

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2468 SCOMM 103: HOUSE SPEC. COMM. INTL. TRADE & TOURISM, 1997-98

compensation does not increase or decrease with the size of the project. He further stated his job is to give the airport good information so the airport can make good decisions in terms of what to do.

CHAIRMAN COWDERY asked if Mr. King's job came about by the competitive bid process?

MR. KING replied yes, it did. He is a subconsultant to the RISE Alaska team which is headed by Leif Selkregg, and that team was selected in a competitive bid process.

Number 0362

REPRESENTATIVE PHILLIPS remarked that in November the financing plan showed a bonding requirement of \$177 million and today it has increased to \$204 million. She asked Mr. King to explain the difference in the package.

MR. KING responded the package has not changed. He said, "I think one of the comments I would have is, as I was listening to the testimony before about the reference to the numbers -- some of the numbers given out -- 191, 164, 235, 204, 177 et cetera, is that these numbers are all the same project, they're just taking different definitions. It's sort of like saying apples and oranges and bananas. They're all numbers that relate to the project, but they're all taken in a different context."

REPRESENTATIVE PHILLIPS asked if the committee could use the \$177 million figure to work with?

MR. KING asked for the citation from which the \$177 million was

taken.

REPRESENTATIVE PHILLIPS responded it was from November's plan.

Number 0373

KURT PARKAN, Deputy Commissioner, Department of Transportation & Public Facilities, said he believed Representative Phillips was referring to the bottom of the third column on page 2 of the Plan of Finance dated November 5, 1997, which indicates \$176.6 million.

MR. KING explained that number is the result of about six different things. He said, "The total cost of the project in 1997 dollars is and always has been in these numbers that we've been running, \$190,800,000 or \$191 million if people are rounding. That is the starting point. There is an entry next to that, \$26.3 million which represents the federal highway allocation by the state and that gets you to the airport cost of the project in 1997 dollars of \$164,500,000. So, those are three numbers which are talked about a lot - the 191, the 26.3 and the 164.5, but they all are consistent and they all are just different ways of expressing the same project."

REPRESENTATIVE PHILLIPS interjected she was trying to arrive at the difference between the \$176.6 million which is shown as the needed financing in November versus the \$204 million that's shown today.

MR. KING said the \$176.6 million shown in November is the end result of starting with the total project cost and making several assumptions about how the actual financing plan would play out. For example, there's an assumption of 24 months of capitalized interest and what that would cost. That 24 months of capitalized

interest assumption is based upon the assumed interest rates that were in the financial model back in November. The next line item, the credit construction fund earnings, is a number that's based on a couple of assumptions. First, that a single bond issue would be done, which as he explained in the previous meeting, would require the approval of the Internal Revenue Service to allow for a single bond issue. It's based on the assumption of an interest rate for the construction fund earnings over that five year period and it's based on the assumed drawdown schedule of the funds during that five years because all of those considerations impact the earnings. He further explained the next assumption, line item financing costs including bond insurance is an aggregate number which includes the underwriters compensation, the attorneys' compensation and the predominant number is the cost of the municipal bond insurance policy, which is what would be used to get the triple A rating and the lowest cost in the market.

Number 0427

MR. KING said the important thing about all those assumptions is they add up to the \$230 million of total all in costs and there are a number of assumptions he refers to as subtotal subtractions, that yield the \$176.6 million. He noted the \$176.6 million is basically calculated as an estimate of what the real actual financing would cost if all the described assumptions came into play.

Number 0432

MR. KING continued to explain the \$204 million was submitted because when an authorization is done, an outside parameter is set which cannot be exceeded and it's important in that sort of a context to have the outside parameter of what could possibly

happen. The outside parameter of what could possibly happen would be if, for example, the IRS said we could not finance as one bond issue and if it had to be broken up into two bond issues, there would not be the construction fund earnings for the period of time which was originally assumed, so the construction fund earnings would drop substantially and the capitalized interest would not necessarily be the same as assumed. Also, the financing costs would increase because there would be two transactions instead of one. He said all of those are examples of how things could change from the estimate of what we could do back in November. He said, "So taking that into consideration and taking into consideration that we're setting an outside limit that we cannot under any circumstances exceed because it is laid out in the legislation, the decision was made to take the total financing costs all in of \$230 million and subtract a round number of \$26 million representing the highway money from the \$230 million to get to the \$204 million." He apologized for the technical nature of the description, but the subject itself is somewhat technical.

Number 0456

REPRESENTATIVE MULDER said, "I've got a question in relation to the security of this debt in relation to the fact that you've done the modeling for this plan and it's based upon the assumption that there's going to be a percentage of growth in airport traffic -- I don't know, something maybe in the 5 or 6 percentage range or something like that -- and consequently, there's projection of new gates, new ticketing, new baggage claim, new retail. How secure is this debt in the sense of what happens if the growth slows, stagnants, some of these new gates aren't purchased -- how much flexibility is in this plan, in your modeling?"

MR. KING said first the model uses the assumptions which he was given in areas where he does not generate the assumptions himself. In short, he used the activity levels in terms of the enplanement growth which was generated by the consultants that were hired who specialize in that area. Those consultants are TAMS consultants and Joel Hirsh (ph), both of whom are recognized experts. In addition, those enplanement growth assumptions generated by those experts, were consistent with the enplanement assumptions the Federal Aviation Administration (FAA) has. In answer to the first part of Representative Mulder's question, he used enplanement assumptions given to him, but he was comfortable with the assumptions because they had been developed with a great degree of care by people who were qualified to make those assumptions. To the second part of Representative Mulder's question, he said if the assumptions are correct, the financial model shows that the 2002 rates and charges at Anchorage after the completion of this project would be competitive with the triple AE, which is a national study, averages on a national level for the 1995/1996 rates and charges, which is the most recent national study. If the enplanement numbers were wrong and the charges were higher, he believed there is still a comfortable amount of room to have rates and charges which are higher than the model projects, but still equal to or less than what the national averages will be for similar sized airports in the year 2002.

Number 0492

REPRESENTATIVE MULDER asked if the model was predicated on having all the retail space 100 percent occupied and all the gates 100 percent filled and utilized in order to meet the forecast.

MR. KING said, "No, and in fact that's a very good question because

in some earlier considerations internally within the group at the airport, we had talked about that and we ended up using what we consider to be some fairly conservative assumptions that relate to, I think, approximately 80 percent occupancy in the beginning that increases and we have those numbers, I believe they're in the back of one of the gray books -- bear with me one second, I can give that to you -- we assumed that the occupancy in the year 2002 would be 80 percent; 2003 80 percent; 2004 83 percent; 2005 and thereafter 89 percent. And the total vacant square footage that's assumed for the long term, 2005 and thereafter, is 27,000 square feet. There was a lot of discussion about these numbers because you could say that they are conservative or you could say that they're overly conservative, depending on your point of view, but they certainly are conservative numbers and we're not assuming 100 percent occupancy for the model. I would say, however, that when the consultants were designing the facility, they interviewed the airlines that used the airport and had extensive discussions with them about what their space needs would be and the facility was designed in response to the feedback that the consultants got from those discussions. So, again while I don't generate those numbers that go in the model, I do review the information that's given to me and as in the case of the enplanement, I felt comfortable that the numbers were legitimate and were done carefully by people that are experts in that business."

Number 0519

CHAIRMAN COWDERY asked Mr. King to stand by for additional questions later on. He asked Don Harris from Anchorage to present his comments.

Number 0521

DON HARRIS testified via teleconference and said he had been the commissioner of the Department of Transportation & Public Facilities from 1974 - 1979. When he left the administration, the north/south runway at AIA was under construction, the international terminal building was in the design phase and the A Concourse extension had been built. The north/south runways, associated taxiways and the international terminal building were completed with surpluses in cashflow. At that time, the bond debt of the airport was paid down to just under a half million dollars. He believed those were the three most significant capital improvement projects that have taken place at AIA in the last 20 years. He said, "Yet, I was somewhat chagrined and within about four years of time on the international terminal building expansion because at the time we were contemplating it, I'd asked several times for people to look ahead and see what we were faced in technology that might have aircraft bypassing Alaska and the response I got was that they didn't see anything in the future. The airlines, the latest thing they were operating in long range capability, was the SP model of the 747 but within four years they'd repowered the 747s and they were able to overfly Anchorage and Alaska."

Number 0549

MR. HARRIS suggested to the legislature that what's being proposed in this plan is probably excessive and it's been promoted with a considerable amount of hype. It's his understanding that up until July all the carriers were in agreement on the replacement of the C Concourse project. Some of the carriers have indicated to him they had no input beyond that time and now they're faced with the project before the committee. He encouraged the legislature to take some time to thoroughly evaluate how the space is being used in the present terminal complex and other considerations before

giving the go ahead.

Number 0578

REPRESENTATIVE PHILLIPS asked Mr. Harris what his opinion was of passenger facility charges.

TAPE 98-3, SIDE B

Number 0001

MR. HARRIS responded it appears to him that perhaps the Anchorage facility either isn't being utilized to the extent that is desirable, or perhaps the charges are too low. With the amount of capital that's been put into the Anchorage airport, he felt it should generate enough fees to take care of the future capital improvement program.

Number 0009

CHAIRMAN COWDERY asked Mr. Harris if he thought there was a need for the project and if so, should it be downsized.

MR. HARRIS responded it's his belief that if a program is agreed to by all the carriers, it's worthy of going ahead with. He added, "But to go into a financing -- I think I heard last night that we had roughly \$33 million of current debt -- and to authorize that for another \$175 million to go into the kind of a program that's contemplated here, I think that would be a mistake. I think that you should review all of the possibilities and I really believe that you can do a terminal expansion and related improvements with the surpluses, the cashflow, that include the funds that come from the FAA through the Airport Improvement Program (AIP) and the

discretionary funds from FAA."

Number 0036

REPRESENTATIVE RYAN shared some of his experiences from time spent working in the aviation industry. He noted the proposal is based on passengers not freight, which is where the revenue is. Inasmuch as the entire proposal is predicated on expansion for passengers, he asked where the revenue was going to come from.

Number 0061

BILL ELANDER, President and Chief Executive Officer, Anchorage Convention and Visitors Bureau (ACVB), testified on behalf of the board of directors of the Anchorage Convention and Visitors Bureau which represents 1360 businesses, most of which are in Southcentral. He said the board of directors had reviewed the airport expansion project and unanimously supported not only the 2005 project, but would like to see consideration given to the 2015 project for future development. He said the ACVB looked at it primarily from the passenger standpoint, and it was somewhat their mistake in belief that it was ultimately the passengers that would pay for the terminal, but now it appears that's not the case. He noted that some carriers are being added while others are dropping out. Reno Air is strong, Southwest Airlines left, TWA is back in, Northwest is coming in on international flights direct from Tokyo, which indicates a very strong growth pattern.

MR. ELANDER said the world is in an age of travel. The deregulation of airlines has given a lot of freedom to airlines to go where the demand is. It is for this purpose, the ACVB believes the expansion is essential; the demand is growing and will continue

to be there, so immediate action should be taken to try to bring Anchorage International Airport up to beyond the 40 percent capability it should have for the future. He said that travel is here to stay; it is the largest business in the world today. International travel will begin to again appear into the Anchorage airport for the right reasons; not for refueling, but because passengers will want to get off in Anchorage.

Number 0098

CHAIRMAN COWDERY asked Mr. Elander what his position was on passenger facility charges.

MR. ELANDER said the passenger service charges in Anchorage are probably far less than most airports he has flown into around the country. Airport personnel outside of Alaska he has talked with have indicated that passengers are willing to pay for a proper terminal. It's frustrating for individuals coming into Anchorage to face the congestion of the baggage claim area as it is for outbound passengers in the ticketing area. He maintained that as long as there's competition, there will be good air fares in Anchorage.

