

TITLE 25. OKLAHOMA AERONAUTICS COMMISSION
CHAPTER 15. OAC GRANT PROGRAM
25:15-1-1 THROUGH 25:15-1-4

25:15-1-1. Purpose

The purpose of this chapter is to set forth the requirement for participation in the ~~various~~ airport grant programs administered by the Oklahoma Aeronautics Commission, and to establish the procedures to be followed by the Commission in the administration and enforcement of its duties under Title 3, Oklahoma Statutes, Section 81-93 and Title 68, Oklahoma Statutes, Section 6003.1.

25:15-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

‘Commission’ means the Oklahoma Aeronautics Commission, the state agency responsible for administering airport grant programs for the State of Oklahoma and the Federal Aviation Administration.

‘~~Capital Improvement~~ Airport Construction Program’ means a list of airport ~~capital construction~~ projects approved by the Commission for implementation within a ~~three~~ five-year ~~planning~~ programming horizon showing a description of the project, the cost of each phase of the project, when the project is expected to occur, and the sources of funding.

~~‘Biennial Element’ means a list of those projects in the Capital Improvement Program scheduled for implementation in the most immediate two-year period.~~

‘Airport Development Worksheet’ means a listing of the capital projects needed at an airport over a twenty-year planning horizon together with the estimated cost, construction type, objective code, and airport component for each project. Projects identified for a particular airport must be consistent with the service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan. An airport development worksheet is developed and maintained for each system plan airport that is not part of the National Plan of Integrated Airport Systems (NPIAS) cooperatively by the airport sponsor and the Commission staff.

‘Airport Sponsor’ or ‘Municipality’ is used interchangeably throughout this chapter. Either term means any incorporated city, village, or town of this state, any public institution of higher education, and any county or political subdivision or district of this state, or any public trust thereof, which is, or may be, authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical facilities. To be eligible for the state grant program, the airport sponsor must be one of the governmental entities referenced in the preceding sentence and included in the Oklahoma Airport System Plan. Nothing herein precludes two or more of these entities from acting jointly as an airport sponsor. In the event a public trust is the airport sponsor, the beneficiary of that public trust must also be a record owner of the airport property.

‘Oklahoma Airport System Plan’ means the plan, adopted by the Commission, which identifies the airports included in the State’s airport system and identifies the service level, functional classification, design standard, and airport reference code for each system airport.

'Administrative Official' means an official of the airport sponsor who is authorized to legally bind the airport sponsor.

'Emergency' means a condition that could not have been foreseen and which affects the safety of the airport sufficiently that the airport or runway may need to be closed if the situation is not remedied.

'FAA' means the Federal Aviation Administration, a unit of the U.S. Department of Transportation.

'Letter of Interest' means a letter expressing the desire of an airport sponsor to have one or more projects included in the Capital Improvement Airport Construction Program.

~~**'Letter of Intent'** means a letter expressing the desire of an airport sponsor to have one or more projects included in the Biennial Program.~~

'Notification Letter' means correspondence prepared by the Commission staff informing an airport sponsor that one or more of their projects have advanced to ~~the Biennial Program~~ the current year of the Capital Improvement Airport Construction Program. The letter sets forth the terms the Commission imposes on airport sponsors participating in the state grant program, describes the project, authorizes the airport sponsor to begin engineering work for the project and directs the sponsor to prepare a grant application once project bids have been received.

'Airport Layout Plan' means the basic plan for the layout of an airport that shows, as a minimum the present boundaries of the airport and of the offsite areas that the airport sponsor owns or controls for airport purposes, and of their proposed additions. It will include the location and nature of existing and proposed airport facilities such as runways, taxiways, aprons, terminal buildings, hangars and roads, and of their proposed modifications and extensions. Also, it will provide the location of existing and proposed non-aviation areas, and of their existing improvements.

'NPIAS Needs Worksheets' are identical to Airport Development Worksheets with the difference being that these are maintained for NPIAS airports.

'Non- Primary Entitlement' (NPE) funds are FAA Airport Improvement Program (AIP) funds set aside for general aviation airports listed in the National Plan of Integrated Airport Systems. These airports can each receive up to \$150,000 per year based on the FAA assessment of needs over a 5 year period.

