

CHAPTER 473. AVIATION DEVELOPMENT GRANTS

- Sec.
473.1. Purpose.
473.2. Definitions.
473.3. Eligibility requirements and criteria.
473.4. Limits of funding.
473.5. [Reserved].
473.5a. Project selection process and criteria.
473.5b. Important dates and notification procedure.
473.6. [Reserved].
473.6a. Project execution.
473.7. Public records.
473.8. [Reserved].
473.9. Offer and acceptance of an aviation development grant.
473.10. Standards, methods, techniques, designs and special conditions.
473.11. Audit and recordkeeping requirements.
473.12. Inspection.
473.13. Payment procedures.
473.14. Liability; forfeiture of funds; repayment.
473.15. Waiver.
473.16. Appeal.

Authority

The provisions of this Chapter 473 issued under chapters 51, 53, 55, 57, 59 and 61 of the Aviation Code (74 Pa.C.S. §§ 5101—6169), unless otherwise noted.

Source

The provisions of this Chapter 473 adopted July 22, 1977, effective July 23, 1977, 7 Pa.B. 2070, unless otherwise noted.

§ 473.1. Purpose.

This chapter sets forth requirements and criteria relating to aviation development grants.

Source

The provisions of this § 473.1 adopted July 22, 1977, effective July 23, 1977, 7 Pa.B. 2070; amended October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982. Immediately preceding text appears at serial page (113677).

§ 473.2. Definitions.

The words and terms used in this chapter have the same meaning as they are given in § 471.2 (relating to definitions), unless the context clearly indicates otherwise.

Source

The provisions of this § 473.2 adopted July 22, 1977, effective July 23, 1977, 7 Pa.B. 2070; amended October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982; amended October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273. Immediately preceding text appears at serial pages (254115) to (254116).

§ 473.3. Eligibility requirements and criteria.

(a) The minimum requirements and criteria for eligibility to apply for an aviation development grant is that the facility shall be an appropriately licensed public airport located in this Commonwealth and the applicant must be an eligible sponsor.

(b) The following are projects eligible for consideration of an offer of an aviation development grant:

- (1) Runway construction, including required safety areas.
- (2) Taxiway construction.
- (3) Runway overlays, rehabilitation or surface treatment.
- (4) Apron overlays, rehabilitation or surface treatment.
- (5) Taxiway overlays, rehabilitation or surface treatment.
- (6) Runway, taxiway and apron marking and lighting.
- (7) Aeronautical and airport beacons.
- (8) Runway identification and approach lighting.
- (9) Electronic and visual aids to aircraft navigation including weather reporting systems.
- (10) Wind indicator devices.
- (11) Removal, lighting and marking of obstructions.
- (12) Airport safety and security fencing.
- (13) Acquisition of land or interest therein for clear zone purposes.
- (14) Acquisition of land or easements for airport development.
- (15) Equipment and building, dedicated to aircraft rescue and firefighting purposes.
- (16) Equipment and equipment storage buildings dedicated to airport snow removal and ice control purposes.
- (17) Public areas of terminal buildings at scheduled passenger service airports.
- (18) Public use apron construction.
- (19) Necessary project/planning/environmental studies/engineering plans, specifications and cost estimates.
- (20) Airport planning, including, but not limited to master plans, noise and land use studies.
- (21) Airport access and service roads.
- (22) Pavement surface monitoring systems.
- (23) Other projects which, in the discretion of the Department, should be considered.

Source

The provisions of this § 473.3 adopted July 22, 1977, effective July 23, 1977, 7 Pa.B. 2070; amended October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982; amended October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273. Immediately preceding text appears at serial pages (254116) to (254117).

§ 473.4. Limits of funding.

(a) *Federal aid projects.* The maximum grant to a sponsor may be up to 75% of the non-Federally funded eligible amount of the project.

(b) *Non-Federal aid projects.* The maximum grant to a sponsor for State participation projects will be flexible; however, State participation will not exceed 90% of the total project cost.

Source

The provisions of this § 473.4 adopted July 22, 1977, effective July 23, 1977, 7 Pa.B. 2070; amended October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982; amended October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273. Immediately preceding text appears at serial page (254117).

Cross References

This section cited in 67 Pa. Code § 473.9 (relating to offer and acceptance of an aviation development grant).

§ 473.5. [Reserved].**Source**

The provisions of this § 473.5 adopted July 22, 1977, effective July 23, 1977, 7 Pa.B. 2070; amended October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982; reserved October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273. Immediately preceding text appears at serial pages (254118) to (254119).

§ 473.5a. Project selection process and criteria.