CHAIRMAN COWDERY thanked Mr. Elander for his testimony and asked if Mort Plumb was available to comment.

Number 0119

MORT PLUMB, Director, Anchorage International Airport, clarified his statement from the previous meeting regarding an incorrect figure. He said the correct figure is, as a gauge approximately \$1 million per 1,000 linear feet of taxiway, not square feet.

Number 0127

REPRESENTATIVE PHILLIPS said it was her understanding the Anchorage International Airport has collected over \$14 million in prior years for terminal design and related improvement projects. She asked if that money was taken into consideration to reduce the \$204 million bond request. If not, what happened to the money, how much is left and why wasn't it considered?

MR. PLUMB recalled that about \$6.1 million was transferred and included in Mr. King's calculation in the model. He asked John Unger to further comment.

Number 0138

JOHN UNGER, System Controller, Anchorage and Fairbanks Airports, said there had been three separate appropriations, adding up to \$14.5 million. The first appropriation was for \$3 million which was to study C Concourse and determine if it could be repaired, replaced or what other options were available. There was a \$4.5 million appropriation for a needs assessment study. A \$7.2 million appropriation a couple years ago was based on C Concourse being torn down and included funds to build a warehouse for the building maintenance people so they could begin to vacate C Concourse; it was money to relocate tenants. He said basically out of the \$14.5 million, \$6.1 million would be available to go on with the construction and design of the terminal, and the \$6.1 million has been reduced from the total cost of the bond package.

REPRESENTATIVE PHILLIPS asked if the \$14 million wasn't just for terminal design, but it was for general maintenance as well?

MR. UNGER said the first \$3 million was to actually start the studies on the existing problems with C Concourse and to make determinations whether it was feasible to repair it and if not, start taking steps to replace it. He knew that part of the money was for studies and part of it was used to tear down a chimney on C Concourse. He suggested that Donn Ketner could better address the scope of those projects.

Number 0158

DONN KETNER, Architect, CCS, explained that he is the project manager for the terminal portion of the terminal redevelopment project. He said the status of the funds are as follows: The original \$3 million that was appropriated quite some time ago went into a number of studies to evaluate the structural capacity of Concourse C. A number of dangerous conditions that existed were identified and some of the funds were used for construction to correct some of those conditions, such as the masonry chimney alluded to by Mr. Unger. Also, a program was put together to vacate and demolish Concourse C independent of the terminal expansion program. That was the \$7.2 million that was requested, and of that \$7.2 million a new 20,000 square foot warehouse and maintenance facility was constructed to move that function out of Concourse C. He explained that administrative offices were in the design process to replace offices and other tenant relocations and at that time, it began apparent through some of the early studies on the terminal expansion program that it would be prudent to hold off on those improvements until such time as they could see where the master plan for the terminal expansion was going.

Number 0179

MR. KETNER said some of those monies remain on the books. He said, "We have also received approval by the Airlines Affairs Committee, (indisc.) million of the original \$7.2 million into the terminal expansion program, so that represents part of the \$6.1 million that you see in the financial plan." He suggested that a financial statement could be made available to the committee that would identify when the funds were appropriated, what the funds were used for, what funds remain, and the current amount in the terminal expansion program.

UNIDENTIFIED SPEAKER: "I believe the first appropriation came on the books in 1993 or 94."

Number 0193

REPRESENTATIVE MULDER commented that more than \$3 million had been spent studying potentials and opportunities and it appears to him that it's Mr. Plumb's task to gain control of the money that is being spent. A lot of money has been spent doing nothing to have eight pieces of paper put before the committee in relation to a work product, which didn't seem to be a very good return on the investment thus far.

MR. PLUMB accepted the challenge.

Number 0206

REPRESENTATIVE PHILLIPS understood the airport system currently holds over \$36 million in unencumbered and unspent old capital improvement project funds from prior years. If this is the case, is this cash in the bank, was it collected from the airlines and other airport users and why isn't it being used for this project.

MR. UNGER responded it is true the airport is holding \$36 million or \$37 million of capital money that's been collected over the years from the airlines for projects that have been appropriated previously. He added, "Both airports went through an extensive review this summer, because this was a big sticking point with the airlines, WE went through project by project, came up with about \$5 million or \$6 million of money that they felt these projects had either been completed or weren't going to be started and the money was lapsed and basically refunded back to the carriers through this year's landing fees. The remaining \$36 million is projects that both airport managers feel are ongoing and that these projects will be completed. The Alaska International Airport System recently adopted a capital project close out policy and basically what it says is that as soon as an appropriation comes on the books, they have five years to complete that project and the money will then be closed out and any project older than five years that for some reason hasn't been completed that the airport managers still feel that they need cash, has to be presented to the commissioner's office for their approval in order to keep that project alive longer than five years."

REPRESENTATIVE PHILLIPS asked if there is \$36 million in the bank for ongoing renovation projects in the airport, why wasn't that \$36 million applied to the expansion project being worked on now.

MR. UNGER said the reason was because these are totally separate projects and have nothing to do with the terminal expansion.

REPRESENTATIVE PHILLIPS asked Mr. Unger to furnish the committee with a list of those projects. She said, "With the scope of the

project that you have in front of us today, I can't imagine that there is anything at the airport under the scope of the project that you have presented, that wouldn't be covered.

MR. UNGER said the list would be made available for the committee. He noted that quite a few of the projects are airfield improvements and some are terminal improvement projects.

Number 0245

REPRESENTATIVE RYAN referred to the "Terminal Expansion 2005 Projects" document which indicates that in June 1997, the Administration's preliminary construction costs estimates include over 50 percent contingency which he believed to be excessive. He asked if that was still correct.

MR. KETNER responded there are two contingencies built into the program in the current estimate. One contingency is a 10 percent change order contingency on construction. For new construction there is a 20 percent change order contingency built in to the estimate only for the portions of the terminal that are to be renovated and there is an overall program contingency on the project of 10 percent. So collectively, there is a 20 percent contingency, including change order contingency.

Number 0261

REPRESENTATIVE RYAN, referring to the same document, said the operating agreements with the airlines expire in two years and will need to be renegotiated about the time the project comes on line. He wondered what kind of guarantees that the same agreement or better could be negotiated with the airlines; i.e., letters of

intent or signatory agreements?

MR. PLUMB said he believed the answer would be no.

Number 0275

REPRESENTATIVE NORM ROKEBERG said, "A follow up on the -- in terms of the contingency amount, I'd like to get that clarified and perhaps you could provide the committee with your calculations because it's been my experience in the construction industry and business, that you usually are doing contingency in line item budget estimates which actually start compounding. So when you talk about that component of the construction that's new construction having a 10 percent change order there, and then with a separate column, I take it, you'd have a 20 percent change order for the renovation portion. But then you take that all together and then you have 10 percent of that in your project contingency, so somewhere there's a blended rate that comes out there and we'd like to see the calculations."

Number 0288

DAVID EBERLE, Director, Construction & Operation, Central Region, Department of Transportation & Public Facilities, said the 10 percent contingency relative to change orders is really a contingency on the engineer's estimate of the estimated construction costs for a given contract. There's a limit to the accuracies of the engineer's ability to estimate, so on his estimate, he adds 10 percent for that contract, not knowing what the bid is going to come in at. He said that is a reasonable amount to apply to a construction estimate. Above and beyond that, there needs to an overall program contingency to be prudent and go

forward with the project. He stated, "You don't want to go into a project with a zero overall program contingency because you may have some unidentified needs that will come up during the actual final development of the plan for the overall program." The other estimates are basically known quantities, either Concourse C, known ramp requirements. That's where the initial 10 percent comes in. To a certain extent there is a compounding of those contingencies, but it's not unusual and it's certainly is prudent to have contingencies in both of those spots. In his opinion, the amount of those contingencies is also a very prudent level, in his experience.

REPRESENTATIVE ROKEBERG appreciated Mr. Eberle's explanation and said the committee would like to review how the calculations were made and to see the impacts of those numbers on the gross project costs. He asked if the plans for this project gone beyond what he called a "block planning architectural stage" and into a (indisc.) preliminary design and engineering stages for cost estimation or how was the cost estimation derived for various parts of the project.

MR. EBERLE responded the cost estimates are basically based on conceptual level plans, square footage and known portions of the project that can be readily identified based on historical costs for things like apron construction, et cetera. He said, "We're not anywhere near final design; we have just started schematic designs which is the preliminary stages of a final design. Until we get well into design, it's going to be difficult to refine those numbers. But anytime you go into a project, you need to go into a project with your eyes open and have adequate funds set aside to take care of the unknowns that might occur. Yes, we might be able to tighten up this number as we get through the final design phase

but right now it would be very risky to go in with much less in the way

REPRESENTATIVE ROKEBERG commented this project is analogous to a project called the Trans Alaska Gas Pipeline Project which has a floating number of \$15 billion and the hope is that that particular project once it gets into preliminary engineering and design and gets through conceptual engineering into more harder drawings, may be able to be reduced to about \$12 billion. He said, "I guess I'm very concerned right now that we've reached this point where we have a conceptual design and a block plan in the rendering and we've got some really extraordinary high numbers here. We haven't even reached the stage where even concepts like valuation engineering come into play I'm kind of concerned right now that the net gate jetway gate increase in the whole project is perhaps four, maximum five, and that may not be entirely true depending on where the regional carrier parking apron is and the traffic flow in certain areas of the parking apron. There's been one analysis that said we're going to get two new jetways and so it's going to cost us \$100 million for a new jetway. Can you respond to that?"

MR. PLUMB said he would ask Mr. Ketner to respond to the details of what the improvements are in the overall project, and added that it's certainly not just the gates; the gates are a very small part of this.

Number 0353

MR. KETNER pointed out the total cost involves airside development, roadside development with an extension of an elevated curbside road as well as surface roads, expanded parking, landscaping, and then

a portion of it, of course, is the terminal. He added, "In terms of gate requirements, the way that the gate requirements were determined was by a programmer by the name of Joel Hirsh who took TAMS numbers, did a considerable amount of study on airline schedules and overall enplanement projections and based gate requirements on an average peak hour situation for the summer at Anchorage International. The result of the needs assessment indicated that we, by the year 2005 with roughly three million enplanements, would require an additional five jet positions and seven additional regional parking positions. What we have done in terms of an overall design is to look at how we could, as efficiently as possible, use the apron around the existing terminal building and the new terminal. In an effort to reduce the number of total gates that we had to build, what we have done is relied on a cross-utilization of three jet gate positions to be cross used with regional parking. The schedules that we have on some of the jet carriers that only come in during the night allow that same apron space to be available for regional operations during the day. I think that part of our concern here is that when we look at our overall program, we do in fact increase the structural gate capacity of the terminal by five gates for a total of 24, and we do increase the number of regional parking positions to a total of 20. Now what that means in the future is that if we are able to maintain the cross-utilization of those spaces that we anticipate we can do, that's good but if the schedules of the airlines change with time such that that cross-utilization becomes less, then what that does is drive us to a larger gate requirement." He offered to give the committee a breakdown on the various component of the project and the cost of each component.

CHAIRMAN COWDERY asked Mr. Ketner to submit that in writing for the committee.

REPRESENTATIVE MULDER said he was concerned that the committee was being asked to authorize \$204 million approval of a "concept." He asked if this was typical in terms of the way Anchorage International Airport has operated in the past and is it typical of the way other airports have operated.