25:15-1-3. Planning

(a) Planning and Programming Process.

(1) The Commission staff shall, in consultation with airport sponsors, prepare and maintain the Oklahoma Airport System Plan. The Commission shall adopt and approve changes to the plan.

(2) The Commission staff shall assist publicly owned, publicly used airports in identifying airport needs and deficiencies. Airport sponsors eligible to participate in grant programs are sponsors of publicly owned, public use airports included in the Oklahoma Airport System Plan. The Commission staff shall, in consultation with each airport sponsor, prepare and maintain an airport development worksheet for each airport included in the Oklahoma Airport System Plan. The airport development worksheet shall be reviewed and updated at least once every three years. The airport development worksheet shall identify the capital projects needed at the airport over a 20 year planning horizon, together with the estimated cost, construction type, objective code, and airport component for each project. The identified projects shall be consistent with the service level,

functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.

(3) The Commission staff shall, in consultation with airport sponsors, prepare and update annually the Capital Improvement Airport Construction Program. The Commission shall approve the Capital Improvement Airport Construction Program.

(b) Capital Improvement Airport Construction Program Content.

(1) The Capital Improvement Airport Construction Program shall contain a list of proposed State and FAA funded projects that can be implemented with forecast revenues within the three five year planning programming horizon.

(2) Projects included for an airport in the Capital Improvement Airport Construction Program shall be consistent with service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.

(3) The Capital Improvement Airport Construction Program shall show the proposed sources of funding for each project.

(4) The Capital Improvement Airport Construction Program shall show the proposed implementation schedule for each project.

(5) The Capital Improvement Airport Construction Program shall include other priorities, policies, and procedures as adopted by the Commission.

(c) Airport Construction Program Projects.

(1) To be included in the Airport Construction Program a project must be eligible to receive airport grant funding from OAC. To be eligible a project must be conducted on active public-use areas of an airport or to support those public-use areas of an airport. Types of projects considered eligible are listed below:

(A) Maintenance: this type of work is limited to pavement maintenance of runways, taxiways, and aprons and can include routine cleaning, filling, or sealing of cracks/joints, maintenance of pavement drainage systems, patching pavement, and remarking of the above mentioned pavement areas.

(i) Items not considered maintenance are applying herbicide to prevent grass encroachment, mowing of airport grass, FOD sweeping, replacing light bulbs, replacing light fixtures due to damage from a manmade source, re-topping of trees that had been previously topped in an OAC project, and other similar type activities.

(B) Rehabilitation: this type of work is a more comprehensive restoration of an item to its original functionality. Items such as pavement sealcoats, overlays, replacement of an entire set of lighting fixtures would be considered rehabilitation.

(C) Reconstruction: this type of work is a complete restoration of an item to its original functionality once it has reached the end of its useful life. This results in a virtually new piece of pavement, electrical system, or building.

(D) New Construction/Installation: this type of work would construct new pavement such as a runway widening or extension, hangar taxiway area, or apron expansion, or construct new structures such a terminal building, or construct new drainage structures to support the removal of water from

the airport. This work item would also include the installation of new navigational aids that weren't previously at an airport such a precision approach path indicator, runway edge lighting, omnidirectional approach light system, weather observation system, or similar item.

(E) Planning/Design: this type of work includes the engineer design and associated support work with any of the eligible project types. This could also include planning projects such as master plans, airport layout plans, specialty planning studies, and obstruction/approach surveys.

(F) Off-airport: this type of work is typically for the support of on-airport operations. This work item could include items such as obstruction removal, land acquisition, drainage improvements, relocation of roads and utilities, installation of navigational aids, or similar project.

(2) The following are three basic tests that must be met to determine if a project is justified for inclusion in the Airport Construction Program:

(A) The project advances OAC policy laid out in 3 O.S. § 85 and the adopted Oklahoma Airport System Plan. The basic goals and objectives in these polices include airport safety, security, and capacity, meeting FAA or OAC standards, preserving and improving airport infrastructure that is for the use and benefit of the public, airport planning, and other similar projects.

