

prioritizes coordination and joint management of a common member default. The Commission believes that such default management and loss sharing provisions as those proposed in the Restated Agreement would further support FICC's ability to cover its current and potential future exposures without reducing its ability to fulfill its obligations to its own participants.

Accordingly, the Commission finds that the proposed model changes are consistent with Rule 17Ad-22(e)(20) under the Exchange Act.<sup>45</sup>

## V. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Exchange Act, and in particular, the requirements of section 17A of the Exchange Act<sup>46</sup> and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act,<sup>47</sup> that the Proposed Rule Change (SR-FICC-2023-010) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>48</sup>

**Sherry R. Haywood,**  
Assistant Secretary.

[FR Doc. 2023-19839 Filed 9-13-23; 8:45 am]

BILLING CODE 8011-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket # FAA-2023-1261]

### Airport Terminal Program; FY 2024 Funding Opportunity

**AGENCY:** Federal Aviation Administration (FAA).

**ACTION:** Notice of Funding Opportunity.

**SUMMARY:** The Department of Transportation (DOT), Federal Aviation Administration (FAA) announces the opportunity to apply for approximately \$1 billion in FY 2024 discretionary funds for the Airport Terminal Program (ATP), made available under the Infrastructure Investment and Jobs Act of 2021 (IIJA), Public Law 117-58, herein referred to as the Bipartisan Infrastructure Law (BIL). The purpose of the ATP is to make annual grants

available to eligible airports for airport terminal and airport-owned Airport Traffic Control Towers development projects that address the aging infrastructure of our nation's airports.

In addition, ATP grants will align with DOT's Strategic Framework FY2022-2026 at <https://www.transportation.gov/administrations/office-policy/fy2022-2026-strategic-framework> <https://www.transportation.gov/administrations/office-policy/fy2022-2026-strategic-framework>. The FY 2024 ATP will be implemented consistent with law and in alignment with the priorities in Executive Order 14052, *Implementation of the Infrastructure Investments and Jobs Act* (86 FR 64355), which are to invest efficiently and equitably; promote the competitiveness of the U.S. economy; improve job opportunities by focusing on high labor standards; strengthen infrastructure resilience to all hazards including climate change; and to effectively coordinate with State, local, Tribal, and territorial government partners.

**DATES:** Airport sponsors that wish to be considered for FY 2024 ATP discretionary funding should submit an application that meets the requirements of this Notice of Funding Opportunity (NOFO) as soon as possible, but no later than 5:00 p.m. Eastern time, October 16, 2023.

**ADDRESSES:** Submit applications electronically at [www.faa.gov/bil/airport-terminals](http://www.faa.gov/bil/airport-terminals) per instructions in this NOFO.

**FOR FURTHER INFORMATION CONTACT:** Robin K. Hunt, Manager, BIL Branch APP-540, FAA Office of Airports, at (202) 267-3263 or our FAA BIL email address: [9-ARP-BILAirports@faa.gov](mailto:9-ARP-BILAirports@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Program Description

BIL established the ATP, a competitive discretionary grant program, which provides approximately \$1 billion in grant funding annually for five years (Fiscal Years 2022-2026) to upgrade, modernize, and rebuild our nation's airport terminals and airport-owned Airport Traffic Control Towers (ATCTs). This includes bringing airport facilities into conformity with current standards; constructing, modifying, or expanding facilities as necessary to meet demonstrated aeronautical demand; enhancing environmental sustainability; encouraging actual and potential competition; and providing a balanced system of airports to meet the roles and functions necessary to support civil aeronautical demand. The FAA is committed to advancing safe, efficient

transportation, including projects funded under the ATP. The ATP also supports the President's goals to mobilize American ingenuity to build modern infrastructure and an equitable, clean energy future. In support of Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (86 FR 7009), the FAA encourages applicants to consider how the project will address the challenges faced by individuals in underserved communities and rural areas, as well as accessibility for persons with disabilities.