MR. EBERLE said, "Let me speak to some projects other than airports. My involvement in other major projects of this size and larger, were really projects that the legislature appropriated capital monies for initially to do much of the preliminary engineering and design work to bring it up to a higher level of confidence when the entire project is then scoped and brought back as a total package. In this particular case however, all of these costs are being paid for through airport revenue funds in one form or another and in order to launch into the depth of the design that you would need to go in to (indisc.) number, it's going to take a considerable investment with respect to the design and it's only prudent to address the whole project before one spends millions and millions of dollars trying to refine a design. What we're doing basically here is putting before you the whole program so that you see the whole program and not just piecemealing monies for preliminary design followed by final design without really knowing where this whole thing is headed and what the overall target plan is."

REPRESENTATIVE MULDER said that everyone recognizes there are needs at the Anchorage International Airport and that upgrades and expansions are necessary. However, in his experience, he found it unusual for a concept to be approved as opposed to funding a study or engineering and design, and then bringing back a more concrete

assessment of the project. He said, "Right now what you're basically asking us is -- give us the money and trust us and no offense, but in past experience - if the \$14.5 million that we authorized in the past is any indication, I don't have a whole lot of confidence." He reiterated his concern with authorizing a concept without having some assurance that the project will not end up costing more than originally projected.

MR. EBERLE replied, "Well, we're into a bit of the chicken and the egg as far as being able to bring monies to the table and develop these things to a full fledged design so that you can refine the numbers. It's not uncommon to bond a project of this nature and George King can certainly speak to that; he's been involved in a lot of airport projects of this nature, and I don't think what we're asking for is unusual from that standpoint. We can certainly come back with refined numbers as we progress into this."

Number 0465

MR. KING said there are two different issues. One is the issue of what is the most economic, efficient, low cost, low risk and flexible approach to doing the funding in order to deliver the money that's needed at the right time and the right amount to do the project. That's a financial planning efficiency question and there are techniques for doing just that, and those techniques have been employed in this financial plan. The separate question is the actual expenditure of the money and the program and project management system that's used in order to make sure that the money is spent efficiently, that the construction bids are done in the most economical way to get the right size of the bid and the right drawdown schedules, making sure that projects are done in the right sequence, et cetera. All of those implementation issues in terms

of how to spend money well are a separate question than the questions related to how to raise money well. He felt those should be viewed as two separate questions and as to whether the financial plan approaches the issue of raising the money well, the answer is yes. On the issue of spending the money well, Mr. Eberle was speaking to the approaches that will be used in order to ensure the money is spent well.

Number 0508

REPRESENTATIVE PHILLIPS noted that Chairman Cowdery had requested that airport officials respond in writing to the issues that had been raised. She had two issues to add to the list; i.e., what are the exact plans and proposals for expansion and improvement of the baggage claim system and what are the plans for designated glycol disposal areas and recycling centers for the glycol.

Number 0520

REPRESENTATIVE RYAN asked if passenger facility fee were included in the projections. If so, what are the projected revenues from that fee and the importance of those fees to this project. He asked the response be submitted in writing.

Number 0532

REPRESENTATIVE ROKEBERG noted he was particularly interested in the PERT chart or implementation schedule, which outlines the timing of the various elements of the projected. He was concerned with "what is called out as the design point for what underneath in the year 2000, 2001 and also 2001 and going into 2002, whether it appears as if you're using a fast track method of design on something that's

been funded like several years prior to that, and I'm kind of curious about why those design elements are called for at that particular point in time. Additionally, Mr. Chairman, I think this goes with what the Speaker is getting at too, it seems as if we're going to spend \$40 million to extend what's called, I believe, the west terminal five feet out (indisc.-mumbling) that includes the entire amount of core and shell costs and finish work and the other conveyance systems and things of that nature. I'm kind of wondering what we're getting into. Also, Mr. Chairman, my final thing is that I'd like to know if in their cost per square foot numbers, what those are for the various components - I'd like to see that. I'd also like to know if they include the finish work elements, not just the -- they should be broken out between and core and shell and the finish work element of the project."

CHAIRMAN COWDERY said he'd like to have the responses in writing before the next meeting. He had several questions he would like to have addressed as well: Are there any firm commitments from the airlines or others to rent the approximate 717,000 square feet being proposed for the new terminal; what about the concessaires; how much will the rent increase per square foot; will the existing tenants be given preference; and how much will be used for executive or other airport offices.

TAPE 98-4, SIDE A

Number 0001

MR. HARRIS advised committee members that Concourse A was built for about \$7.5 million without the loading bridges and the international terminal building for about \$17 million. He believed the finished product with the fueling stands and loading bridges came to about \$23 million total.

ADJOURNMENT

Number 0021

CHAIRMAN COWDERY recessed the House Special Committee on International Trade and Tourism AT 6:48 p.m. to the call of the Chair.

VII

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To <i>Maers</i>	From <i>Gretchen</i>	
Co. <i>Rep Cowdery</i>	Co. <i>Leg. Research</i>	
Dept.	Phone # <i>6607</i>	
Fax # <i>465-2069</i>	Fax #	

HB0321

HB321

4/4/83

Transportation

and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

IN THE HOUSE

HOUSE BILL NO. 321
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled:

"An Act making a special appropriation to the Department of Transportation and Public Facilities for improvements and expansion of the terminal at the Anchorage International Airport; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. The sum of \$28,000,000 is appropriated from the international airport construction fund to the Department of Transportation and Public Facilities for code upgrades, remodeling, expansion, and equipping of the domestic terminal at the Anchorage International Airport.

* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

U. Resch.

NOV.08 '87 15:33 STATE OF ALASKA DOT ANCHORAGE AK

P.04

1/ RESEARCH

PRESS RELEASE

The Department of Transportation and Public Facilities has awarded the construction contract for the Anchorage International Airport-Domestic Terminal Expansion to Hoffman Construction Co. The bid price is \$17,844,000 including all contract additives. The apparent low bidder at the time of bid opening claimed an error in bid which was verified by DOT&PF. The bid was rejected as non-responsive.

Hoffman plans to start work in December with renovations to Concourse B -- the concourse previously utilized by international flights.

Construction of the expansion to the terminal will begin next spring.

The project will be completed by May, 1985 and includes the following improvements:

- * Extension of the existing terminal 100-feet to the east (both levels). The first level will house additional baggage claim and makeup areas and the mechanical room. The second level will provide additional counter space, snack bar, storage, elevator and gate lobbies.
- * Construction of a commuter concourse providing 8 new gates, passenger waiting space, equipment storage, crew lounge area, restroom facilities snack bar, baggage makeup and baggage claim.
- * Preliminary engineering and construction to remodel Concourse B (west concourse) to accommodate domestic air carrier operations and provide additional baggage space on the ground floor. A fire suppression system will be installed as well as electrical upgrades and handicapped accessibility.
- * Construction of apron utility work required with the terminal remodeling.

2-2-2-2

While Sheffield was pleased by the bond sale, "I was alarmed by one prospective bidder reporting to the Department of Revenue that its firm was declining to submit a bid because of pending litigation," the Governor said. "When we inquired further, we were told that the lawsuit filed by the House Majority Coalition challenging the authority of our cabinet and other appointees to hold office was the sole reason the firm submitted no bid.

"I find this event to be partial proof of what I had feared -- that is, the lawsuit by the House Majority Coalition is not only costing the taxpayers money, it is also discouraging investors from doing business in the state. Competition for our bonds is important so that we may receive the most favorable rates. This is one reason we sought to persuade the House leadership not to file its suit over the confirmation session of June 8.

"Since that lawsuit has been filed, we will proceed to vigorously defend the state in the hopes that the courts will dispose of this needless litigation quickly, allowing us to devote our full attention to the business of managing state government," Sheffield said.

4) Research

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NEWS RELEASEFOR INFORMATION CONTACT: GINGER JOHNSON, INFORMATION OFFICER (907) 465-3900FOR IMMEDIATE RELEASEANCHORAGE INTERNATIONAL AIRPORT RENOVATION
#168

October 21, 1983

Bids have been opened for a major project to renovate Concourse B and provide expanded adjacent facilities at the Anchorage International Airport, Commissioner Dan Casey said today.

The \$20 million project including planning and design and related work, is to be completed by mid-summer 1985. The apparent low bidder for the renovation and construction phase is Hoffman Construction Company of Portland, Oregon with a bid of \$17.3 million.

Other bidders were: Morrison Knudsen, \$18,080,761; Kiewit Construction Co., \$18,207,000; Century Construction Co., \$18,489,293; Arctic Slope Wright Schuchart, \$19,196,163; Ken Brady Construction Co., \$19,263,080; and J. B. Warrick Co., \$19,309,200.

Casey said the improvements "will significantly upgrade both passenger and carrier accommodations, especially for commuters and intra-state airlines. These are areas of operation that are becoming increasingly important at the airport, and the state is pleased to move forward with improvements to meet this increased activity."

(More)

ANCHORAGE INTERNATIONAL AIRPORT RENOVATION...add one

The concourse formally occupied by international carriers prior to construction of the new international terminal, now will increase the airport's domestic capability. Renovation totaling 111,000 sq. ft. and new construction of 70,000 sq. ft. will include expansion of the main lobby's ticket counters and baggage claim areas, reducing time in the terminal for passengers, increased rest room facilities, a new concourse for commuters and intrastate carriers, and renovation of the east end of the terminal.

"Although this is an area generally removed from view of most travelers, it is an important project for the airport's future capability," Casey said. A model will be on display in the main lobby showing results of the project and other expansions now in the planning stage, he said.

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NOV. 1997 15:00 STATE OF ALASKA DOT ANCHORAGE AK

P.04

WORK COMPLETED

1. Department of Transportation and Public Facilities has awarded the construction contract for the Anchorage International Airport Domestic Terminal Expansion to Hoffman Construction Co. The bid price is \$17,244,000 including all contract contingencies. The apparent low bidder at the time of bid opening claimed an error in bid which was verified by DOT&PF. The bid was rejected as non-responsive.

Contract plans to start work in December with renovations to Concourse A -- the concourse previously utilized by international flights.

Construction of the expansion to the terminal will begin next spring.

The project will be completed by July 1999 and include the following improvements:

- * Expansion of the existing terminal 100-feet to the east. Both levels. The first level will house additional baggage claim and pickup areas and the mechanical room. The second level will provide additional commuter space, snack bar, storage, shelter and gate lobby.
- * Construction of a concourse providing 3 new gates, passenger waiting areas, equipment storage, crew lounge area, restroom facilities snack bar, baggage making and baggage claim.
- * Preliminary engineering and construction to remodel Concourse A first concourse to accommodate domestic air carrier operations and provide additional baggage space on the ground floor. A fire suppression system will be installed as well as electrical upgrades and handicapped accessibility.
- * Construction of apron utility work required with the terminal remodeling.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU
BILL SHEFFIELD
GOVERNOR

NEWS RELEASE



FOR INFORMATION CONTACT
Pete Spivey
Press Secretary
John Greely
Deputy Press Secretary
Office of the Governor
Pouch A, Juneau, AK 99801
Bus. Phone (907) 465-3808

July 25, 1983

No. 83-147

State Sells Anchorage Airport Revenue Bonds

FOR IMMEDIATE RELEASE

JUNEAU--The State of Alaska today sold \$28 million worth of revenue bonds for expansion of the Anchorage International Airport at an interest rate of 9.46 percent, Governor Bill Sheffield announced.

"I'm pleased we were able to attract four highly qualified bidders for bonds that will provide a badly needed expansion and renovation of the Anchorage airport," the governor said. "The winning bid is well within our expectations."

The winning bid of 9.46 per cent on the 15-year bonds was submitted by a group of New York investors, Merrill Lynch, White Weld, and Capital Markets Group and Associates. Other bids were submitted by John Nuveen & Co. and Seattle Northwest Securities, Joint Managers, of 9.49 percent; Smith, Barney, Harris & Upham, Inc., of 9.54 percent; and Salomon Brothers of 9.55 percent.

