



Federal Aviation Administration

Memorandum

Date: January 22, 2020

To: Regional Airports Directors, 610 Managers, and ADO Managers

From: Robert J. Craven, Director, Office of Airport Planning and Programming,
APP-1

Subject: INFORMATION: PFC Update, PFC 73-20

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PFC 73-20. Streamlined Procedures for Passenger Facility Charge (PFC) Authorizations at Small-, Medium-, and Large-Hub Airports.

This PFC update letter provides Federal Aviation Administration (FAA) Airport District Offices/Regional Offices (ADOs/ROs) with interim, internal guidance on processing applications to impose and/or use PFCs received from small-, medium-, and large-hub airports. The draft guidance in this letter applies to all PFC applications received after January 22, 2020.

Section 121 of the Federal Aviation Administration (FAA) Reauthorization Act of 2018 (Pub. L. 115-254, October 5, 2018), as codified at 49 U.S.C. § 40117(l), authorizes FAA to implement a pilot program to streamline processing of PFC authorizations to include small-, medium-, and large-hub airports. FAA, through a public process, intends to develop procedures for public agencies to follow in implementing this provision. However, FAA recognizes the immediate need for expeditious processing of PFC applications. Therefore, FAA is using this update guidance to implement Section 121 internally. This interim, internal implementation will streamline the review of PFC applications for small-, medium-, and large-hub airports meeting eligible criteria.

This interim, internal guidance does not change the current PFC application procedures that public agencies must follow. All applications must meet the requirements of 49 U.S.C. § 40117 and 14 CFR Part 158.

Applications and Projects Ineligible for Streamlining

All PFC applications received by FAA ADOs/ROs from small-, medium-, or large-hub airports are to be processed using the streamlined procedures identified below unless such applications are excluded in accordance with applicable PFC guidance.

Consistent with PFC Order 5500.1, Paragraph 1-16, applications involving the following are ineligible for streamlined processing:

- (a) Significant policy precedent;
- (b) Significant legal issues, as determined by the FAA's Chief Counsel;
- (c) Significant controversy, as evidenced by significant opposition to the FAA's proposed action by the applicant or other airport authorities, airport users, Federal, State or local agencies, elected officials, or communities;
- (d) Multimodal projects; or
- (e) Significant airport noise, access, or revenue diversion issues, including compliance with 49 U.S.C. 47521 et seq. (the Airport Noise and Capacity Act of 1990 (ANCA) and 49 U.S.C. 47111(e) (Action on Grant Assurances Concerning Airport Revenues)).

Additionally, the following types of projects tend to be unique and complex, and they require more time for review, thus such projects are ineligible for streamlined processing:

- (a) Debt Service on otherwise ineligible projects;
- (b) Blending of two or more PFC decisions to obtain a uniform collection level;
- (c) Terminal building projects in excess of \$25 million, except stand-alone passenger boarding bridges.¹

FAA Procedures

General

The information below specifies the procedures the FAA ADO/RO must follow when processing an application from a small-, medium-, or large-hub airport to impose a PFC and/or to use PFC revenue on projects that do not meet one of the above exclusions.

Definitions

Small-, medium-, or large-hub airport means a commercial service airport (as defined in 49 U.S.C. § 47102) that has 0.05 percent or greater of the passenger boardings in the United States, in the prior calendar year, on aircraft in service in air commerce.

¹ The \$25 million threshold of requested PFC funding is calculated as the sum of all terminal building-related projects (except stand-alone passenger boarding bridges) contained in an application.

Procedures

(a) ***Review of Applications.*** FAA review of PFC applications submitted by small-, medium-, and large-hub airports.

(1) The FAA ADO/RO will review the public agency's application to determine that:

(A) There are no projects that meet one of the exclusions above.

(B) The amount and duration of the PFC will not result in revenue that exceeds the amount necessary to finance the project(s).