(B) OAC must determine if there is an actual need for the project at the airport within the five-year horizon.

(C) The project scope is appropriate. OAC must determine that all the elements of the project are necessary to obtain the project scope's overall goal. Any elements that do not meet this criteria must stand on their own separate merit and justification.

(cd) Capital Improvement Airport Construction Program Development.

(1) The Capital Improvement Airport Construction Program lists projects for which expenditures are expected to begin within the three-five year planning programming horizon.

(2) On a two-year cycle, the Commission staff shall update the NPIAS needs database and the ADWS database (for Non-NPIAS airports). To update the Commission's database, sponsors will use FAA's Overall Development Objective (ODO) data sheet for each requested project.

(3) The Commission staff shall evaluate projects in the NPIAS and ADWS databases and recommend projects for inclusion in the Capital Improvement Airport Construction Program based on:

(A) Airport system development priorities, policies, and procedures adopted by the Commission and/or the FAA.

(B) Multi-year on-going projects that are currently identified in the approved GIP Airport Construction Program will be given higher priority during the development of the GIP Airport Construction Program.

(C) The airport's pavement condition index, pavement life-cycle consideration as developed by the pavement management program.

(D) The National Priority Rating System developed by FAA and included in FAA's Order 5100.39 titled "Airports Capital Improvement Plan".

(E) The amount of aviation activity, the types of airplanes served, the numbers of based airplanes at the airport, and the population included in the airport's service area.

(F) Other factors as may be relevant (for example, the services provided at the airport, the sponsor's demonstrated ability to maintain and operate the airport, the sponsor's ability to address safety inspection deficiencies, etc.)

(G) An emergency project request, with verifiable justification, may be submitted to the Commission for inclusion in the Capital Improvement Airport Construction Program at any time.

(4) The five year programming horizon of the Airport Construction Program shall be broken down into three general time periods (Appendix A): near-term program, transition year, and the extended program.

(A) Near-term program: This shall be the current year plus years two and three. Projects in this time period are considered to be of low flexibility.

(B) Transition year: This shall be year four. Projects in this time period are considered to be of moderate flexibility.

(C) Extended program: This shall be year five. Projects in this time period are considered to be flexible.

25:15-1-4. Programming Implementation Airport Grant Program Requirements and Procedures.

(a) Contingency. Implementation of an airport grant program is contingent upon funding being available to the Commission for this purpose.

(b) Notification to Proceed.

(1) As funding becomes available, the Commission staff shall send a notification letter to each airport sponsor that has a capital project included in the approved Capital Improvement Airport Construction Program as described in 25:15-1-3.

(2) The notification letter shall:

(A) Advise the airport sponsor of the proposed cost sharing for the project, and identify project development items eligible for funding.

(B) Authorize or direct the airport sponsor to:

(i) confirm in writing within 30 days the airport sponsor's intention to proceed with the project as programmed;

(ii) select an engineering consultant and provide a copy of the contract entered into with the consultant;

(iii) prepare project plans and specifications and to coordinate the project design with the Commission staff;

(iv) prepare to meet the federal and state administrative requirements depending upon the proposed funding sources;

(v) provide updated project costs after the final design is completed;

(vi) proceed to bid when directed by the Commission staff; and

(vii) submit a grant application for the Commission's consideration and approval.

(c) Grant Application; General Information.

(1) The airport sponsor shall submit a complete grant application for a capital project for either:

(A) Reimbursement of the cost of engineering; or

(B) Reimbursement for the cost of planning or construction based on the bids received by the airport sponsor.

(2) The airport sponsor's administrative official must sign the grant application form(s).

(3) The Commission shall consider all grant applications in accordance with 25:15-1-3(c).

(4) Reimbursement for the cost of engineering is contingent upon submission of the final set of plans and specifications to the Commission staff.

(d) Grant Application; Funding Information.

(1) Each airport sponsor must state in its application that it has on hand funds to pay all estimated costs of the proposed project that are not borne by the Commission or any other state or federal agency. As part of this requirement, each airport sponsor is required to provide written verification in the grant application (designated as Exhibit E) to the Commission that the airports sponsor's share of the project has been deposited in a designated account.