The bond money will be used to provide additional working areas for domestic and local commuter airlines through a 100-foot extension of the airport terminal. Remodeling work also will be done on the west concourse.

MORE

*OK BUT WHY
SHEFFIELD IS SO SURE
FIRST CONTRACT BIDDING
ON FIRST UP. TO W. J. J. J.
NO BIDDING TO K. J. J. J.*

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIESNEWS RELEASE

FOR INFORMATION CONTACT: GINGER JOHNSON, SPECIAL ASSISTANT (907) 465-3900

FOR IMMEDIATE RELEASE

HOFFMAN CONSTRUCTION TO BUILD AIA PARKING GARAGE

MAY 5, 1986

#341

JUNEAU--Hoffman Construction Company of Anchorage is the apparent low bidder in a project to construct a parking garage at Anchorage International Airport (AIA), Department of Transportation and Public Facilities Commissioner Dick Knapp announced today.

The project calls for construction of a four-level, 1,200 space parking garage and new ground transportation lobby connecting the garage to the domestic terminal. It also includes modifications to the terminal loop road, surface parking improvements, and utility work.

MORE

ADD ONE -- AIA Parking Garage

Hoffman's low bid, along with bids from seven other companies, was opened April 30. Their total bid of \$23,276,200 was more than \$3 million below the State's estimate of \$26,666,212.

"The bid will be awarded the third week in May," said Knapp. "We expect the parking garage to be completed by July, 1987."

For additional information, call Donn Ketner at 266-1535.

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIESNEWS RELEASE

FOR INFORMATION CONTACT: GINGER JOHNSON, INFORMATION OFFICER (907) 465-3900
FOR IMMEDIATE RELEASE

#462/AIA'S \$25 MILLION PARKING GARAGE OPEN TO PUBLIC
JULY 28, 1987

ANCHORAGE--Commissioner Mark Hickey will dedicate Anchorage International Airport's new \$25 million parking garage in ceremonies here on Thursday, July 30, and the public is invited to attend.

Thursday's dedication will begin at 10:00 AM at the base of the glass-enclosed escalators on the west side of the new garage. Free parking will be available to persons wishing to attend the dedication.

Included in the multi-million dollar construction package are a four-level, 1200-car parking garage, a ground transportation lobby connecting it to the main terminal, and improved curbside access.

The parking garage, built by Hoffman Construction Company, of Anchorage, is Phase Two of a terminal area construction program for the airport. Phase One, a \$26 million project, was completed in summer 1985 and included the addition of a new concourse at the domestic terminal and extensive terminal renovations. Phase Three, scheduled for 1989 and 1990, will include expansion of the ticketing lobby, completion of a second tunnel to the parking garage, and installation of new terminal heating, cooling and electrical systems. Future phases include complete reconstruction of concourse C. All phases are funded with revenues generated by the airport itself.

The parking garage has been under construction for the past year.

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STATE OF ALASKA

OFFICE OF THE GOVERNOR
JUNEAUJAY S. HAMMOND
GOVERNOR

NEWS RELEASE

FOR INFORMATION CONTACT:
Chuck Keeschulte
Press Secretary
Office of the Governor
P.O. Box 11, Juneau, Alaska 99811Bus. Phone: (907) 465-3500
Res. Phone: (907) 585-1069

HAMMOND TO DEDICATE ANCHORAGE INTERNATIONAL AIRPORT TERMINAL
6-22-82
#90

FOR IMMEDIATE RELEASE

JUNEAU--Alaska Governor Jay Hammond this coming Monday will help dedicate the recently completed \$29 million International Passenger Terminal at Anchorage International Airport.

Hammond, along with Commissioner of Transportation and Public Facilities Bob Ward, and other dignities including Anchorage Mayor Tony Knowles, will be on hand for the formal dedication of the facility. The program is scheduled to start at 9 a.m. on Monday, June 28, in the front area of the terminal, located to the north of the existing passenger terminal.

After the ceremony the international terminal will be open for a public open house from 9 a.m. to 5 p.m. on Monday and again on Tuesday, June 30. Restricted use of the terminal will begin July 1.

"Alaskans interested in their aviation industry are encouraged to take advantage of this opportunity to see the beauty of the new facility. Because of Customs and Immigrations requirements, access to the facility will be restricted once the terminal opens for normal operations," Hammond said.

MORE

Add 1-1-1-1

"The new terminal is a beautiful addition to the airport and one in which all Alaskans can be proud. It will help insure our important place in international aviation," Hammond said.

The three-story terminal, the second largest construction project in the history of the state's Department of Transportation and Public Facilities, is a steel-frame complex, with associated parking facilities. It contains 287,000 square feet--nearly double the area previously serving overseas carriers.

The addition will permit the renovation of the existing terminal for expanded use by domestic carriers.

Hammond said the project was "something special" on several counts. He said the winning bid for construction of the terminal came in \$4 million under estimate. And he added the project was finished well ahead of the originally expected October 1982 completion date. "We are very pleased with the project for a host of reasons," Hammond said.

The terminal, financed by airport revenue funds, includes \$23.4 million for the building, \$1.6 million for the eight airplane loading bridges and \$4 million for the runway parking apron, service vehicle ramp areas and support systems.

The new terminal's eight gates, three more than currently available for international flights, will be operated on a common use (non-assigned) basis for more efficiency, Hammond said. Planning includes the possible gate expansion to 16, so that that many planes could be handled simultaneously.

The facility, Hammond said, will accommodate 2,800 passengers. Improved customs and immigration procedures should allow 350 people to pass through the system hourly.

Over 1 million international passengers a year now pass through Anchorage International Airport on 10 airlines. The increase has been dramatic since the first international route was begun in 1958.

The current overseas carriers are British Airways, Lufthansa German Airlines, Northwest Orient, Sabena Belgium World Airlines, Korean Airlines, K.L. M. the Royal Dutch Airlines, Air France, S.A.S. Scandinavian Airline System, Japan Airlines, Air China, Varig Brazilian Airlines, and T.M.A. of Lebanon.

The new terminal also includes a large duty-free import store and other concessions.

The contractor for the project was Lease Crutcher Kisse Construction Co. of Anchorage while the architect was McCool-McDonald/ Northwest Design of Anchorage.

* * * * *

NOTE: For additional information contact Ginger Johnson in the state's Department of Transportation and Public Facilities, 465-3900 in Juneau.

OFFICE OF THE GOVERNOR
JUNEAU

JAY S. HAMMOND
GOVERNOR



FOR INFORMATION CONTACT:

Office of the Governor
Pouch A Juneau, Alaska 99811

OR PHONE: 907-465-3500
Gladys Reckley
Press Secretary

GOVERNOR ANNOUNCES LOW BIDDER FOR ANCHORAGE AIRPORT CONSTRUCTION
JOB

APRIL 9, 1980

#71

FOR IMMEDIATE RELEASE

JUNEAU--Gov. Jay Hammond today announced that an Anchorage firm, Lease Crutcher Kisse, is the apparent low bidder on the international satellite terminal at Anchorage International Airport.

The Governor said the \$20,802,991 bid was \$4 million under the state's estimate for the project. "This is certainly welcome news in these times of inflation and a flat economy," Hammond said. He pointed out that this project is in addition to the \$86.7 million in construction projects that are already underway this construction season to help boost the Anchorage economy.

The governor said work on the terminal probably can start as early as 30 days after all bids are evaluated by the Department of Transportation and Public Facilities. An award of the contract is expected to be made in about two weeks.

The international satellite terminal is the second largest project ever undertaken by the Department of Transportation and Public Facilities. The largest was the \$23 million east-west runway at Anchorage International Airport.

-more-

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DOMESTIC
TMNL.

Page Two
#71

The new terminal will be a three-level steel frame complex of approximately 260,000 square feet with associated parking and access totaling approximately 108,000 square feet.

Other bids were submitted at Tuesday's bid opening by Ken Brady Construction of Anchorage for \$21,015,259; Huffman Construction of Anchorage, \$21,131,201; and R.C. Hedreen of Seattle, \$22,014,491.

-30-

FY 1999 CAPITAL PROJECT REQUEST

PROJECT TITLE: ANC: Terminal 2005 Design/Construction Phase 1

FUNDING:

FEDERAL AIP: \$4,800,000

IARF: \$28,200,000

TOTAL: \$33,000,000

PROJECT DESCRIPTION:

Plan, design and construct stage one of a multi-staged terminal development program to be completed by 2005. The 2005 Terminal Development Plan includes replacement and expansion of C Concourse, renovation and expansion of the main terminal building, expansion of the terminal curbside and landside road and parking system, and expanded aircraft parking aprons. Detailed information about the stage one elements will be provided in a separate mailout and at the July 15 meeting.

PROJECT JUSTIFICATION:

The domestic terminal is significantly undersized to meet the existing and year 2005 needs. Once the old, existing C Concourse is demolished, the domestic terminal will provide only 75% of the total area needed to meet 1996 traffic levels. By the year 2005 the existing terminal will provide only 53% of the required square footage. Primary deficiencies include inadequate sized baggage claim and ticketing areas, curbside, and need for additional gates. Furthermore, the existing C Concourse must be demolished and replaced because of code, maintenance and functional problems.

B



REPRESENTATIVE JOHN J. COWDERY

March 5, 1998

Senator Ted Stevens
522 Hart Building
Washington, DC 20510-0201

Dear Senator Stevens,

Thanks for taking the time to address the Alaska Legislature recently. As always, it was a pleasure to hear your views on the issues facing Alaska. I particularly appreciated your insights into the "Iraqi" situation, and Alaska's strategic defense location.

As you are aware, my committee is reviewing the bond proposals for Anchorage International Airport. Passenger Facilities Charges are a potential revenue stream, but, under current rules, would be a considerable burden on the smaller carriers who compromise such an important part of Alaska's air travel network. The Federal Aviation Administration has informed me that a request has been submitted to change current regulations to allow for PFC exemptions for Alaska's smaller carriers, thus mitigating the negative impact on rural communities.

What is your prognosis for completing such a regulation change? Would it be possible for you to encourage the FAA to give expeditious consideration to the proposal? I would appreciate your help.

Thanks for your consideration of this matter.

Yours Truly,

A handwritten signature in dark ink, appearing to read "John J. Cowdery".

John J. Cowdery, Chairman
International Trade and Tourism Committee

C

[Code of Federal Regulations]
[Title 14, Volume 3, Parts 140 to 199]
[Revised as of January 1, 1997]
From the U.S. Government Printing Office via GPO Access
[CITE: **14CFR158**]

[Page 158-174]

TITLE 14--AERONAUTICS AND SPACE

PART 158--PASSENGER FACILITY CHARGES (PFC'S)

Subpart A--General

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- 158.3 Definitions.
- 158.5 Authority to impose PFC's.
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- 158.9 Limitations.
- 158.11 Public agency request not to require collection of PFC's by a class of air carriers or foreign air carriers.
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- 158.25 Applications.
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- 158.45 Collection of PFC's on tickets issued in the U.S.
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Appendix A to Part 158--Assurances

-Authority: 49 U.S.C. 106(g), 40116-40117, 47111, 47114-47116.

Source: Docket No. 26385, 56 FR 24278, May 29, 1991, unless otherwise noted.

Subpart A--General

Sec. 158.1 Applicability.

This part applies to passenger facility charges (PFC's) as may be approved by the Administrator of the Federal Aviation Administration (FAA) pursuant to section 1113(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513(e)), and imposed by a public agency that controls a commercial service airport. This part also describes the procedures for reducing funds apportioned under section 507(a) of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. App. 2206(a)), to a large or medium hub airport that imposes a PFC.

Sec. 158.3 Definitions.