(a) *Project selection.* Aviation development grants for projects on the 12 year plans and Airport Capital Improvement Programs (ACIPs) on file with and agreed to by the Bureau will be selected for consideration on an annual basis upon written request from sponsors.

(b) *Consideration.* Following the published closing date identified in § 473.5b (relating to important dates and notification procedure) or the receipt of applicable documentation, projects will be considered for funding for future fiscal years.

(c) *Incomplete documentation.* The Department may consider documentation for aviation development grants which is technically incomplete on the deadline identified in § 473.5b, but which will be made complete in a timely fashion. The decision to consider documentation which may be determined incomplete on the documentation deadline is made at the sole discretion of the Bureau.

(d) *Review process.* In evaluating the documentation, the Department may establish internal review procedures, review committees or other administrative mechanisms sufficient to handle the responsibilities of these programs. The Department will maintain an ongoing record of the specific review mechanisms

used for the consideration of the documentation and to make available to applicants an outline of the current applicable internal review procedures.

(e) *Review by Bureau.* The Bureau will review and evaluate submitted documentation with respect to applicable criteria for project funding, available funds, current priorities for development of the airport and significant environmental or economic factors.

(f) *Criteria used in review.* In considering submitted documentation, the Bureau will give weight and consideration to the following criteria:

- (1) Improvement of the safety of airport operations.
- (2) The effects of the project on both the overall airport system and the local airport.
- (3) The impact of the project on the area surrounding the airport.
- (4) Availability of local funds for airport development.
- (5) The capture of Federal funds for airport development.
- (6) Current policy of the Commonwealth on transportation improvements and economic development.
- (7) Current and future demand for passenger service, based or itinerant aircraft and freight services.
- (8) Assurance that there is a viable network and reasonable distribution of services and safe facilities throughout this Commonwealth.
- (9) The extent to which the project would contribute to the welfare of the citizens of this Commonwealth.

(g) *Additional considerations.* In consideration of the various criteria applicable to the review of submitted documentation, the Bureau will also evaluate criteria in a manner which takes into account unique or special factors at any airport and emergency situations. Factors making an airport unique from others may include the character of the market it serves, the type and use of based aircraft, the current or future role of the airport, nearby facilities offering similar services or other significant elements contributing to the character or utilization of the facility.

Source

The provisions of this § 473.5a adopted October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273.

§ 473.5b. Important dates and notification procedure.

(a) The Bureau will publish annual critical dates for the upcoming calendar year in the first publication of the *Pennsylvania Bulletin* of the calendar year preceding the upcoming fiscal year. Additionally, the Bureau will provide direct notification to current sponsors.

(b) Documentation for aviation development grants is considered on an annual basis. From the completed planning documents on file for a given fiscal year, July 1 to June 30, projects will be selected for grants.

(c) Documents on file, but incomplete, may be excluded from consideration for grants in that fiscal year. The deadlines for submission of aviation development grant related documentation for a given fiscal year is the close of business of the published date (4:30 pm Eastern Time).

(d) The sponsor will receive a letter of intent for projects selected as described in § 473.9 (relating to offer and acceptance of an aviation development grant), which will authorize the sponsor to proceed with project formulation described in § 473.6a (relating to project execution).

(e) The Department will send a written conditional offer for a grant to a sponsor for a selected project in accordance with § 473.9.

Source

The provisions of this § 473.5b adopted October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273.

Cross References

This section cited in 67 Pa. Code § 473.5a (relating to project selection process and criteria).

§ 473.6. [Reserved].

Source

The provisions of this § 473.6 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982; reserved October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273. Immediately preceding text appears at serial page (254119).

§ 473.6a. Project execution.

(a) Upon receipt of a letter of intent in accordance with § 473.9 (relating to offer and acceptance of an aviation development grant), a sponsor may proceed with project formulation and the applicable plans, specifications, procurement of the necessary contracting services and other work necessary pursuant to the future phases of the project.

(1) If the intended project is an airport master planning, environmental planning or related planning study, or both, the applicant shall:

(i) Engage a professional planner or engineer, or both, with appropriate experience in the particular planning area to accomplish the planning study and related work items as required.

(ii) Provide required documentation including, but not limited to, the scope of services, objectives, work schedule, detailed cost schedule and contract documents required for Department review and approval prior to granting of funds.