(2) If any of the funds for the project are to be furnished by another state or federal agency, the airport sponsor must provide evidence that the funds are available with the grant application.

(e) Information Regarding State Level of Participation and Required Matches.

(1) For state grants, the maximum level of participation for the Commission shall not exceed 95 percent.

(2) For FAA grants for projects identified in the Commission's Capital Improvement Program, the Commission may provide half of the match that is required from the airport sponsor.

(3) For FAA grants for projects identified in the Commission's Capital Improvement Program, the Commission may provide supplemental state grant funding for project items. The maximum level of participation for the Commission in such supplemental funding shall not exceed 95 percent.

(4) For non-primary entitlement (NPE) grants or special earmarks, the Commission will not provide half the match that is required from the airport sponsor. If NPE grant funds are transferred from other airport sponsors to an airport sponsor for a project identified in the Commission's Capital Improvement Program, the Commission may assist with half of any required match from the receiving airport sponsor so long as it will save the Commission state funds.

(5) For terminal building projects, the Commission's maximum cost-share level shall be 50 percent and shall not exceed \$500,000.

(f) Grant Application; Project Information.

(1) The airport sponsor will provide the following information:

(A) The airport sponsor shall submit an Airport Layout Plan or sketch with the grant application (designated as Exhibit A) indicating the location of the proposed construction work with all grant applications.

(B) The airport sponsor shall submit final project plans and specifications with the grant application (designated as Exhibit B).

(C) The airport sponsor shall submit a project narrative with the grant application describing the items of airport development for which the airport sponsor is requesting assistance (designated as Exhibit B-1).

(D) The airport sponsor shall submit a project cost list with the grant application that provides a detailed cost breakdown of project. This list will

be based on the bid awarded by the airport sponsor. The amounts on this list are considered not to be exceeded amounts and any expenditure over these amounts will not be considered for reimbursement without prior approval of the Commission (designated as Exhibit B-2).

(E) The airport sponsor shall submit the engineering contract for the project scope and the project engineering fees with the grant application (designated as Exhibit B-3).

(F) The Sponsor will also submit a certification stating compliance with FAA standards (or state standards with an approved Modification to Standards from funding agencies).

(G) The airport sponsor shall submit the contract for on-site construction observations (designated Exhibit B-4).

(H) The airport sponsor shall provide a signed statement in the grant application that the airport sponsor is not currently in default to any state agency for any obligation related to the development, operation or maintenance of the airport (designated as Exhibit C).

(I) The airport sponsor shall provide a signed statement with the grant application that the airport sponsor will not award any contract to any contractor who is currently suspended or disbarred by any federal agency, the Oklahoma Department of Central Services or the Oklahoma Department of Transportation for the project contemplated under the grant application (designated as Exhibit C-1).

(J) The airport sponsor shall provide an affidavit with the grant application that states the person signing is the administrative official for the sponsor, that the sponsor has not provided any compensation, donation or gift to an officer or employee of the state in procuring the grant, that any employee of the state compensated by the airport sponsor involved in the development of the grant will not provide any services in the project, and that this project will not result in any duplication of previous grant requests or awards (designated as Exhibit C-2).

(g) Grant Application; Height Hazard Zoning and Land Use.

Each airport sponsor shall indicate within the application that it has taken action to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and take-off of aircraft, and assuring the protection or control of the aerial approaches to the airport (designated as Exhibit D). The adoption and enacting of these zoning regulations is outlined in Title 3, Section 103 through 116, of the Oklahoma State Statutes.

(h) Grant Application; Assurances. The airport sponsor, upon signing the grant application, agrees to the following assurances:

(1) Upon the approval of the grant by the Commission, the capital project will be completed within a maximum of two years.

(2) The airport sponsor agrees to the following conditions regarding the users of the airport:

(A) Neither the airport sponsor nor the occupant of any of the airport facilities shall discriminate against any person or a class of persons in the use of any facility provided to the public on airport property.

(B) The airport sponsor shall operate the airport in such a manner that the airport is open to all types and classes of users and establish such non-

discriminatory conditions required for the safe and efficient operation of the airport.

