

154728

Docket No. FAA-2001-11172 Notice No. 154 -14

**SUMMARY OF MEETING BETWEEN THE FEDERAL AVIATION
ADMINISTRATION
AND
THE AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES
CONCERNING
AIRPORT SECURITY ISSUES**

DECEMBER 18, 2001

LOCATION: Federal Aviation Administration (FAA)
800 Independence Avenue, SW
Washington, D.C. 20591

PARTICIPANTS

a. FAA

Barry Molar, Manager, Airports Financial Assistance Division, Office of Airport Planning and Programming
Frank SanMartin, Manager, Airport Law Branch, Office of Chief Counsel
Frederick Falcone,
Andrea Toney, Program Analyst, Office of Airport Planning and Programming

b. American Association of Airport Executives (AAAE)

Carter Morris, Vice President of Regulatory Affairs, AAAE
Rebecca Khamneipur, Director of Regulatory Affairs, AAAE

NOTE: The purpose of meeting was to discuss procedures for reimbursement of airports, on-airport parking lots and vendors of on-airfield direct services to air carriers for security mandates as a result of requirements identified in section 121 of the Transportation and Aviation Security Act of 2001. The FAA issued a notice of proposed rulemaking on December 17, 2001 in response to section 121 of the Act.

Mr. Molar provided an overview of the statute and the timeline we are working with. He indicated that we have until December 19, 2001 to get the guidance together. In addition, because there is a lot that the statute leaves to discretion, we will need to issue guidance as a regulation. We will be following the approach used with the recent airline

compensation rule. Mr. Molar also noted that there will be an opportunity for comments and that the statute does require consultation with effected groups.

Mr. Molar reiterated that we are working diligently to meet the statutory deadline. In addition, he mentioned that airport direct costs would be eligible for reimbursement. Barry indicated that the FAA plans to issue a notice of proposed rulemaking (NPRM) and display it in the federal register this week, thereby meeting the statutory deadline.

Mr. Morris asked if a "Go Team" had been developed for this effort. Mr. Molar indicated that such a group had not been formed, but rather the FAA took it upon itself to begin work on this issue when the Conference report was issued. Further, at some point the FAA was officially assigned responsibility for this function.

Mr. Molar indicated that he would outline a list of issues relevant to the statute and would provide a hard copy of the issues to AAAE staff.

Mr. Molar outlined that this issue evolved from a notice, to a direct final rule, and to now an NPRM. He also noted that there are no funds currently appropriated.

Mr. Molar noted that any airport could apply for reimbursement under this statute, including airports not receiving Airport Improvement program (AIP) funding. However, airports would have to show that the costs, which they are seeking reimbursement for, were as a result of FAA or the Transportation Security Agencies (TSA) security requirements. In addition, Mr. Molar reiterated that on-airport parking lots and vendors of on-airfield services to air carriers are also eligible for reimbursement of security direct costs.

Mr. Morris asked if the services have to be performed on the airfield (AOA). Mr. Molar indicated that some aspect of the company's services must be conducted on the AOA. Mr. Molar indicated that this would include the delivery of food by caterers on the AOA and the fueling of charter aircraft on the AOA.

Mr. Molar indicated that there would be a uniform application due date of June 1, whether there is an appropriation or not. Applications would cover the time period of September 11 – March 30, 2002. This leaves 60 days after the books close for companies to get their applications together and to submit them to the FAA.

Mr. Molar indicated that a straight across the board allocation is envisioned until all funds are expended. In addition, a pro-rata percentage would be allocated to all eligible entities if more funds are requested than are available.

Mr. Morris asked if different categories of airports (such as category X airports) or the different categories of companies would receive different funding. Mr. Molar indicated that the amount any organization receives would be related to costs that they claim.

Mr. Falcone indicated that everyone falls in the same basket. Mr. Molar agreed and said that reimbursement would be relative to need.

Mr. Morris asked how the vendors will describe reasonable security expenses. Mr. Molar indicated that only direct costs will be reimbursable not revenues.

Mr. Falcone asked if anyone has racked-up potential vendors. Mr. Molar indicated not yet. Mr. Morris questioned what source would be used for the vendors. Mr. Molar indicated that we have already met with the National Air Transportation Association (NATA) and that that organization would probably be the best source for contact with the vendors.

Mr. Morris asked how the FAA would handle parking lots and expenses for the 300-foot rule. Mr. Molar indicated that lost revenue is not eligible. However, he indicated that direct costs for blast analysis, operations expenses, canine, and physical inspections, etc. would be eligible for reimbursement.

Mr. Falcone indicated that overtime pay would be reimbursable to the degree it's reflected against the baseline. Mr. Molar mentioned that overtime as it relates specifically to security requirements would be reimbursable.

Mr. Morris asked about the application procedures. Mr. Molar indicated that applications would be due by June 1 and that the rule will include all of the forms that will be needed. In addition, Mr. Molar indicated that the application forms would be reviewed by FAA Security to ensure that the costs for reimbursement were necessary to meet FAA Security requirements. FAA Headquarters will coordinate the process.

Mr. Morris asked if applicants will need to coordinate with the local FAA Security unit prior to submitting the application, similar to the blast analyses that were conducted post 9/11. Mr. Molar indicated that the form does not include a check box for this type of coordination, but such coordination beforehand could be helpful.

Mr. Falcone commented that the blast analysis coordination with FAA Security changed over time, with coordination moving from the local FAA Security unit to Headquarters.

Mr. Falcone suggested that some sort of a road-show (training workshop) with FAA Security and Airports would be a good idea. Mr. Molar agreed that this would be a good idea.

Mr. Morris indicated that ACI-NA's and AAAE's estimates are a little different, but they are almost there (equivalent). There is an issue of robbing Peter to pay Paul with AIP funds. The direct funds in this regulation are critical. Mr. Molar agreed and mentioned that some airports may not have the luxury of waiting to see that this regulation is funded.

A discussion ensued regarding the appropriate funding vehicle for this regulation.

Mr. Morris indicated that asking for a deadline even in advance of appropriated funds is a good thing. Mr. Molar indicated that if more money were appropriated later the FAA would issue a notice to expand the time frame and/or ask for more applications.

Mr. Molar indicated that the FAA would prefer any funds for reimbursement were processed through electronic funds transfer. In addition, he indicated that we anticipate requiring reimbursement subject to audit in the normal audit cycle. Also, similar to the AIP process, 10 percent would be held subject to audit.

Mr. Morris asked about assurances. Mr. Molar indicated that there would be no assurances, direct reimbursement and no local matching funds.

Mr. Morris indicated that GAO is coming out with a survey of airports for security costs.

Mr. Morris mentioned that it will be a challenge to sort through security costs after the holidays as the National Guard deployment begins to diminish.

Mr. Morris volunteered to hunt down any information that the FAA needs for this process. Mr. Molar indicated that we are trying to make a contact within the parking lot sector. He also mentioned that things are moving very quickly with the NPRM. He also indicated that the statutory deadline for display is Dec 19.

Mr. Falcone indicated that we might run into the March 30 deadline. Mr. Molar agreed that the rulemaking process might push the March 30 date.

Mr. Morris indicated that keeping the pressure on the hill is a step in the right direction. In addition, he asked for an e-mail copy of the NPRM once the document is on display on Dec 19. Mr. Molar agreed to provide this to AAEE.

#