The following definitions apply in this part:

Airport means any area of land or water, including any heliport, that is used or intended to be used for the landing and takeoff of aircraft, and any appurtenant areas that are used or intended to be used for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

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Airport capital plan means a capital improvement program that lists airport-related planning, development or noise compatibility projects expected to be accomplished with anticipated available funds.

Airport layout plan (ALP) means a plan showing the existing and proposed airport facilities and boundaries in a form prescribed by the Administrator.

Airport revenue means revenue generated by a public airport (1) through any lease, rent, fee, PFC or other charge collected, directly or indirectly, in connection with any aeronautical activity conducted on an airport that it controls; or (2) In connection with any activity conducted on airport land acquired with Federal financial assistance, or with PFC revenue under this part, or conveyed to such public agency under the provisions of any Federal surplus property program or any provision enacted to authorize the conveyance of Federal property to a public agency for airport purposes.

Air travel ticket means all documents pertaining to a passenger's complete itinerary necessary to transport a passenger by air, including passenger manifests.

Allowable cost means the reasonable and necessary costs of carrying out an approved project including costs incurred prior to and subsequent to the approval to impose a PFC, and making payments for debt service on bonds and other indebtedness incurred to carry out such projects. Allowable costs include only those costs incurred on or after November 5, 1990.

Approved project means a project for which use of PFC revenue has been approved under this part. Specific projects contained in a single or multi-phased project or development described in an airport capital

plan may also be approved separately.

Bond financing costs means the costs of financing a bond and includes such costs as those associated with issuance, underwriting discount, original issue discount, capitalized interest, debt service reserve funds, initial credit enhancement costs, and initial trustee and paying agent fees.

Charge effective date means the date on which carriers are obliged to collect a PFC.

Charge expiration date means the date on which carriers are to cease to collect a PFC.

Collecting carrier means an issuing carrier or other carrier collecting a PFC, whether or not such carrier issues the air travel ticket.

Collection means the acceptance of payment of a PFC from a passenger.

Commercial service airport means a public airport (as defined by 49 U.S.C. app. 2202(17)) determined by the Secretary to enplane annually 2,500 or more passengers and to receive scheduled passenger service of aircraft.

Debt service means payments for such items as principal and interest, sinking funds, call premiums, periodic credit enhancement fees, trustee and paying agent fees, coverage, and remarketing fees.

Exclusive long-term lease or use agreement means an exclusive lease or use agreement between a public agency and an air carrier or foreign air carrier with a term of 5 years or more.

FAA Airports office means a regional, district or field office of the Federal Aviation Administration that administers Federal airport-related matters.

Implementation of an approved project means: (1) With respect to construction, issuance to a contractor of notice to proceed or the start of physical construction; (2) with respect to nonconstruction projects other than property acquisition, commencement of work by a contractor or public agency to carry out the statement of work; or (3) with respect to property acquisition projects, commencement of title search, surveying, or appraisal for a significant portion of the property to be acquired.

Issuing carrier means any air carrier or foreign air carrier that issues an air travel ticket or whose imprinted ticket stock is used in issuing such ticket by an agent.

One-way trip means any trip that is not a round trip.

Passenger enplaned means a domestic, territorial or international revenue passenger enplaned in the States in scheduled or nonscheduled service on aircraft in intrastate, interstate, or foreign commerce.

PFC means a passenger facility charge covered by this part imposed by

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a public agency on passengers enplaned at a commercial service airport it controls.

Project means airport planning, airport land acquisition or development of a single project, a multi-phased development program, (including but not limited to development described in an airport capital plan) or a new airport for which PFC financing is sought or approved under this part.

Public agency means a State or any agency of one or more States; a municipality or other political subdivision of a State; an authority created by Federal, State or local law; a tax-supported organization; or an Indian tribe or pueblo that controls a commercial service airport.

Round trip means a trip on a complete air travel itinerary which terminates at the origin point.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

Unliquidated PFC revenue means revenue received by a public agency

from collecting carriers but not yet used on approved projects.

Sec. 158.5 Authority to impose PFC's.

Subject to the provisions of this part, the Administrator may grant authority to a public agency that controls a commercial service airport to impose a PFC of \$1.00, \$2.00, or \$3.00 on passengers enplaned at such an airport. No public agency may impose a PFC under this part unless authorized by the Administrator. No State or political subdivision or agency thereof that is not a public agency may impose a PFC covered by this part.

Sec. 158.7 Exclusivity of authority.

(a) No State or political subdivision or agency thereof may impair the imposition of a PFC, collection of such PFC, or use of PFC revenue by a public agency in accordance with this part.

(b) No contract or agreement between an air carrier or foreign air carrier and a public agency may impair the authority of such public agency to impose a PFC or use the PFC revenue in accordance with this part.

Sec. 158.9 Limitations.

(a) No public agency may impose a PFC on any passenger on any flight to an eligible point on an air carrier that receives essential air service compensation on that route under section 419 of the Federal Aviation Act (49 U.S.C. app. 1389). The Administrator makes available a list of carriers and eligible routes determined by the Department of Transportation for which PFC's may not be imposed under this section.

(b) No public agency may require a foreign airline that does not serve a point or points in the U.S. to collect a PFC from a passenger.

Sec. 158.11 Public agency request not to require collection of PFC's by a class of air carriers or foreign air carriers.

Subject to the requirements of this part, a public agency may request under Sec. 158.25 or Sec. 158.37 that collection of PFC's by any class of air carriers or foreign air carriers not be required if the number of passengers enplaned by the carriers in the class constitutes no more than one percent of the total number of passengers enplaned annually at the airport at which the PFC is imposed.

Sec. 158.13 Use of PFC revenue.

PFC revenue, including any interest earned after such revenue has been remitted to a public agency, may be used only to finance the allowable costs of approved projects at any airport the public agency controls.

(a) Total cost. PFC revenue may be used to pay all or part of the allowable cost of an approved project.

(b) Bond-associated debt service and financing costs. (1) PFC revenue may be used to pay debt service and financing costs incurred on that portion of a bond issued to carry out approved projects.

(2) If bond documents require that PFC revenue be commingled in the general revenue stream of the airport controlled by the public agency and pledged generally for the benefit of

[[Page 161]]

holders of obligations issued thereunder, PFC revenue is deemed to have been used to pay the costs covered in Sec. 158.13 (b)(1) if--

(i) An amount equal to that portion of the proceeds of the bond issued to carry out approved projects is used to pay allowable costs of such projects; and

(ii) To the extent that the amount of PFC revenue collected in any year exceeds the amount of debt service and financing costs on such bonds during that year, an amount equal to the excess is applied as required by Sec. 158.39.

(c) Combination of PFC revenue and Federal grant funds. A public agency may use a combination of PFC revenue and airport grant funds to accomplish an approved project. Such projects shall be subject to the recordkeeping and auditing requirements set forth in subpart D of this part, in addition to the reporting, recordkeeping and auditing requirements imposed pursuant to the Airport and Airway Improvement Act of 1982 (AAIA).

(d) Non-Federal share. PFC revenue may be used to meet the non-Federal share of the cost of projects funded under the Federal airport grant program.

(e) Approval of project following approval to impose a PFC. The public agency shall not use PFC revenue or interest earned thereon except on an approved project.

Sec. 158.15 Project eligibility.

(a) To be eligible, a project must--

(1) Preserve or enhance safety, security, or capacity of the national air transportation system;

(2) Reduce noise or mitigate noise impacts resulting from an airport; or

(3) Furnish opportunities for enhanced competition between or among air carriers.

(b) Eligible projects are--

(1) Airport development eligible under the AAIA;

(2) Airport planning eligible under the AAIA;

(3) Terminal development as described in 49 U.S.C. App. 2212(b);

(4) Airport noise compatibility planning as described in 49 U.S.C. App. 2103(b);

(5) Noise compatibility measures eligible for Federal assistance under 49 U.S.C. App. 2104(c), without regard to whether the measures have been approved pursuant to 14 CFR part 150; or

(6) Construction of gates and related areas at which passengers are enplaned or deplaned and other areas directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport. These areas do not include restaurants, car rental facilities, automobile parking facilities, or other concessions.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 37127, Aug. 2, 1991]

Subpart B--Application and Approval

Sec. 158.21 General.

This subpart specifies the consultation and application requirements under which a public agency may obtain approval to impose a PFC and use PFC revenue on a project. This subpart also establishes the procedure for the Administrator's review and approval of applications and amendments and establishes requirements for use of excess PFC revenue.

Sec. 158.23 Consultation with air carriers and foreign air carriers.

(a) Notice by public agency. Prior to submitting an application to the FAA for authority to impose a PFC under Sec. 158.25(b) and for project approval under Sec. 158.25(c), a public agency shall provide written notice to all air carriers and foreign air carriers operating at the airport except those air carriers that the public agency may choose to request not to collect PFC's as provided by Sec. 158.11. The notice shall include--

(1) Descriptions of projects being considered for funding by PFC's;

(2) The PFC level, the proposed charge effective date, the estimated

charge expiration date and the estimated total PFC revenue;

(3) For a request by a public agency that any class or classes of carriers not be required to collect the PFC--

(i) The designation of each such class,

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(ii) The names of the carriers belonging to each such class, to the extent the names are known,

(iii) The estimated number of passengers enplaned annually by each such class, and

(iv) The public agency's reasons for requesting that carriers in each such class not be required to collect the PFC; and

(4) Except as provided in Sec. 158.25(c)(2), the date and location of a meeting at which the public agency will present such projects to air carriers and foreign air carriers operating at the airport.

(b) Meeting. The meeting required by paragraph (a)(4) of this section shall be held no sooner than 30 days nor later than 45 days after issuance of the written notice required by paragraph (a) of this section. At or before the meeting, the public agency shall provide air carriers and foreign air carriers with--

(1) A description of projects;

(2) An explanation of the need for the projects; and

(3) A detailed financial plan for the projects, including--

(i) The estimated allowable project costs allocated to major project elements;

(ii) The anticipated total amount of PFC revenue that will be used to finance the projects; and

(iii) The source and amount of other funds, if any, needed to finance the projects.

(c) Requirements of air carriers and foreign air carriers. (1) Within 30 days following issuance of the notice required by paragraph (a) of this section, each carrier must provide the public agency with a written acknowledgement that it received the notice.

(2) Within 30 days following the meeting, each carrier must provide the public agency with a written certification of its agreement or disagreement with the proposed project. A certification of disagreement shall contain the reasons for such disagreement. The absence of such reasons shall void a certification of disagreement.

(3) If a carrier fails to provide the public agency with timely acknowledgement of the notice or timely certification of agreement or disagreement with the proposed project, the carrier is considered to have certified its agreement.

Sec. 158.25 Applications.

(a) General. This section specifies the information to be submitted by a public agency when applying for the authority to impose a PFC and for the authority to use PFC revenue on a project. A public agency may apply for the authority to impose a PFC at any commercial service airport it controls to finance airport-related projects to be carried out at that airport or at any existing or proposed airport which the public agency controls. A public agency may apply for the authority to impose a PFC in advance of or concurrent with an application to use PFC revenue. Applications shall be submitted in a manner and form prescribed by the Administrator and shall include the information required under paragraphs (b) or (c), or both, of this section.

(b) Application for authority to impose a PFC. This paragraph sets forth the information to be submitted by all public agencies seeking authority to impose a PFC. A separate application shall be submitted for each airport at which a PFC is to be imposed. The application shall be signed by an authorized official of the public agency, and, unless otherwise authorized by the Administrator, must include the following:

(1) The name and address of the public agency.

(2) The name and telephone number of the official submitting the

application on behalf of the public agency.

(3) The official name of the airport at which the PFC is to be imposed.