(C) Any agreement, contract, lease or other arrangement that the airport sponsor enters into shall include provisions that such services meet the demands of all users of the airport, that services shall be provided on a non-discriminatory basis, that charges for goods and services shall be fair and reasonable, that services allow any user of the airport to perform any and all services to their own aircraft, and that essential facilities will be operated in a manner that these facilities shall be available to all users of the airport. In addition, if the airport sponsor provides any or all of these services, the airport sponsor agrees to the same provisions.

(3) The airport sponsor certifies that it has the legal authority to carry out all provisions of the grant application in conformity with State and Federal Statutes, Acts, and Regulations.

(4) The airport sponsor shall reserve sufficient powers and authority when entering into any transaction or arrangement to perform any of the covenants expressed in the grant application.

(5) The airport sponsor shall provide the following minimum essential facilities: a landing area and an aircraft parking area.

(6) The airport sponsor shall agree to properly maintain the airport under the following conditions:

(A) The airport sponsor will operate and maintain the airport and all facilities to meet the needs of all users of the airport.

(B) The airport sponsor shall not permit the airport to be used for an activity that would impede or obstruct aeronautical activity.

(C) The airport sponsor shall appropriate the funds required to properly maintain the airport to prevent deterioration of the facilities. Failure to have a documented pavement maintenance program shall be cause for the Commission to disqualify the airport sponsor for additional funds. In addition, failure to have a documented pavement maintenance program shall be considered a breach of these assurances.

(7) The airport sponsor shall maintain an updated Airport Layout Plan that has been prepared in accordance with the FAA's regulations and shall not make any alterations to the airport other than those outlined in the approved Airport Layout Plan, or approved by the FAA or the Commission in writing.

(8) The Commission shall prepare a financial report of income and expenditures of all project funds. All project records shall be maintained by the airport sponsor for not less than three (3) years from the final acceptance of the project by the Commission, and the airport sponsor shall provide access to these records upon request of the Commission or the FAA. This provision shall in no way affect any requirement imposed upon the airport sponsor by the Oklahoma Open Records Act or any other state or federal law. These records shall include such documentary evidence as invoices, cost estimates, payrolls, vouchers, cancelled checks or warrants, and receipts for cash payments that support each item of project costs. The final 10% of state grant funds will not be released until a satisfactory financial report has been accepted by the Commission staff.

(9) The Commission shall not pay or be obligated to pay for any work on the project that has been incurred prior to the grant application being submitted to the

Commission. In addition, any funds approved by the Commission shall only be used for project costs identified in the grant application.

(i) Grant Agreement; Terms and Conditions.

Upon the approval of Commission, the completed grant application shall constitute an agreement between the Commission and the airport sponsor. Both the Commission and the airport sponsor are bound to all the requirements of the grant agreement. In addition, all grants of the Commission shall be subject to the following terms and conditions:

(1) The time period of the grant agreement between the airport sponsor and the Commission shall be twenty (20) years from the date of the airport sponsor's acceptance and/or the life of the improvements contemplated under the grant application.

(2) The airport and all visual navigational aids shall be under the control of and maintained by the airport sponsor for the period covered by the grant agreement.

(3) For the purposes of the grant agreement, the airport sponsor must have title free and clear of any reversionary interest, lien, easement, lease, or other encumbrance for all property to be constructed on during the grant agreement. If the property is leased, the airport sponsor asserts that the lease will be maintained no less than the time period of the grant agreement, and in both circumstances, asserts that the property will not be used for any purpose other than the operation of the airport. In addition, airport property as defined in the airport layout plan cannot be transferred by the airport sponsor without the written approval of the Commission.

(4) The airport and all visual navigational aids shall be made available to all classes of aeronautical users without discrimination by airport sponsor with adequate access at all times.

(5) The airport sponsor will not grant or permit, either directly or indirectly, any exclusive right to any person, firm or corporation for any aeronautical activities, and will terminate any existing exclusive rights now existing before accepting a grant from the Commission.