The ATP falls under the project grant authority for the Airport Improvement Program (AIP) in 49 United States Code (U.S.C.) § 47104. Per 2 Code of Federal Regulations (CFR) part 200—*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, the AIP Federal Assistance Listings Number is 20.106, with the objective to assist eligible airports in the development and improvement of a nationwide system that adequately meets the needs of civil aeronautics. The FY 2024 ATP will be implemented, as appropriate and consistent with BIL, in alignment with the priorities in Executive Order 14052, *Implementation of the Infrastructure Investments and Jobs Act* (86 FR 64355), which are to invest efficiently and equitably; promote the competitiveness of the U.S. economy; improve opportunities for good-paying jobs with the free and fair choice to join a union by focusing on high labor standards; strengthen infrastructure resilience to all hazards including climate change; and to effectively coordinate with State, local, Tribal, and territorial government partners. Consistent with statutory criteria and Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619), the FAA also seeks to fund projects under the ATP that reduce greenhouse gas emissions and are designed with specific elements to address climate change impacts. Specifically, the FAA is looking to award projects that align with the President's greenhouse gas reduction goals, promote energy efficiency, support fiscally responsible land use and transportation efficient design, support terminal development compatible with the use of sustainable aviation fuels and technologies, increase climate resilience, incorporate sustainable and less emissions-intensive pavement and construction materials as allowable, and reduce pollution.

The FAA will also consider projects that advance the goals of the Executive Orders listed under Section E.2.

<sup>45</sup> 17 CFR 240.17Ad-22(e)(20).

<sup>46</sup> In approving this Proposed Rule Change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>47</sup> 15 U.S.C. 78s(b)(2).

<sup>48</sup> 17 CFR 200.30-3(a)(12).

## B. Federal Award Information

This NOFO announces up to \$1,000,000,000, subject to availability of funds, for the Fiscal Year 2024 ATP. The ATP is a \$5 billion grant program, distributed as approximately \$1 billion annually for five years (Fiscal Years 2022, 2023, 2024, 2025, and 2026), subject to annual allocations limitations based on airport roles found in the published National Plan of Integrated Airport Systems (NPIAS), as updated with current year data. In general, the \$5 billion in ATP grant funding is subject to the following annual award allocation limitations: not more than 55 percent shall be for large hub airports, not more than 15 percent shall be for medium hub airports, not more than 20 percent shall be for small hub airports, and not less than 10 percent shall be for nonhub and nonprimary airports.

The FAA will consider projects that increase capacity and passenger access; projects that replace aging infrastructure; projects that achieve compliance with the Americans with Disabilities Act (42 U.S.C. 12101, *et seq.*) and expand accessibility for persons with disabilities; projects that improve airport access for historically disadvantaged populations; projects that improve energy efficiency, including upgrading environmental systems, upgrading plant facilities, and achieving Leadership in Energy and Environmental Design (LEED) accreditation standards; projects that improve airfield safety through terminal relocation; and projects that encourage actual and potential competition. This includes applicable Executive Orders as listed in Section E.2. Additionally, the FAA will provide preference to projects that achieve a complete development objective even if awards for the project must be phased, and priority to projects that have received partial awards.

Projects for relocating, reconstructing, repairing, or improving an airport-owned ATCT will also be considered. In addition to the considerations above, these projects will also be evaluated based on overall impact on the National Airspace System, including age of facility, operational constraints, and nonstandard facilities.

The FAA will publish a NOFO annually to announce additional funding made available, approximately \$1 billion per year, for Fiscal Years 2025–2026.

## C. Eligibility Information

### 1. Eligible Applicants

Eligible applicants are those airport sponsors normally eligible for Airport Improvement Program (AIP)

discretionary grants as defined in 49 U.S.C. 47115. This includes a public agency, private entity, state agency, Indian Tribe or Pueblo owning a public-use NPIAS airport, the Secretary of the Interior for Midway Island airport, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

### 2. Cost Sharing or Matching

The Federal cost share of ATP grants is 80 percent for large and medium hub airports, and 95 percent for the remainder of airports eligible to receive ATP grants, which includes small hub, nonhub, and nonprimary airports.