(4) The official name of the airport at which a project is proposed.

(5) A copy of the airport capital plan or other documentation of planned improvements for each airport at which a PFC financed project is proposed.

(6) A description of each project proposed.

(7) The project justification, including the extent to which the project achieves one or more of the objectives set forth in Sec. 158.15(a). In its justification for any project for terminal development, including gates and related areas, the public agency shall discuss

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any existing conditions that limit competition between and among air carriers and foreign air carriers at the airport, any initiatives it proposes to foster opportunities for enhanced competition between and among such carriers, and the expected results of such initiatives.

(8) The charge to be imposed on each enplaned passenger.

(9) The proposed charge effective date.

(10) The estimated charge expiration date.

(11) A summary of consultation with air carriers and foreign air carriers operating at the airport, including--

(i) A list of such carriers and those notified;

(ii) A list of carriers that acknowledged receipt of the notice provided Sec. 158.23(a);

(iii) Lists of carriers that certified agreement and that certified disagreement with the project; and

(iv) A summary of substantive comments by carriers contained in any certifications of disagreement with the project, and the public agency's reasons for proceeding.

(12) If the public agency is also filing a request under Sec. 158.11--

(i) The request;

(ii) A copy of the information provided to the carriers under Sec. 158.23(a)(3);

(iii) A copy of the carriers' comments with respect to such information;

(iv) A list of any class or classes of carriers that would not be required to collect a PFC if the request is approved; and

(v) The public agency's reasons for submitting the request in the face of any opposing comments.

(13) A copy of information regarding the financing of the project presented to the carriers and foreign air carriers under Sec. 158.23 of this part and as revised during consultation.

(14) For an application not accompanied by a concurrent application for authority to use PFC revenue:

(i) A description of any alternative methods being considered by the public agency to accomplish the objectives of the project;

(ii) A description of alternative uses of the PFC revenue to ensure such revenue will be used only on eligible projects in the event the proposed project is not approved;

(iii) A timetable with projected dates for completion of project formulation activities and submission of an application to use PFC revenue; and

(iv) A projected date of project implementation and completion.

(15) A signed statement certifying that the public agency will comply with the assurances set forth in Appendix A to this part.

(16) Such additional information as the Administrator may require.

(c) Application for authority to use PFC revenue. A public agency may use PFC revenue only for projects approved under this paragraph. This paragraph sets forth the information that a public agency shall submit, unless otherwise authorized by the Administrator, when applying

for the authority to use PFC revenue to finance specific projects.

(1) An application submitted concurrently with an application for the authority to impose a PFC, must include:

(i) The information required under paragraphs (b) (1) through (13) of this section;

(ii) A signed certification that--

(A) For projects required to be shown on an ALP, the ALP depicting the project has been approved by the FAA and the date of such approval;

(B) All environmental reviews required by the National Environmental Policy Act (NEPA) of 1969 have been completed and a copy of the final FAA environmental determination with respect to the project has been approved, and the date of such approval, if such determination is required; and

(C) The final FAA airspace determination with respect to the project has been completed, and the date of such determination, if an airspace study is required.

(iii) The estimated project implementation date, schedule and completion date; and

(iv) The information required by Sec. 158.25(b)(15) and (16).

(2) An application where the authority to impose a PFC has previously been approved--

(i) Shall be preceded by further consultation with air carriers and foreign air carriers as set forth under Sec. 158.23 of

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this part, except that the meeting required under Sec. 158.23(a)(4) is optional; and

(ii) Shall include, in addition to a summary of further consultation conducted under paragraph (c)(2)(i) of this section, the following, updated and revised where appropriate--

(A) The information required by paragraphs (b) (1), (2), (4), (5), (6), (7), (10) and (13) of this section;

(B) The information required by paragraph (c)(1)(ii) of this section; and

(C) The information required by paragraphs (b) (15) and (16) of this section.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 37127, Aug. 2, 1991]

Sec. 158.27 Review of applications.

(a) General. This section describes the process for review of all applications filed under Sec. 158.25 of this part.

(b) Determination of completeness. Within 30 days after receipt of an application by the FAA Airports office, the Administrator determines whether the application substantially complies with the requirements of Sec. 158.25.

(c) Process for substantially complete application. If the Administrator determines the application is substantially complete, the following procedures apply:

(1) The Administrator advises the public agency by letter that its application is substantially complete.

(2) The Administrator publishes a notice in the Federal Register advising that the Administrator intends to rule on the application and inviting public comment, as set forth in paragraph (e) of this section. A copy of the notice is also provided to the public agency.

(3) The public agency--

(i) Shall make available for inspection, upon request, a copy of the application, notice, and other documents germane to the application, and

(ii) May publish the notice in a newspaper of general circulation in the area where the airport covered by the application is located.

(4) Following review of the application and public comments, the Administrator issues a final decision approving or disapproving the application, in whole or in part, no later than 120 days after the

application was received by the FAA Airports office.

(d) Process for applications not substantially complete. If the Administrator determines an application is not substantially complete, the following procedures apply:

(1) The Administrator notifies the public agency in writing that its application is not substantially complete. The notification will list the information required to complete the application.

(2) Within 15 days after the Administrator sends such notification, the public agency shall advise the Administrator in writing whether it intends to supplement its application.

(3) If the public agency declines to supplement the application, the Administrator follows the procedures for review of an application set forth in paragraph (c) of this section and issues a final decision approving or disapproving the application, in whole or in part, no later than 120 days after the application was received by the FAA Airports office.

(4) If the public agency supplements its application, the original application is deemed to be withdrawn for purposes of applying the statutory deadline for the Administrator's decision. Upon receipt of the supplement, the Administrator issues a final decision approving or disapproving the supplemented application, in whole or in part, no later than 120 days after the supplement was received by the FAA Airports office.

(e) The Federal Register notice. The Federal Register notice includes the following information:

(1) The name of the public agency and the airport at which the PFC is to be imposed;

(2) A brief description of the PFC project, the level of the proposed PFC, the proposed charge effective date, the proposed charge expiration date and the total estimated PFC revenue;

(3) The address and telephone number of the FAA Airports office at which the application may be inspected;

(4) The Administrator's determination on whether the application is substantially complete and any information required to complete the application; and

(5) The due dates for any public comments.

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(f) Public comments. (1) Interested persons may file comments on the application within 30 days after publication of the Administrator's notice in the Federal Register.

(2) Three copies of these comments shall be submitted to the FAA Airports office identified in the Federal Register notice.

(3) Commenters shall also provide one copy of their comments to the public agency.

(4) Comments from air carriers and foreign air carriers may be in the same form as provided to the public agency under Sec. 158.23.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 30867, July 8, 1991]

Sec. 158.29 The Administrator's decision.

(a) Authority to impose a PFC. (1) An application to impose a PFC will be approved in whole or in part only after a determination that--

(i) The amount and duration of the PFC will not result in revenue that exceeds amounts necessary to finance the project;

(ii) The project will achieve the objectives set forth in Sec. 158.15(a);

(iii) The project meets the criteria set forth in Sec. 158.15(b);

(iv) The collection process, including any request by the public agency not to require a class of carriers to collect PFC's, is reasonable, not arbitrary, nondiscriminatory, and otherwise in compliance with the law;

(v) The public agency has not been found to be in violation of

section 9304(e) or section 9307 of the Airport Noise and Capacity Act of 1990; and

(vi) If the public agency has not applied for authority to use PFC revenue, a finding that there are alternative uses of the PFC revenue to ensure that such revenue will be used on approved projects.

(2) The Administrator notifies the public agency in writing of the decision on the application. The notification will list the projects and alternative uses that may qualify for PFC financing under Sec. 158.15, PFC level, total approved PFC revenue, duration of authority to impose and earliest permissible charge effective date.

(b) Authority to use PFC revenue on an approved project. (1) An application for authority to use PFC revenue will be approved in whole or in part only after a determination that--

(i) The amount and duration of the PFC will not result in revenue that exceeds amounts necessary to finance the project;

(ii) The project will achieve the objectives set forth in Sec. 158.15(a);

(iii) The project meets the criteria set forth in Sec. 158.15(b); and

(iv) All applicable requirements pertaining to the ALP for the airport, airspace studies for the project, and the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 have been satisfied.

(2) The Administrator notifies the public agency in writing of the decision on the application. The notification will list the approved projects, PFC level, total approved PFC revenue, and any limit on the duration of authority to impose a PFC as prescribed under Sec. 158.33.

(3) Approval to use PFC revenue to finance a project shall be construed as approval of that project.

(c) Disapproval of application. (1) If an application is disapproved, the Administrator notifies the public agency in writing of the decision and the reasons for the disapproval.

(2) A public agency reapplying for approval to impose or use a PFC shall comply with Secs. 158.23 and 158.25 of this part.

(d) The Administrator publishes a monthly notice of PFC approvals and disapprovals in the Federal Register.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 30867, July 8, 1991]

Sec. 158.31 Duration of authority to impose a PFC after project implementation.

A public agency that has begun implementation of a project approved under Sec. 158.29 is authorized to impose a PFC until--

(a) The charge expiration date is reached;

(b) The total PFC revenue collected plus interest thereon will equal the allowable cost of the approved project;

(c) The authority to collect the PFC is terminated by the Administrator under subpart E of this part; or

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(d) The public agency is determined by the Administrator to be in violation of section 9304(e) or 9307 of the Airport Noise and Capacity Act of 1990 (Pub. L. 101-508, Title IX, Subtitle D), and the authority to collect the PFC is terminated under that statute's implementing regulations under this title.

Sec. 158.33 Duration of authority to impose a PFC before project implementation.

(a) A public agency shall not impose a PFC beyond the lesser of the following--

(1) 2 years after approval to use PFC revenue on an approved project if the project has not been implemented, or

(2) 5 years after the charge effective date if an approved project is not implemented.

(b) If, in the Administrator's judgment, the public agency has not made sufficient progress toward implementation of an approved project within the times specified in paragraph (a) of this section, the Administrator begins termination proceedings under subpart E of this part.

(c) The authority to impose a PFC following approval shall automatically expire without further action by the Administrator on the following dates:

(1) 3 years after the charge effective date unless--

(i) The public agency has filed an application for approval to use PFC revenue for an eligible project that is pending before the FAA;

(ii) An application to use PFC revenue has been approved; or

(iii) A request for extension (not to exceed 2 years) to submit an application for project approval, under Sec. 158.35, has been granted; or

(2) 5 years after the charge effective date unless the public agency has obtained project approval.

(d) If the authority to impose a PFC expires under paragraph (c) of this section, the public agency must provide the FAA with a list of the air carriers and foreign air carriers operating at the airport and all other collecting carriers that have remitted PFC revenue to the public agency in the preceding 12 months. The FAA notifies each of the listed carriers to terminate PFC collection no later than 30 days after the date of notification by the FAA.

(e) Restriction on reauthorization to impose a PFC. Whenever the authority to impose a PFC has expired or been terminated under this section, the Administrator will not grant new approval to impose a PFC in advance of implementation of an approved project.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 37127, Aug. 2, 1991]

Sec. 158.35 Extension of time to submit application to use PFC revenue.

(a) A public agency may request an extension of time to submit an application to use PFC revenue after approval of an application to impose PFC's. At least 30 days prior to submitting such request, the public agency shall publish notice of its intention to request an extension in a local newspaper of general circulation and shall request comments. The notice shall include progress on the project, a revised schedule for obtaining project approval and reasons for the delay in submitting the application.

(b) The request shall be submitted at least 120 days prior to the charge expiration date and, unless otherwise authorized by the Administrator, shall be accompanied by the following:

(1) A description of progress on the project application to date.

(2) A revised schedule for submitting the application.

(3) An explanation of the reasons for delay in submitting the application.

