$15.72
Average Overhead Rate	17%
Total Hourly Overhead Rate	\$7.03
Total Rate	\$64.14
Total Annual Hours	750
Total Annual Cost	\$48,105

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.

No additional costs associated with this collection.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

Title 49 U.S.C. § 47106(f) requires 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. Section 47106(f) 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. 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.

Cost data is taken from OPM’s hourly rate for a GS-14 in the Washington DC Locality area. (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/20Tables/html/DCB_h.aspx). The average fringe benefit rate for government employees is 38% (U.S. Department of Labor, Bureau of Labor Statistics News Release 10:00 ET, Friday March 17, 2023; <https://www.bls.gov/news.release/pdf/ecec.pdf>); and the average overhead is 17% (Cody Rice, U.S. Environmental Protection Agency, “Wage Rates for Economic Analyses of the Toxics Release Inventory Program” (June 10, 2002), <https://www.regulations.gov/document?D=EPA-HQ-OPPT-2014-0650-0005>). We calculate the total as follows

Operational expenses to the government come from signed approval letters that are emailed to the respondents.

2023 Mean Hourly Wage Rate	\$71.88
Average Fringe Benefit Rate	38%
Total Hourly Benefit Rate	\$27.31
Average Overhead Rate	17%
Total Hourly Overhead Rate	\$12.21
Total Rate	\$111.40
Total Annual Hours	150
Total Annual Cost	\$16,710

15. Explain the reasons for any program changes or adjustments.

In the previous submission the FAA estimated number of Competition Plans and Competition Plan updates reviewed each year at five. The current request maintains the number of Competition Plan updates reviewed each year at five. Since most covered airports have completed the required initial plan and two updates, the FAA is only anticipating receiving periodic updates when triggers are met. The recordkeeping time estimates remained the same. Wage estimates were updated to reflect current market rates.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There are no publications issued.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

No exemption from displaying the expiration date is requested.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

There are no exceptions to this certification.