### 3. Project Eligibility

All projects funded from the ATP must be:

- i. Airport terminal development, defined in 49 U.S.C. 47102(28) as development of an airport passenger terminal building, including terminal gates; access roads servicing exclusively airport traffic that leads directly to or from an airport passenger terminal building; and walkways that lead directly to or from an airport passenger terminal building. Under the ATP, the FAA may consider projects that qualify as “terminal development” (including multimodal terminal development), as that term is defined in 49 U.S.C. 47102(28); or
- ii. On-airport rail access projects as set forth in Passenger Facility Charge (PFC) Update 75–21 (86 FR 48793, August 31, 2021); or
- iii. Airport-owned ATCT that includes relocating, reconstructing, repairing, or improving the ATCT; and
- iv. Justified based on civil aeronautical demand.

## D. Application and Submission Information

### 1. Address To Request Application Package

An application for ATP terminal or ATCT projects, FAA Form 5100–144, *Bipartisan Infrastructure Law, Airport Terminal and Tower Project Information*, can be found at: [www.faa.gov/bil/airport-terminals](http://www.faa.gov/bil/airport-terminals).

Direct all inquiries regarding applications to the appropriate Regional Office (RO) or Airports District Office (ADO). RO/ADO contact information is available at: [https://www.faa.gov/about/office\\_org/headquarters\\_offices/arp/offices/regional\\_offices](https://www.faa.gov/about/office_org/headquarters_offices/arp/offices/regional_offices). Or to the BIL Team at: 9-ARP-BILAirports@faa.gov.

### 2. Content and Form of Application Submission

Applicants are required to submit FAA Form 5100–144, *Bipartisan*

*Infrastructure Law, Airport Terminal and Tower Project Information*. The applicant should submit Form 5100–144 as a fillable digitally signed PDF document via email. If the applicant cannot provide a digital signature, the application may be submitted as two documents: (1) the completed fillable PDF without a signature and (2) a scanned version of the completed application with a written signature. Applicants should follow the instructions and provide a response to applicable items on the form.

The “Submit by Email” button at the bottom of the form will generate an email for the applicant to send to the FAA BIL Team at: 9-ARP-BILAirports@faa.gov. If the “Submit by Email” button does not generate an email the applicant can save the fillable PDF by selecting “File>Save As” to save as a fillable PDF. Once saved, the applicant can email the application to the FAA BIL Team at 9-ARP-BILAirports@faa.gov. The fillable PDF application must contain either a digital signature or the applicant’s written signature in accordance with the procedures described above.

Applicants selected to receive an ATP grant will then be required to follow AIP grant application procedures prior to award, which include meeting all prerequisites for funding, and submission of Standard Form SF–424, *Application for Federal Assistance*, and FAA Form 5100–100, *Application for Development Projects*.

Airports covered under the FAA’s State Block Grant Program or airports in a channeling act state should coordinate with their associated state agency on the process for who should submit an application, via the procedures listed above.

Applicants must address Administration and Departmental priorities in safety, climate change and sustainability, equity, and workforce development which are further defined in Section E.1 Criteria.

*Grant Funds, Sources and Uses of Project Funds:* The FAA requests that each project application have a financial plan (or project budget) available for review upon request. Project budgets should show how different funding sources will share in each activity and present those data in dollars and percentages. The budget should identify other Federal funds the applicant is applying for or has been awarded, if any, that the applicant intends to use. Funding sources should be grouped into three categories: non-Federal, ATP, and other Federal with specific amounts from each funding source.

*Sharing of Application Information:* The FAA may share application

information within the Department or with other Federal agencies if the FAA determines that sharing is relevant to the respective program's objectives.