(4) A summary financial report depicting the total amount of PFC revenue collected plus interest, the projected amount to be collected during the period of the requested extension, and any public agency funds used on the project for which reimbursement may be sought.

(5) A summary of any further consultation with air carriers and foreign air carriers operating at the airport.

(6) A summary of comments received in response to the local notice.

(c) The Administrator reviews the request for extension and accompanying information, to determine whether--

(1) The public agency has shown good cause for the delay in applying for project approval;

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(2) The revised schedule is satisfactory; and

(3) Further collection will not result in excessive accumulation of PFC revenue.

(d) The Administrator, upon determining that the agency has shown good cause for the delay and that other elements of the request are satisfactory, grants the request for extension to the public agency. The Administrator advises the public agency in writing not more than 90 days after receipt of the request. The duration of the extension shall be as specified in Sec. 158.33 of this part.

Sec. 158.37 Amendment of approved PFC.

(a) A public agency may, without consultation or approval by the Administrator, institute a decrease in the level of PFC to be collected from each passenger, institute a decrease in the total PFC revenue, or an increase in the total approved PFC revenue of 15 percent or less. The public agency shall notify the collecting carriers and the FAA in writing of these changes. Any new charge will be effective on the first day of a month which is at least 60 days from the time the public agency notifies the carriers.

(b) Subject to paragraph (b)(1) or (b)(2) of this section, an approved PFC may be amended to increase the level of PFC to be collected from each passenger, increase the total approved PFC revenue by more than 15 percent, materially alter the scope of an approved project, establish a new class of carriers under Sec. 158.11 or amend any such class previously approved. The public agency must submit to the Administrator a notification of any proposal to institute such an amendment. Such notification shall include written evidence of further consultation with and agreement or disagreement by the air carriers and foreign air carriers operating at the airport, justification for the amendment, and such other information as may be requested by the Administrator.

(1) In the event of no carrier disagreement with a change proposed under paragraph (b) of this section, the public agency may institute the proposed amendment unless, within 30 days after providing the notification required under that paragraph, it is notified otherwise by the Administrator. The public agency shall notify the carriers of the effective date of any change to the approved PFC resulting from the amendment, subject to the limitation that the effective date of any new charge shall be no earlier than the first day of a month which is at least 60 days from the time the public agency notifies the carriers.

(2) In the event of any carrier disagreement with a change proposed under paragraph (b) of this section, the public agency shall submit a request to the Administrator that the proposed amendment be approved. In addition to the notification and written evidence required under that paragraph, the public agency shall submit the reasons presented by the carriers for disagreeing with the proposed amendment, its reasons for requesting the amendment in the face of such disagreement, and such other information as may be requested by the Administrator. The Administrator reviews and approves or disapproves the amendment within 120 days of receipt of the request following such consultation, public notice and opportunity for comment as the Administrator may deem appropriate. If the amendment is approved, the Administrator advises the public agency and notification to the carriers will be as provided under paragraph (b)(1) of this section.

Sec. 158.39 Use of excess PFC revenue.

(a) If the amount of PFC revenue remitted to the public agency, plus interest, exceeds allowable costs of the project, excess funds shall be used for approved projects or retirement of outstanding PFC-financed bonds.

(b) For bond-financed projects, any excess PFC revenue collected under debt servicing requirements shall be retained by the public agency and used for approved projects or retirement of outstanding PFC-financed bonds.

(c) When the authority to impose a PFC has expired or has been terminated, accumulated PFC revenue shall be used for approved projects or retirement of outstanding PFC-financed bonds.

(d) Within 30 days after the authority to impose a PFC has expired or has

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been terminated, the public agency shall present a plan to the appropriate FAA Airports office to begin using accumulated PFC revenue. The plan shall include a timetable for the submission of any necessary application under Sec. 158.25(c) of this part. If the public agency fails to submit such a plan or if the plan is not acceptable to the Administrator, the Administrator offsets Federal airport grant program apportioned funds.

Subpart C--Collection, Handling, and Remittance of PFC's

Sec. 158.41 General.

This subpart contains the requirements for notification, collection, handling and remittance of PFC's.

Sec. 158.43 Public agency notification to collect PFC's.

(a) Following approval of an application to impose a PFC under subpart B of this part, the public agency shall notify the air carriers and foreign air carriers required to collect PFC's at its airport of the Administrator's approval. Each notified carrier shall notify its agents, including other issuing carriers, of the collection requirement.

(b) The notification shall be in writing and contain at a minimum the following information:

- (1) The level of PFC to be imposed.
- (2) The total revenue to be collected.
- (3) The charge effective date which will be the first day of a month which is at least 60 days from the date the public agency notifies the carriers of approval to impose the PFC.

(4) The proposed charge expiration date.

(5) A copy of the Administrator's notice of approval.

(6) The address where remittances and reports are to be filed by carriers.

(c) The public agency shall notify carriers required to collect PFC's at its airport of changes in the charge expiration date. Each notified carrier shall notify its agents, including other issuing carriers, of such changes.

(d) The public agency shall provide a copy of the notification to the appropriate FAA Airports office.

Sec. 158.45 Collection of PFC's on tickets issued in the U.S.

(a) On and after the charge effective date, tickets issued in the U.S. shall include the required PFC except as provided in paragraphs (c) and (d) of this section.

(1) Issuing carriers shall be responsible for all funds from time of collection to remittance.

(2) The appropriate charge is the PFC in effect at the time the ticket is issued.

(3) Issuing carriers and their agents shall collect the PFC's based upon the itinerary at the time of issuance. Any changes in itinerary that are initiated by a passenger that require an adjustment to the amount paid by the passenger are subject to collection or refund of the PFC as appropriate.

(b) Issuing carriers and their agents shall note as a separate item on each air travel ticket upon which a PFC is shown, the total amount of PFC's paid by the passenger and the airports for which the PFC's are

collected.

(c) For each one-way trip shown on the complete itinerary of an air travel ticket, issuing air carriers and their agents shall collect a PFC from a passenger only for the first two airports where PFC's are imposed. For each round trip, a PFC shall be collected only for enplanements at the first two enplaning airports and the last two enplaning airports where PFC's are imposed.

(d) Issuing carriers and their agents shall not collect PFC's from a passenger on any flight to an eligible point on an air carrier that receives essential air service compensation on that route under section 419 of the Federal Aviation Act (49 U.S.C. App. 1389).

(e) Collected PFC's shall be distributed as noted on the air travel ticket.

(f) Issuing carriers and their agents shall stop collecting the PFC's on the charge expiration date stated in a notice from the public agency, or as required by the Administrator.

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Sec. 158.47 Collection of PFC's on tickets issued outside the U.S.

(a) With respect to tickets issued outside the U.S., an air carrier or foreign air carrier may follow the requirements of either Sec. 158.45 of this part or this section.

(b) Notwithstanding any other provisions of this part, no foreign airline is required to collect a PFC on air travel tickets issued on its own ticket stock unless it serves a point or points in the U.S.

(c) If an air carrier or foreign air carrier elects not to comply with Sec. 158.45 for tickets issued outside the U.S.--

(1) The carrier is required to collect PFC's on such tickets only for the public agency controlling the last airport at which the passenger is enplaned prior to departure from the U.S.

(2) The carrier may collect the PFC either at the time the ticket is issued or at the time the passenger is last enplaned prior to departure from the U.S. The carrier may vary the method of collection among its flights.

(3) The carrier shall provide a written record to the passenger that a PFC has been collected. Such a record shall appear on or with the air travel ticket and shall include the same information as required by Sec. 158.45(b), but need not be preprinted on the ticket stock.

(4) The carrier shall collect the PFC based upon the itinerary at the time of issuance. Any changes in itinerary that are initiated by a passenger and that require an adjustment of the amount paid by the passenger are subject to collection or refund of the PFC as appropriate.

(d) With respect to a flight on which the air carrier or foreign air carrier chooses to collect the PFC at the time the air travel ticket is issued--

(1) The carrier and its agents shall collect the required PFC on tickets issued on or after the charge effective date.

(2) The carrier is not required to collect PFC's at the time of enplanement for tickets sold by other air carriers or foreign air carriers or their agents.

(e) With respect to a flight on which the air carrier or foreign air carrier chooses to collect the PFC at the time of enplanement, the carrier shall examine the air travel ticket of each passenger enplaning at the airport on and after the charge effective date and shall collect the PFC from any passenger whose air travel ticket does not include a written record indicating that the PFC was collected at the time of issuance.

(f) Collected PFC's shall be distributed as noted on the written record provided to the passenger.

(g) Collecting carriers shall be responsible for all funds from time of collection to remittance.

(h) Collecting carriers and their agents shall stop collecting the PFC on the charge expiration date stated in a notice from the public

agency, or as required by the Administrator.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 37127, Aug. 2, 1991]

Sec. 158.49 Handling of PFC's.

(a) Collecting carriers shall establish and maintain a financial management system to account for PFC's in accordance with the Department of Transportation's Uniform System of Accounts and Reports (14 CFR part 241). For carriers not subject to 14 CFR part 241, such carriers shall establish and maintain an accounts payable system to handle PFC revenue with subaccounts for each public agency to which such carrier remits PFC revenue.

(b) PFC revenue must be accounted for separately by collecting carriers, but the revenue may be commingled with the carrier's other sources of revenue. The PFC revenue is to be regarded as trust funds held by collecting carriers as agents, for the beneficial interest of the public agencies imposing PFC's. All PFC revenue collected and held by the carriers are property in which the carriers hold only a possessory interest and not an equitable interest.

(c) Each collecting carrier shall be required to disclose the existence and amount of funds regarded as trust funds in financial statements.

Sec. 158.51 Remittance of PFC's.

Passenger facility charges collected by carriers shall be remitted to the public agency on a monthly basis. PFC revenue recorded in the accounting system of the carrier, as set forth in Sec. 158.49 of this part, shall be remitted to

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the public agency no later than the last day of the following calendar month (or if that date falls on a weekend or holiday, the first business day thereafter).

Sec. 158.53 Collection compensation.

As compensation for collecting, handling and remitting the PFC revenue, the collecting air carrier shall be entitled to:

(a) Retain \$0.12 of each PFC remitted on or before June 28, 1994. Thereafter, air carriers shall be entitled to \$0.08 of each PFC remitted; and

(b) Any interest or other investment return earned on PFC revenue between the time of collection and remittance to the public agency.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 37127, Aug. 2, 1991]

Subpart D--Reporting, Recordkeeping and Audits

Sec. 158.61 General.

This subpart contains the requirements for reporting, recordkeeping and auditing of accounts maintained by collecting carriers and by public agencies.

Sec. 158.63 Reporting requirements: Public agency.

(a) The public agency shall provide quarterly reports to carriers collecting PFC's for the public agency with a copy to the appropriate FAA Airports office. The quarterly report shall include PFC revenue received from collecting carriers, interest earned, and expenditures for the quarter; cumulative PFC revenue received, interest earned, expenditures, and the amount committed for use on currently approved

projects, including the quarter; and the current project schedule.

(b) The report shall be provided on or before the last day of the calendar month following the calendar quarter or other period agreed by the public agency and collecting carrier.

(c) For airports enplaning 0.25 percent or more of the total annual enplanements in the U.S. for the prior calendar year as determined by the Administrator, the public agency must provide the FAA, by August 1 of each year, an estimate of PFC revenue to be collected for each such airport in the ensuing fiscal year.

Sec. 158.65 Reporting requirement: Collecting carrier.

Each carrier collecting PFC's for a public agency shall file quarterly reports to the public agency unless otherwise agreed by the collecting carrier and public agency, providing an accounting of funds collected and funds remitted.

