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FAA-2001-11172-6



**American Association of
Airport Executives**

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January 22, 2002

Docket Management System
U.S. Department of Transportation
Room Plaza 401
400 Seventh Street, SW
Washington, DC 20590

**Re: Procedures for Reimbursement of Airports, On-Airport Parking Lots and
Vendors of On-Airfield Direct Services to Air Carriers for Security Mandates
(Docket No. FAA - 2001 - 11172)**

Dear Sir or Madam:

The American Association of Airport Executives ("AAAE") appreciates this opportunity to comment on the Federal Aviation Administration's (FAA) proposed procedures for certain operators to apply for reimbursement of allowable costs incurred to comply with certain security requirements imposed by the FAA and/or Transportation Security Administration (TSA) on or after September 11, 2001. This NPRM was published in the Federal Register on December 21, 2001.

I. BACKGROUND

AAAE is a not-for-profit professional individual association of the airport management industry. Founded in 1928, AA AE is the largest professional organization for airport executives in the world. Representing thousands of airport management personnel at over 800 U.S. airports, the Association represents executives of large and medium-size airports, as well as hundreds of managers from smaller airports.

As a result of the tragic events on September 11, 2001, airports have been required to dramatically increase security. In order to help airports and continue the viability and security of the air transport system, Congress enacted and the President signed the Aviation and Transportation Security Act ("the Act"), Public Law 107-171, 155 Stat. 597 (November 19, 2001).

Section 121(a) of the Act authorized the appropriation of \$1.5 billion to the Secretary of Transportation for fiscal year 2002 and 2003 to reimburse airports, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs incurred to comply with new, additional, or revised security requirements imposed by the FAA or the TSA on or after September 11, 2001.

Section 121(a) of the Act requires that the Secretary publish in the Federal Register the procedures for filing claims for reimbursement under section 121 of eligible costs incurred. This comment by AA AE addresses the proposed procedures for filing claims for reimbursement under section 121.

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II. COMMENTS: THE SUBJECTION OF APPLICANTS TO AN ACROSS-THE-BOARD AUDITING REQUIREMENT IS BURDENSOME AND UNNECESSARY.

A. Airports are suffering under the financial strains resulting from the September 11, 2001 tragedy and need 100% of approved reimbursements as quickly as possible.

1. Summary of Arguments

Airport operators are currently experiencing the most devastating and crippling financial crisis in the history of this industry. Collectively, airport operators have suffered over a billion dollars of losses as the result of the attacks of September 11. Accordingly, airport operators are in desperate need of the reimbursement as well as simple, efficient and non-bureaucratic procedures for obtaining these funds as soon as possible. The proposed process as suggested by FAA is not efficient; in fact, it is so burdensome that it works counter to the goal of assisting airport operators through this most difficult time.

The most burdensome and unnecessary part of the proposed process is the audit requirement to which all applicants are subject. The across-the-board audit requirement is unnecessary for several reasons: (1) FAA has required ample documentation to support each claim; (2) FAA has requested a certification of the truth of each applicant's information; and (3) FAA can easily perform an audit of an applicant if it has any concerns regarding the accuracy, appropriateness and legitimacy of any aspect of an application.

The requirement for preparation of audits by applicants will be extremely time intensive, costly, serve no inherent value, and is certain to be a procedural nightmare. These difficulties will unnecessarily prolong the much-needed distribution of aid to airport operators. Moreover, the "hold-back" provisions (i.e. hold-back of 10% of a request until receipt of an audit) included in the proposed regulation will create an undue burden on airport accounting systems especially if an "accrual" accounting system is utilized. Therefore, it is incumbent upon FAA to simplify the reimbursement process in order for applicants to receive reimbursement for added expenses associated with new security measures by June 1, 2002.

The proposed procedures serve only to exacerbate an environment of distrust at a time when cooperation, trust and teamwork are needed more than ever. Airport operators and the government must work together to ensure that this process move as expeditiously and efficiently as possible, therefore, an effort must be made to eliminate unnecessarily burdensome steps like the ones proposed in this rulemaking.

2. Elimination of the unnecessary and overly burdensome audit requirement will aid in the streamlining of the reimbursement process.

The NRPM outlines that all applications are subject to FAA/TSA or other appropriate government agency audits. The proposal further states that FAA will release only 90 percent of the approved reimbursement until the completion of the annual audit. In addition, this partial release is conditioned on the forwarding of the audit to the FAA within 30 days after its completion. Until the completed audit is received, FAA will retain 10 percent of the approved reimbursement.

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As noted above, this requirement is unnecessary and burdensome to airport operators. Significant and solid safeguards are already presented in the NPRM which eliminates the need for an audit including:

1. Each applicant is required to produce a significant volume of supporting documentation with its reimbursement request. The documentation required to support applications includes invoices, vouchers, payrolls, and supporting accounting records that are acceptable for an independent audit. Also, general and specialized journals, ledgers, manuals, and supporting worksheets are acceptable. Additionally, applicants must delineate a specific security requirement and FAA source document for each claim to ensure that the expense is valid and eligible.

These requirements will provide FAA with evidentiary support needed for the applicants' reimbursement claims.

2. The proposed procedures require that the CEO, CFO or COO or equivalent of the organization submitting an application certify to the truth of the information presented for consideration by the FAA.

This certification of the truth of expenses, costs and financial positions, along with the supporting documentation should be enough to allow FAA the materials and evidence it needs to appropriately evaluate the requests. If, however, after reviewing the materials, FAA has any doubts about the truthfulness or validity of the applicant's claims, it can perform an audit of the applicant.

3. Applicants are required to retain all records, books, working papers, and other sources of documentation supporting its claim for a period of five years. Additionally, applicants are required to make all requested data available to the FAA within one week of a request for said data.

These requirements guarantee that if FAA finds it necessary, it can audit the applicant in a quick and efficient manner.

III. CONCLUSION

Airports face uncertain futures as revenues continue a downward spiral creating intense pressure on operating budgets and overall operations. Therefore, the reimbursement of expenses promised through this NPRM should be as painless and uncomplicated as possible. The elimination of the audit for applicants before reimbursement is made will greatly assist with streamlining an already burdensome process. All applicants should not be immediately regarded as making a suspicious claim as implied through this NPRM. The documentation and certification provided for in the NPRM should be enough to allow FAA a full and thorough review. If after the review an audit is necessary, the FAA can request all necessary documents which will be provided in one week for a complete audit.

Without the audit requirement, applicants that have satisfied the FAA review may receive 100 percent of their reimbursement in a timely manner. AAAE respectfully requests that FAA reevaluate the need for an across-the-board audit requirement before 100 percent reimbursement is provided. In the event,

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however, that audits are found to be necessary for applicants before the reimbursement, AAAE suggests that 100 percent of the reimbursement be nonetheless distributed to the airports before the audit results have been received by FAA. Airports need the full amount of the reimbursement and they need it fast. AAAE appreciates the opportunity to comment on the proposed procedures for reimbursement.

Very truly yours,

A handwritten signature in black ink, appearing to read "Carter Morris". The signature is written in a cursive style with a large, sweeping initial "C".

Carter B. Morris
Vice President, Regulatory Affairs