### 3. Unique Entity Identifier and System for Award Management (SAM)

Applicants must comply with 2 CFR part 25—*Universal Identifier and System for Award Management*. All applicants must have a unique entity identifier provided by SAM. Additional information about obtaining a Unique Entity Identifier (UEI) and registration procedures may be found at <http://www.sam.gov>. Each applicant is required to: (1) be registered in SAM; (2) provide a valid UEI prior to grant award; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by the FAA. Under the ATP, the UEI and SAM account must belong to the entity that has the legal authority to apply for, receive, and execute ATP grants.

Once awarded, the FAA grant recipient must maintain the currency of its information in SAM until the grantee submits the final financial report required under the grant or receives the final payment, whichever is later. A grant recipient must review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term.

The FAA may not make an award until the applicant has complied with all applicable UEI and SAM requirements. If an applicant has not fully complied with the requirements by the time the FAA is ready to make an award, the FAA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a federal award to another applicant.

Non-federal entities that have received a federal award are required to report certain civil, criminal, or administrative proceedings to SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS) [www.fapiis.gov](http://www.fapiis.gov)) to ensure registration information is current and complies with federal requirements. Applicants should refer to 2 CFR 200.113 for more information about this requirement.

### 4. Submission Dates and Times

Airports that wish to be considered for FY 2024 ATP discretionary funding must submit an application that meets the requirements of this NOFO as soon as possible, but no later than 5:00 p.m.

Eastern time on October 16, 2023. Submit applications electronically to [9-ARP-BILAirports@faa.gov](mailto:9-ARP-BILAirports@faa.gov) per instructions in this NOFO.

### 5. Intergovernmental Review

Not applicable.

### 6. Funding Restrictions

All projects funded from the ATP must be airport terminal development or for relocation, reconstruction, repair, or improvement of an airport-owned air traffic control tower, defined under Section C-3 Project Eligibility. ATP funds may not be used to support or oppose union organizing.

*Pre-Award Authority:* All project costs must be incurred after the grant execution date unless specifically permitted under 49 U.S.C. 47110(c). Certain airport development costs incurred before execution of the grant agreement, but after November 15, 2021, are allowable, only if certain conditions under 49 U.S.C. 47110(c) are met [see Table 3-60 of the AIP Handbook, FAA Order 5100.38 D Change 1, for a specific list of the guidance regarding when project costs can be incurred in relation to section 47110(c)].

### 7. Other Submission Requirements

Applications will only be accepted on FAA Form 5100-144 fillable PDF via email and must be received on or before October 16, 2023, 5:00 p.m. Eastern time. No other forms of applications will be accepted.

## E. Application Review Information

### 1. Criteria

Applications for FY 2024 ATP will be rated using the following criteria:

i. Projects must meet eligibility requirements under the ATP, which includes terminal development (including multimodal terminal development) as defined in 49 U.S.C. 47102(28): on-airport rail access projects; or airport-owned ATCT relocation, reconstruction, repair, or improvements.

ii. The FAA will consider timeliness of implementation, with priority given to those projects, including "design only" projects, that can satisfy all statutory and administrative requirements for grant award by June 2024.

iii. Favorable consideration will be given to eligible and justified (based on civil aeronautical demand) terminal development projects (including multimodal terminal development), on-airport rail access projects, and ATCT projects that:

a. *Increase capacity and passenger access:* The applicant should describe

the extent to which the project contributes to the functioning and growth of the economy, including the extent to which the project addresses congestion or service gaps in rural areas. The applicant should demonstrate how the proposed project increases capacity, provides ongoing market access to the airport by competing carriers as economic and competitive conditions change (such as by constructing common use gates or updating gates and other areas with common use equipment). The applicant should also demonstrate how the proposed project increases capacity and market access or relieves congestion based on current and/or forecast needs.