(C) Each proposed project meets the project eligibility requirements of 14 CFR § 158.15. The project does not have to be reviewed for eligibility and justification (§ 158.15(b) and (c)) if:

- (1) a project is in an existing Airport Improvement Program (AIP) grant;
- (2) there is no scope change to the project; and
- (3) the requested PFC amount is only for the local match of the AIP grant.

(D) Each project proposed at a PFC level above \$3 meets the eligibility requirement of 14 CFR § 158.17(a)(3).

- (1) The ADO/RO should make the airside needs test determination after a review of any available planning documents, airport inspection and certification reports, and the Airport's Capital Improvement Plan (ACIP) (*See* PFC Order 5500.1, Par.10-8).

(E) Project costs are reasonable.

(F) All applicable airport layout plan, airspace, and environmental requirements have been met for each project. No review is required if:

- (1) a project is in an existing AIP grant;
- (2) there is no scope change to the project; and
- (3) the requested PFC amount is only for the local match of the AIP grant.

(G) Any request by the public agency to exclude any class of carriers from the requirement to collect the PFC is reasonable, not arbitrary, nondiscriminatory, and otherwise complies with the law.

(H) The consultation and public comment processes complied with 14 CFR § 158.23 and § 158.24.

(I) The public agency is in compliance with:

- (1) 49 USC § 47524 and § 47526 governing airport noise and access restrictions;

- (2) 49 USC § 47107(b) governing the use of airport revenue; and
 - (3) 49 USC § 47106(f) requirements for competition plans.
- (2) Because of the short processing time of the streamlined procedures, the FAA ADO/RO cannot request additional public comment through a Federal Register notice for a streamlined PFC application.
 - (3) The FAA ADO/RO will indicate its findings on either the Attachment B or Attachment H, as submitted by the public agency.
 - (4) Unlike the traditional PFC application process, the FAA ADO/RO is not required to make a separate determination that an application reviewed under this streamlined process is or is not substantially complete. The decision on the application will fulfill this statutory function.
 - (5) The FAA ADO/RO may request supplemental information that has been previously subject to the consultations required by 49 U.S.C. 40117(l)(2).
 - (6) Finally, the FAA ADO/RO will review all comments filed during the air carrier consultation and public notice processes and consider them in issuing its acknowledgement of the application as required by 49 U.S.C. 40117(l)(2).
- (b) **Acknowledgements.** Within 30 days of receipt of the public agency's application, the FAA ADO/RO will issue a written acknowledgment of the public agency's intent to impose and/or use PFC revenue for the various projects.
- (1) The FAA's acknowledgment may concur with all proposed projects, may object (or partially object) to some of the proposed projects, or may object to the application in its entirety.
 - (2) The FAA's acknowledgment will include the reason(s) for any objection(s).
 - (3) The FAA ADO/RO will respond to any disagreements resulting from the air carrier or public notice processes in its acknowledgement letter.
 - (4) The FAA ADO/RO will issue an acknowledgement letter to the public agency consistent with the latest approved template.
 - (5) An electronic copy of each acknowledgement letter must be uploaded into SOAR as soon as possible after issuing the letter.
 - (6) As prescribed in 49 USC § 40117(l)(7), an FAA acknowledgment issued under these procedures is not considered an order issued by the Secretary for purposes of 49 USC § 46110 (Judicial Review).

- (c) In accordance with 49 USC § 40117(l)(5), if the FAA ADO/RO does not issue its acknowledgement letter within 30 days of receipt of the public agency's application, the public agency is authorized to impose the PFC as proposed in its application.

Data Collection

The FAA intends to collect data on the streamlined PFC process for a period of one year after issuing this guidance. FAA will use this data to measure program efficiency and effectiveness, and to inform future changes to the PFC program. This data will include, but is not limited to, the following:

- Number of small, medium, and large hubs streamlined applications
- Streamlined application average processing time
- Streamlined application average dollar amount
- Number of traditional applications
- Traditional application average processing time
- Traditional application average dollar amount
- Number of terminal projects processed through the traditional application process

If you have any questions on any of the above information, please contact APP-510 at (202) 267-8375 for further information.