(2) If the intended project is land acquisition or interest therein, or both, the applicant shall:

- (i) Engage a professional engineer or surveyor registered in this Commonwealth to prepare a property map and provide legal descriptions prior to negotiations.
 - (ii) Provide other necessary maps, reports, environmental documentation and cost estimates as may be required for Department review and approval prior to the granting of funds.
- (3) If the intended project is construction or facility modification, the applicant shall:
- (i) Engage a professional engineer registered in this Commonwealth to prepare detailed construction plans and specifications and to provide construction engineering, inspection and material testing as required.
 - (ii) Provide certified maps, reports, detailed construction plans, specifications and contract documents as may be required for Department review and approval prior to granting of funds.
- (4) If the intended project is an equipment procurement—ARFF or Snow Removal—the applicant shall:
- (i) Prepare detailed procurement specifications.
 - (ii) Provide reports, detailed procurement specifications, contract documents and cost estimates as may be required for Department review and approval prior to granting funds.
- (b) At the request of the Bureau, the sponsor shall submit:
- (1) Estimated cost—by item quantity and unit cost item extended to total cost.
 - (2) A copy of approved airport layout plan.
 - (3) A copy of environmental finding.
 - (4) A copy of airspace determination.
 - (5) A copy of the Sponsor's Certification—if required by the Bureau.
 - (6) Other materials or information, or both, deemed necessary by the Department.

Source

The provisions of this § 473.6a adopted October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273.

Cross References

This section cited in 67 Pa. Code § 473.5b (relating to important dates and notification procedure).

§ 473.7. Public records.

An application for an aviation development grant made under this chapter is considered a document of public record at the time of filing, and will be made available to persons for inspection.

Source

The provisions of this § 473.7 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982; amended October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273. Immediately preceding text appears at serial page (254120).

§ 473.8. [Reserved].**Source**

The provisions of this § 473.8 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982; reserved October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273. Immediately preceding text appears at serial pages (254120) and (284985).

Notes of Decisions*Local Concerns*

In the process of considering grants for airport operations or development, local concerns are addressed in the grant process by considering the impact of the airport on the area in which it is located. *Wings Field Preservation Association, L.P. v. Department of Transportation*, 776 A.2d 311 (Pa. Cmwlth. 2001).

§ 473.9. Offer and acceptance of an aviation development grant.

(a) The Department will send a written conditional offer to a sponsor whose application has been approved. The Department's conditional offer may provide funding, in accordance with the limitations of § 473.4(b) (relating to limits of funding), for an entire eligible project as proposed, or for only a portion of an eligible project.

(b) Upon receipt of a conditional offer from the Department, a sponsor shall, within the time set forth in the conditional offer execute and submit the grant agreement.

(1) Failure of a sponsor to indicate acceptance of the terms of the grant agreement within the specified response period, will be considered as a rejection of the final offer.

(2) Acceptance of the grant agreement is not binding on a sponsor or the Department until the documents are fully executed between the Department and the sponsor.

(3) Neither the offer nor the acceptance of a grant under this chapter relieves the sponsor/grantee from compliance with local zoning or other municipal requirements.

(c) Unless otherwise restricted by statute, the Department has absolute discretion in the selection of projects and in the determination of funding levels, priorities, critical project selection criteria, project phasing, project design and specifications and performance criteria.

(d) In the consideration of the documentation provided, the Department may determine that a proposed project should be amended to accommodate available

funding, applicable airport design criteria, anticipated use or to better accommodate potential user needs. The Department may offer an aviation development grant for a project whose specifications, terms, or scope have been modified by the Department.

(e) In the event that the Department confers with a sponsor to amend a proposed project, the sponsor understands that consultation and amendment does not insure that an offer will be made.

Source

The provisions of this § 473.9 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982; amended October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273. Immediately preceding text appears at serial pages (284985) to (294986).

Cross References

This section cited in 67 Pa. Code § 473.5b (relating to important dates and notification procedure); and 67 Pa. Code § 473.6a (relating to project execution).

§ 473.10. Standards, methods, techniques, designs and special conditions.

(a) The Department reserves the right to specify or make determinations as to the standards, methods, techniques, designs and dimensional criteria acceptable in projects funded by aviation development grants.

(b) The Department may publish standard specifications for the construction of airport improvements funded by aviation development grants.

(c) The Department reserves the right to require special conditions, performance criteria or site specifications other than those outlined in this chapter on a site specific or project specific basis for airport projects funded with aviation development grants, including but not limited to the following:

(1) The sequencing or phasing of construction in a special manner.

(2) The construction or demolition of other projects or structures.

(3) The purchase of additional property.

(4) The clearing of land.

(5) The completion of certain preventive maintenance procedures at specified intervals.

(6) The maintenance of a specified level of minimum available services.

(7) The maintenance of the general grounds and property of a facility in an orderly, efficient and safe manner.

(8) The acquisition of necessary permits or licenses from other Federal, State or local agencies.

(d) Special conditions, performance criteria or site specifications which may be a condition of receipt of an aviation development grant will be set forth in the offer.