b. *Replace aging infrastructure:* Applicants should describe how the project addresses replacing or upgrading facilities that have reached the end of their useful life. This includes information on the current age and condition of the asset that will be affected by the project and how the proposed project will improve asset condition. The applicant should describe how the facility no longer meets the current or forecasted operational needs of the airport. This includes the renovation, expansion, or replacement of a facility that is too small or cannot efficiently meet current or future demand. This also includes projects aimed at terminal modernization or upgrades to meet the changing user or community expectations. This can be met by including multimodal terminal development, climate resiliency, sustainability initiatives and practices incorporated therein, and the incorporation of common-use equipment and practices, all with the goal of providing a terminal that focuses on the most efficient movement of passengers and baggage possible. This also includes projects that address changing environmental conditions and improve resilience to climate change, and that will be constructed consistent with the Federal Flood Risk Management Standard, per the President's January 30, 2015, Executive Order 13690, "Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input" to the extent consistent with current law.

c. *Achieve compliance with the Americans with Disabilities Act (ADA), including expand accessibility for persons with disabilities:* Applicants should describe how the project increases mobility, expands access, and improves connectivity for people with disabilities both inside and outside the terminal or ATCT. The information

should demonstrate how the proposed project will meet the requirements under the Americans with Disabilities Act and improve equitable access for people with disabilities.

d. *Improve airport access for historically disadvantaged populations:* Applicants should describe how the project increases mobility, expands access, and improves connectivity for historically disadvantaged populations. The information should demonstrate how the proposed project provides a significant local and regional impact and benefits historically disadvantaged populations. The applicant should include a description of public engagement on a local and regional level that has occurred, demonstrates proactive inclusivity of historically disadvantaged communities, and the degree to which public comments and commitments have been integrated into the project. DOT is providing a list of communities that meet the definition of Historically Disadvantaged Communities, available at <https://adip.faa.gov/agis/public/#/disadvantagedCommunities>.

e. *Improve energy efficiency, including upgrading environmental systems, upgrading plant facilities, and achieving Leadership in Energy and Environmental Design (LEED) accreditation standards:* Applicants should provide information demonstrating how the proposed project will reduce air pollution and greenhouse gas emissions from a reduction in energy consumption through energy-efficient design. This includes how the project may facilitate the airport in achieving LEED or similar accreditation standards through reliance on alternative energy, water use reduction, sustainable site selection and development, responsible materials selection and waste management, incorporating lower-carbon pavement and construction materials, enhanced indoor environmental quality, use of terminal facility for renewable energy production, or other sustainability efforts (e.g., vehicle charging stations attached to the terminal) that further reduce long-term impact on the climate. A proposed project, including utility support facilities, should be part of an overall plan that sets targets to lower carbon emissions, working toward a carbon-neutral airport by 2050.

f. *Improve airfield safety through terminal relocation:* Applicants should describe how the proposed terminal project is improving airfield safety through the relocation of the terminal building or its components. This could also include a project to relocate a

terminal that assists in addressing nonstandard airfield configurations.

g. *Encourage actual and potential competition:* The applicant should describe the extent to which the project promotes competition in air service by providing greater ability to accommodate new entrants; increasing the ability of competing air carriers to access constrained facilities on an ongoing basis; and facilitating the efficient and reliable movement of passengers and cargo. The applicant should describe the extent to which the project leads to common use gates and software (e.g., common use software updates, construction of common use gates versus preferential use by a specific carriers). The applicant may also wish to describe how the project will offer regional and national impacts by improving the economic strength of regions and cities; increase opportunities for tourism; result in long-term job creation by supporting good-paying jobs with the free and fair choice to join a union directly related to the project; and help the United States compete in a global economy by encouraging the location of important industries and future innovations and technology in the United States.

iv. ATCT projects that relocate, reconstruct, repair, or improve an airport-owned ATCT will also be evaluated based on overall impact on the National Airspace System, including age of facility, operational constraints, and nonstandard facility conditions.

v. The FAA will provide a preference to projects that achieve a complete development objective, even if awards for the project must be phased; and prioritize projects that have received partial awards.