(a) Unless otherwise agreed by the collecting carrier and public agency, reports shall state the collecting carrier and airport involved, the total PFC revenue collected, the total amount of PFC revenue refunded to passengers, and the amount of collected revenue withheld by the collecting carrier for reimbursement of expenses in accordance with Sec. 158.53 of this part. The report shall include the dates and amounts of each remittance for the quarter.

(b) The report shall be filed on or before the last day of the calendar month following the calendar quarter or other period agreed by the collecting carrier and public agency for which funds were collected.

Sec. 158.67 Recordkeeping and auditing: Public agency.

(a) Each public agency shall keep any unliquidated PFC revenue remitted to it by collecting carriers on deposit in an interest bearing account or in other interest bearing instruments used by the public agency's airport capital fund. Interest earned on such PFC revenue shall be used, in addition to the principal, to pay the allowable costs of PFC-funded projects. PFC revenue may only be commingled with other public agency airport capital funds in deposits or interest bearing instruments.

(b) Each public agency shall establish and maintain for each approved application a separate accounting record. The accounting record shall identify the PFC revenue received from the collecting carriers, interest earned on such revenue, the amounts used on each project, and the amount reserved for currently approved projects.

(c) At least annually during the period the PFC is collected, held or used,

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each public agency shall provide for an audit of its PFC account. The audit shall be performed by an accredited independent public accountant and may be of limited scope. The accountant shall express an opinion of the fairness and reasonableness of the public agency's procedures for receiving, holding, and using PFC revenue. The accountant shall also express an opinion on whether the quarterly report required under Sec. 158.63 fairly represents the net transactions within the PFC account. The audit may be--

(1) Performed specifically for the PFC account; or

(2) Conducted as part of an audit under the Single Agency Audit Act of 1983 (31 U.S.C. 7501-7) provided that the PFC is specifically addressed by the auditor.

(3) Upon request, a copy of the audit shall be provided to each collecting carrier that remitted PFC revenue to the public agency in the period covered by the audit and to the Administrator.

Sec. 158.69 Recordkeeping and auditing: Collecting carriers.

(a) Collecting carriers shall establish and maintain for each public agency for which they collect a PFC an accounting record of PFC revenue collected, remitted, refunded and compensation retained under Sec. 158.53(a) of this part. The accounting record shall identify the airport at which the passengers were enplaned.

(b) Each collecting carrier that collects more than 50,000 PFC's annually shall provide for an audit at least annually of its PFC account.

(1) The audit shall be performed by an accredited independent public accountant and may be of limited scope. The accountant shall express an opinion on the fairness and reasonableness of the carrier's procedures for collecting, holding, and dispersing PFC revenue. The opinion shall also address whether the quarterly reports required under Sec. 158.65 fairly represent the net transactions in the PFC account.

(2) For the purposes of an audit under this section, collection is defined as the point when agents or other intermediaries remit PFC revenue to the carrier.

(3) Upon request, a copy of the audit shall be provided to each public agency for which a PFC is collected.

Sec. 158.71 Federal oversight.

(a) The Administrator may periodically audit and/or review the use of PFC revenue by a public agency. The purpose of the audit or review is to ensure that the public agency is in compliance with the requirements of this part and section 1113(e) of the Federal Aviation Act.

(b) The Administrator may periodically audit and/or review the collection and remittance by the collecting carriers of PFC revenue. The purpose of the audit or review is to ensure collecting carriers are in compliance with the requirements of this part and section 1113(e) of the Federal Aviation Act.

(c) Public agencies and carriers shall allow any authorized representative of the Administrator, the Secretary of Transportation, or the Comptroller General of the U.S., access to any of its books, documents, papers, and records pertinent to PFC's

Subpart E--Termination

Sec. 158.81 General.

This subpart contains the procedures for termination of PFC's or loss of Federal airport grant funds for violations of this part or section 1113(e) of the Federal Aviation Act. This subpart does not address the circumstances under which authority to collect PFC's may be terminated for violations of the Airport Noise and Capacity Act of 1990.

Sec. 158.83 Informal resolution.

The Administrator shall undertake informal resolution with the public agency or any other affected party if, after review under Sec. 158.71, the Administrator cannot determine that PFC revenue is being used for the approved projects in accordance with the terms of the Administrator's approval to impose a PFC for those projects or with section 1113(e) of the Federal Aviation Act.

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Sec. 158.85 Termination of authority to impose PFC's.

(a) The FAA begins proceedings to terminate the public agency's authority to impose a PFC only if the Administrator determines that informal resolution is not successful.

(b) The Administrator publishes a notice of proposed termination in the Federal Register and supplies a copy to the public agency. This notice will state the scope of the proposed termination, the basis for

the proposed action and the date for filing written comments or objections by all interested parties. This notice will also identify any corrective actions the public agency can take to avoid further proceedings. The due date for comments and corrective action shall be no less than 60 days after publication of the notice.

(c) If corrective action has not been taken as prescribed by the Administrator, the FAA holds a public hearing, and notice is given to the public agency and published in the Federal Register at least 30 days prior to the hearing. The hearing will be in a form determined by the Administrator to be appropriate to the circumstances and to the matters in dispute.

(d) The Administrator publishes the final decision in the Federal Register. Where appropriate, the Administrator may prescribe corrective action, including any corrective action the public agency may yet take. A copy of the notice is also provided to the public agency.

(e) Within 10 days of the date of publication of the notice of the Administrator's decision, the public agency shall--

(1) Advise the FAA in writing that it will complete any corrective action prescribed in the decision within 30 days; or

(2) Provide the FAA with a listing of the air carriers and foreign air carriers operating at the airport and all other issuing carriers that have remitted PFC revenue to the public agency in the preceding 12 months.

(f) When the Administrator's decision does not provide for corrective action or the public agency fails to complete such action, the FAA provides a copy of the Federal Register notice to each air carrier and foreign air carrier identified in paragraph (e) of this section. Such carriers are responsible for terminating or modifying PFC collection no later than 30 days after the date of notification by the FAA.

Sec. 158.87 Loss of federal airport grant funds.

(a) If the Administrator determines that revenue derived from a PFC is excessive or is not being used as approved, the Administrator may reduce the amount of funds otherwise payable to the public agency under section 507 of the AAIA of 1982, 49 U.S.C. App. 2206. Such a reduction may be made as a corrective action under Sec. 158.83 or Sec. 158.85 of this part.

(b) The amount of the reduction under paragraph (a) of this section shall equal the excess collected, or the amount not used in accordance with this part.

(c) A reduction under paragraph (a) of this section shall not constitute a withholding of approval of a grant application or the payment of funds under an approved grant within the meaning of 49 U.S.C. App. 2218.

Subpart F--Reduction in Airport Improvement Program Apportionment

Sec. 158.91 General.

This subpart describes the required reduction in funds apportioned to a large or medium hub airport that imposes a PFC.

Sec. 158.93 Public agencies subject to reduction.

The funds apportioned under section 507(a)(1) of the Airport and Airway Improvement Act of 1982 to a public agency for a specific primary commercial service airport that it controls are reduced if--

(a) Such airport enplanes 0.25 percent or more of the total annual enplanements in the U.S., and

(b) The public agency imposes a PFC at such airport.

Sec. 158.95 Implementation of reduction.

(a) A reduction in apportioned funds will be applied beginning in the fiscal

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year immediately following the Administrator's approval of authority to impose a PFC and will be applied in each succeeding fiscal year in which the public agency imposes a PFC.

(b) The reduction in apportioned funds is calculated at the beginning of each fiscal year and shall be an amount equal to 50 percent of the PFC revenue forecast for the fiscal year, except that the maximum reduction in a fiscal year shall not exceed 50 percent of the funds that would otherwise be apportioned to the public agency based on passengers enplaning at the airport.

(c) If the projection of PFC revenue in a fiscal year is inaccurate, the reduction in apportioned funds may be increased or decreased in the following fiscal year, except that any further reduction shall not cause the total reduction to exceed 50 percent of such apportioned amount as would otherwise be apportioned in any fiscal year.

Appendix A to Part 158--Assurances

A. General.

1. These assurances shall be complied with in the conduct of a project funded with passenger facility charge (PFC) revenue.

2. These assurances are required to be submitted as part of the application for approval of authority to impose a PFC under the provisions of the Aviation Safety and Capacity Expansion Act of 1990.

3. Upon approval by the Administrator of an application, the public agency is responsible for compliance with these assurances.

B. Public agency certification. The public agency hereby assures and certifies, with respect to this project that:

1. Responsibility and authority of the public agency. It has legal authority to impose a PFC and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the public agency's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the public agency to act in connection with the application.

2. Compliance with regulation. It will comply with all provisions of 14 CFR part 158.

3. Compliance with state and local laws and regulations. It has complied, or will comply, with all applicable State and local laws and regulations.

4. Environmental, airspace and airport layout plan requirements. It will not use PFC revenue on a project until the FAA has notified the public agency that--

(a) Any actions required under the National Environmental Policy Act of 1969 have been completed;

(b) The appropriate airspace finding has been made; and

(c) The FAA Airport Layout Plan with respect to the project has been approved.

5. Nonexclusivity of contractual agreements. It will not enter into an exclusive long-term lease or use agreement with an air carrier or foreign air carrier for projects funded by PFC revenue. Such leases or use agreements will not preclude the public agency from funding, developing, or assigning new capacity at the airport with PFC revenue.

6. Carryover provisions. It will not enter into any lease or use agreement with any air carrier or foreign air carrier for any facility financed in whole or in part with revenue derived from a passenger facility charge if such agreement for such facility contains a carryover provision regarding a renewal option which, upon expiration of the original lease, would operate to automatically extend the term of such agreement with such carrier in preference to any potentially competing

air carrier or foreign air carrier seeking to negotiate a lease or use agreement for such facilities.

7. Competitive access. It agrees that any lease or use agreements between the public agency and any air carrier or foreign air carrier for any facility financed in whole or in part with revenue derived from a passenger facility charge will contain a provision that permits the public agency to terminate the lease or use agreement if--

(a) The air carrier or foreign air carrier has an exclusive lease or use agreement for existing facilities at such airport; and

(b) Any portion of its existing exclusive use facilities is not fully utilized and is not made available for use by potentially competing air carriers or foreign air carriers.

8. Rates, fees and charges.

(a) It will not treat PFC revenue as airport revenue for the purpose of establishing a rate, fee or charge pursuant to a contract with an air carrier or foreign air carrier.

(b) It will not include in its rate base by means of depreciation, amortization, or any other method, that portion of the capital costs of a project paid for by PFC revenue for the purpose of establishing a rate, fee or charge pursuant to a contract with an air carrier or foreign air carrier.

(c) Notwithstanding the limitation provided in subparagraph (b), with respect to a project for terminal development, gates and related areas, or a facility occupied or used by one or more air carriers or foreign air carriers on an exclusive or preferential basis, the rates, fees, and charges payable by such carriers that use such facilities will be no

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less than the rates, fees, and charges paid by such carriers using similar facilities at the airport that were not financed by PFC revenue.

9. Standards and specifications. It will carry out the project in accordance with FAA airport design, construction and equipment standards and specifications contained in advisory circulars current on the date of project approval.

10. Recordkeeping and Audit. It will maintain an accounting record for audit purposes for a period of 3 years after completion of the project. All records will satisfy the requirements of 14 CFR part 158 and will contain documentary evidence for all items of project costs.

11. Reports. It will submit reports in accordance with the requirements of 14 CFR part 158, subpart D, and as the Administrator may reasonably request.

12. Airport Noise and Capacity Act of 1990. It understands sections 9304 and 9307 of the Airport Noise and Capacity Act of 1990 require the authority to impose a PFC be terminated if the Administrator determines the public agency has failed to comply with that act or with the implementing regulations promulgated thereunder.