(6) The airport sponsor shall complete the project in accordance with FAA's standard specifications unless prior written modification to standards has been approved by the FAA (for federally funded projects) or the Commission (for state only projects). The airport sponsor shall provide the following reports to the Commission:

(A) A weekly progress report using the appropriate FAA form;

(B) A copy of all acceptance tests shall be provided by the acceptance testing laboratory as soon as they are available; and

(C) An acceptance test summary report shall be provided to the Commission upon completion of the project.

(7) The airport sponsor, upon request, shall provide annual statements of airport revenues and expenses.

(8) The airport sponsor shall comply with the Municipal Airports Act, Title 3, Section 65, and the provisions thereafter, of the Oklahoma State Statutes, specifically Section 65.12, that requires that revenues from airport operations be deposited in a separate fund and used exclusively for the airport.

(9) All airport development using grant funds shall be consistent with the Airport Layout Plan approved by the FAA. A copy of the approved Airport Layout Plan, with any modifications, will be filed with the Commission.

(10) The airport sponsor shall comply with all applicable provisions of Title 61 of the Oklahoma State Statutes which governs competitive bidding for public construction contracts.

(11) The airport sponsor shall provide a tabulation of all bids for the project with the grant application.

(12) The airport sponsor shall operate lighting for the airport when such lighting is included in the project.

(13) The Commission and/or the state are not parties to any contract entered into by the airport sponsor to accomplish the project.

(14) The airport sponsor shall understand and agree that should the airport sponsor fail to abide by all of the terms and conditions of the grant agreement, then the funds provided by the Commission shall be withdrawn. In addition, the airport sponsor shall notify the Commission of any delays or problems with the project and request an extension or deviation from the Commission.

(j) Grant Agreement; Payments.

(1) The airport sponsor shall request reimbursement for project costs from the Commission on a monthly basis upon initiation of the project. The Commission shall reimburse the sponsor only for bid items at the bid unit price. The Commission will only process the request for reimbursement when accompanied by the following documentation:

(A) For federal participation grants, a copy of a signed FAA form SF 271 Outlay Report and a Cost Distribution Worksheet based upon the line items in the executed grant.

(B) For non-federal participation grants, a Cost Distribution Work sheet based upon line items in the executed grant.

(C) Copies of all vendor invoices.

(D) A construction_quantities report from the primary contractor signed by the resident inspector and/or the Engineer-of-record.

(E) All test invoices.

(2) The Commission shall process the monthly requests for reimbursement until 90% of the grant awarded by the Commission is expended. The final 10% will be released upon the completion of the following items:

(A) A copy of all acceptance tests, summary of acceptance testing and if required by the specifications lot-wise percentage within limits (PWL) calculation has been submitted to the Commission. The report shall document the results of all acceptance tests performed, the construction lot, location of the material tested and the quantity represented.

(B) The Resident Inspector or Engineer-of-Record shall submit a report detailing those acceptance tests that were out-of-tolerance and include the pay reductions applied and reasons for accepting any out-of-tolerance material.

(C) All final acceptance and close-out forms for the project have been submitted to the Commission.

(D) A satisfactory financial report has been completed by the Commission.

(k) Endorsement by the Commission:

(1) Upon receipt of the fully executed and complete grant application, the Commission staff shall verify compliance with the terms of the notification letter.

(2) If the grant application is found to be in compliance with the terms of the notification letter, the Commission staff shall forward the grant application to the Commission for action.

(3) If the Commission approves the grant application, the Commission staff shall communicate that approval to the airport sponsor with authorization to proceed.

(4) If the Commission staff finds that the grant application is not in compliance with the terms of the notification letter, the Commission staff shall notify the airport sponsor of the non-compliance and suggest possible remedies.

(5) Upon receipt of the Commission staff's finding of non-compliance, the airport sponsor may:

(A) Modify the grant application to bring it into compliance with the terms of the notification letter; or

(B) State the reason that the airport sponsor believes it is in compliance and request that the grant application be forwarded to the Commission for action; or

(C) Agree that it is not in compliance and request that the grant application be forwarded to the Commission as is.

(D) Request the grant application not be forwarded to the Commission.

(6) The Commission staff shall notify the airport sponsor of the Commission's action.

5 Year Airport Construction Program