vi. The applicant should describe whether and how project delivery and implementation create good-paying jobs with the free and fair choice to join a union to the greatest extent possible; the use of demonstrated strong labor standards, practices and policies (including for direct employees, contractors, sub-contractors, and service workers on airport property); use of project labor agreements; distribution of workplace rights notices; union neutrality agreements; wage and/or benefit standards; safety and health standards; the use of Local Hire Provisions;<sup>1</sup> registered apprenticeships; joint-labor management partnerships; or other similar standards or practices. The applicant should describe how planned

methods of project delivery and implementation (for example, use of Project Labor Agreements and/or Local Hire Provisions,<sup>2</sup> training, placement, and the provision of supportive services for underrepresented workers) provide opportunities for all workers, including workers underrepresented in construction jobs to be trained and placed in good-paying jobs directly related to the project. The FAA will consider this information in evaluating the application.

Applicants are encouraged to submit projects that meet as many of the above criteria as possible, but do not need to meet all criteria to be considered.

## 2. Review and Selection Process

Federal awarding agency personnel will evaluate applications based on how well the projects meet the criteria in E.1, including project eligibility, justification, readiness, impact on the National Airspace System, and the availability of matching funds. The FAA will also consider how well projects advance the goals of the following Executive Orders, which are incorporated into the criteria under E.1.: the President's January 20, 2021, Executive Order 13990, "*Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*"; the President's January 20, 2021, Executive Order 13985, "*Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*"; the President's January 27, 2021, Executive Order 14008, "*Tackling the Climate Crisis at Home and Abroad*"; the President's May 20, 2021, Executive Order 14030, "*Climate Related Financial Risk*"; and the President's July 9, 2021, Executive Order 14036, "*Promoting Competition in the American Economy*."

Applications are first reviewed for eligibility, justification, and timeliness of implementation consistent with the requirements of this NOFO and the intent of the ATP. Applications are then reviewed for how well the proposed project(s) meets the criteria in E.1. and ranked by field and Regional office staff. The top projects for each airport category (as outlined in BIL) are then evaluated by a National Control Board (NCB). The NCB has representatives from each Region and Headquarters management. The NCB recommends project and funding levels to senior leadership.

<sup>1</sup> IJJA div. B Section 25019 provides authority to use geographical and economic hiring preferences, including local hire, for construction jobs, subject to any applicable State and local laws, policies, and procedures.

<sup>2</sup> Project labor agreement should be consistent with the definition and standards outlined in Executive Order 14063.

### 3. Integrity and Performance Check

Prior to making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold, the FAA is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS) (see 41 U.S.C. 2313). An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a federal awarding agency previously entered. The FAA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.206.

## F. Federal Award Administration Information

### 1. Federal Award Notices

BIL awards are announced through a Congressional notification process and a DOT Secretary's Notice of Intent to Fund. The FAA RO/ADO representative will contact the airport with further information and instructions. Once all pre-grant actions are complete, the FAA RO/ADO will offer the airport sponsor a grant for the announced project. This offer may be provided through postal mail or by electronic means. Once this offer is signed by the airport sponsor, it becomes a grant agreement. Awards made under this program are subject to conditions and assurances in the grant agreement.

### 2. Administrative and National Policy Requirements

#### i. Grant Requirements

All grant recipients are subject to the grant requirements of the AIP, found in 49 U.S.C. chapter 471. Grant recipients are subject to requirements in the FAA's *AIP Grant Agreement* for financial assistance awards; the annual Certifications and Assurances required of applicants; and any additional applicable statutory or regulatory requirements, including nondiscrimination requirements and 2 CFR part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. Grant requirements include, but are not limited to, approved projects on an airport layout plan; compliance with

federal civil rights laws; Buy American requirements under 49 U.S.C. 50101; Build America, Buy America requirements in sections 70912(6) and 70914 in Public Law 117–58; the *Department of Transportation's Disadvantaged Business Enterprise (DBE) Program* regulations for airports (49 CFR part 23 and 49 CFR part 26); the Infrastructure Investment and Jobs Act; and prevailing wage rate requirements under the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5, and reenacted at 40 U.S.C. 3141–3144, 3146, and 3147).

**Domestic Preference Requirements:** As expressed in Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers* (86 FR 7475), executive branch should maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. Funds made available under this notice are subject to the domestic preference requirements in the Buy American requirements under 49 U.S.C. 50101. The FAA expects all applicants to comply with that requirement without needing a waiver. However, to obtain a waiver, a recipient must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project.

**Civil Rights and Title VI:** As a condition of a grant award, grant recipients should demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 and implementing regulations (49 CFR 21), the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act, all other civil rights requirements, and accompanying regulations. This should include a current Title VI plan, completed Community Participation Plan, and a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards. DOT's and the applicable Operating Administrations' Office of Civil Rights may work with awarded grant recipients to ensure full compliance with Federal civil rights requirements.

**Critical Infrastructure Security, Cybersecurity, and Resilience:** It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against all hazards; including both physical and cyber risks, consistent with Presidential Policy Directive 21—Critical Infrastructure Security and Resilience and the President's National Security Memorandum on Improving

Cybersecurity for Critical Infrastructure Control Systems. Each applicant selected for Federal funding under this notice must demonstrate, prior to the signing of the grant agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the project. Projects that have not appropriately considered and addressed physical and cyber security and resilience in their planning, design, and project oversight, as determined by the Department and the Department of Homeland Security, will be required to do so before receiving funds for construction.

**Federal Contract Compliance:** As a condition of grant award and consistent with E.O. 11246, Equal Employment Opportunity (30 FR 12319, and as amended), all Federally assisted contractors are required to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women, in addition to goals that vary based on geography for construction work hours and for work being performed by people of color.

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. OFCCP has a Mega Construction Project Program through which it engages with project sponsors as early as the design phase to help promote compliance with non-discrimination and affirmative action obligations. OFCCP will identify projects that receive an award under this notice and are required to participate in OFCCP's Mega Construction Project Program from a wide range of Federally-assisted projects over which OFCCP has jurisdiction and that have a project cost above \$35 million. DOT will require project sponsors with costs above \$35 million that receive awards under this funding opportunity to partner with OFCCP, if selected by OFCCP, as a condition of their DOT award.

**Performance and Program Evaluation:** As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by the DOT, FAA, or another agency or partner. The evaluation may take different forms, such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. DOT may require applicants

to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or DOT staff; (2) provide access to program records and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or DOT staff. Requested program records or information will be consistent with record requirements outlined in 2 CFR 200.334–338 and the grant agreement.

#### ii. Standard Assurances

Each grant recipient must assure that it will comply with all applicable federal statutes, regulations, executive orders, directives, FAA circulars, and other federal administrative requirements in carrying out any project supported by the ATP grant. The grant recipient must acknowledge that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with the FAA. The grant recipient understands that federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The grant recipient must agree that the most recent Federal requirements will apply to the project unless the FAA issues a written determination otherwise.

The grant recipient must submit the Certifications at the time of grant application and Assurances must be accepted as part of the grant agreement at the time of accepting a grant offer. Grant recipients must also comply with the requirements of 2 CFR part 200, which “are applicable to all costs related to Federal awards,” and which are cited in the grant assurances of the grant agreements. The Airport Sponsor Assurances are available on the FAA website at: [https://www.faa.gov/airports/aip/grant\\_assurances](https://www.faa.gov/airports/aip/grant_assurances).

#### 3. Reporting

Grant recipients are subject to financial reporting per 2 CFR 200.328 and performance reporting per 2 CFR 200.329. Under the ATP, the grant recipient is required to comply with all Federal financial reporting requirements and payment requirements, including the submittal of timely and accurate reports. Financial and performance reporting requirements are available in the FAA October 2020 Financial Reporting Policy, which is available at <https://www.faa.gov/sites/faa.gov/files/>

[airports/aip/grant\\_payments/aip-grant-payment-policy.pdf](#).

The grant recipient must comply with annual audit reporting requirements. The grant recipient and sub-recipients, if applicable, must comply with 2 CFR part 200, subpart F, *Audit Reporting Requirements*. The grant recipient must comply with any requirements outlined in 2 CFR part 180, *Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension*.

#### G. Federal Awarding Agency Contact(s)

For further information concerning this notice, please contact the FAA BIL Branch via email at [9-ARP-BILAirports@faa.gov](mailto:9-ARP-BILAirports@faa.gov). In addition, the FAA will post answers to frequently asked questions and requests for clarifications on the FAA’s website at [www.faa.gov/bil/airport-terminals](http://www.faa.gov/bil/airport-terminals). To ensure applicants receive accurate information about eligibility of the program, the applicant is encouraged to contact the FAA directly, rather than through intermediaries or third parties, with questions.

All applicants, including those requesting full federal share of eligible projects costs, should have a plan to address potential cost overruns as part of an overall funding plan.

Issued in Washington, DC, on September 11, 2023

**Robin K. Hunt,**

*Manager, FAA Office of Airports BIL Branch.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Withdrawal of the Record of Decision for the LaGuardia Airport Access Improvement Project

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Withdrawal of the Record of Decision (ROD) for the LaGuardia Airport (LGA) Access Improvement Project (Project).

**SUMMARY:** The FAA is withdrawing the July 2021 ROD for the Project. The Port Authority of New York and New Jersey has notified the FAA of its intent to terminate the Project and pursue alternative access improvements to LGA. Accordingly, the components identified in the LGA Access Improvement Project ROD are no longer needed at this time. Following the issuance of the ROD, New York

Governor Kathy Hochul tasked the Port Authority of New York and New Jersey with reexamining alternative mass transit options to LGA. The resulting recommendations from the corresponding study identified improvements to an existing bus service and construction of a new non-stop airport shuttle service. On July 20, 2023, the Port Authority of New York and New Jersey, as the airport sponsor, notified the FAA of its intent to officially abandon the Project as approved by the FAA’s ROD in favor of pursuing the recommended bus service and shuttle improvements. In response to this decision, the FAA has withdrawn the ROD for the LGA Access Improvement Project. Accordingly, all approvals for FAA actions within the ROD are also withdrawn. The Port Authority of New York and New Jersey must reinitiate any requests for FAA review and approval as necessary for all aspects of the Project contained within the now-withdrawn ROD should it wish to proceed with any component of the Project, in part or as a whole.

**DATES:** The effective date of the FAA’s Withdrawal Order for the LGA Access Improvement Project ROD is September 1, 2023.

#### FOR FURTHER INFORMATION CONTACT:

Andrew Brooks, Environmental Program Manager, Eastern Regional Office, AEA–610, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, NY 11434. Telephone: 718–553–2511.

**SUPPLEMENTARY INFORMATION:** In 2015, former New York Governor Andrew Cuomo convened an Airport Advisory Panel to address the deficiencies of LGA as a major transportation facility. The resulting report recommended that the redevelopment of LGA include new ways to access the airport, including a future AirTrain.

In 2018, based on recommendations from the Airport Advisory Panel, the Port Authority of New York and New Jersey (Port Authority), as operator of LGA, proposed the Project to construct and operate a new Automated People Mover (APM) system to provide a reliable transit alternative for air passenger and employee access to the Airport. The Project would connect two on-Airport stations with an off-Airport transfer station at Willets Point. The off-Airport station would provide connections to the Mets-Willets Point stations of the Long Island Railroad (LIRR) Port Washington Branch and the New York City Transit (NYCT) Subway Flushing Station (7 Line). The off-Airport station would also provide a connection to a new off-Airport employee parking option located at