(e) Failure to meet special conditions, performance criteria or site specifications may result in the withdrawal of the aviation development grant, disqualifi-

cation from future consideration for an aviation development grant or declaration of a sponsor to be in default of the terms of an aviation development grant agreement.

Source

The provisions of this § 473.10 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982. Immediately preceding text appears at serial pages (113683) to (113684).

Notes of Decisions

Local Concerns

By requiring the acquisition of necessary permits and licenses from local agencies, local concerns are considered in the process of approving grants for airport operations or development. *Wings Field Preservation Associates, L.P. v. Department of Transportation*, 776 A.2d 311 (Pa. Cmwlth. 2001).

§ 473.11. Audit and recordkeeping requirements.

(a) *General.*

(1) A sponsor receiving an aviation development grant shall keep records as the Department may prescribe, including records which fully disclose the amount and the disposition by the sponsor of the proceeds, the total cost of the plan or program in connection with which the aviation development grant is given or used and the amount and nature of that portion of the cost of the plan or program supplied by other sources and records as will facilitate effective audit.

(2) The Department will have access, for the purpose of audit and examination, to books, documents, papers and records of the sponsor that are pertinent to an aviation development grant received under this chapter. This includes progress audits during the project.

(3) A sponsor is required to establish and maintain an adequate accounting record for an individual project, which will allow the Department to determine the allowability of costs incurred for the project.

(4) A sponsor shall maintain effective control over and accountability for all funds, property and other assets. Sponsors shall adequately safeguard assets and shall assure that they are used solely for authorized purposes.

(5) A sponsor shall establish procedures to minimize the time elapsing between the transfer of funds from the Department and the disbursement by the sponsor whenever funds are advanced by the Department. If this elapsed time exceeds the standards of this chapter, the Department may require the return of interest earned on payments made.

(6) The sponsor shall include in a contract related to a project funded by an aviation development grant, a clause which allows the Department access to the sponsor's records for purposes of accounting and audit.

(b) *Retention of records.*

(1) A sponsor shall retain, for a period of 3 years after the date of the submission of the final Department payment, documentary evidence such as invoices, cost estimates, appraisal reports and negotiation documents relating to an item of project cost. These documents shall include, but are not limited to, vendor's invoices, applicable purchasing orders, receiving reports, inventory records, method of pricing, returns, production cost reports, weight tickets, physical inventories production cost accounts, final inspection report showing acceptance of the airport development performed under the project and a record of disposition or correction of unsatisfactory work.

(2) A sponsor shall retain, for a period of 3 years after the date of the submission of the final Department payment, evidence of payments for items of project costs including, but not limited to, vouchers, cancelled checks or warrants and receipts for cash payments.

(3) If audit findings have not been resolved, records shall be retained until the findings have been resolved.

Source

The provisions of this § 473.11 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982. Immediately preceding text appears at serial pages (113684) to (113685).

§ 473.12. Inspection.

(a) The Department or an agency of the Commonwealth, or both, or person designated or authorized by the Department has the absolute right to inspect, without notice, the sites, proposed sites, records and construction or materials relating to an airport project funded by an aviation development grant.

(b) An inspection ordered by the Department or conducted under its authority may include, but not necessarily be limited to, the reproduction and examination of records, the taking of samples applicable to site evaluation or project quality control, the validation of metes and bounds, the use of a site or project, or the assessment of any factor relevant to an airport project, application, or contracts and terms related to the aviation development grant process.

(c) A sponsor's denial of access to records, failure to produce records or obstruction with an inspection may result in withdrawal of the aviation development grant and disqualification from future consideration for an aviation development grant.

Source

The provisions of this § 473.12 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982. Immediately preceding text appears at serial pages (113685) to (113686).

§ 473.13. Payment procedures.

Unless otherwise specified by the Department, the following general procedures are to be used for funds from an aviation development grant:

(1) Prior to disbursement of funds, the Department reserves the right to conduct site inspections and test, or to review and audit records or accounts to validate, to the satisfaction of the Department, that disbursement of funds is warranted.

(2) A sponsor, having received payment or partial payment or reimbursement under an aviation development grant, shall make payments, within 30 calendar days from receipt of funds, to vendors and contractors for services and materials properly invoiced under the applicable project.

(3) A sponsor shall forward requests for payment to the Department on the forms provided. A request must include submission of actual cost documentation, consisting of approved contract estimates of work-in-place, approved invoices or other evidence of incurred costs, satisfactory to the Department. The final 10% of the total payment may not be paid by the sponsor until final inspection and approval of the project by the Department.

(4) Payment requests shall be limited to monthly submissions. The Bureau may request additional submissions to facilitate the end of year and grant closeout requirements.

Source

The provisions of this § 473.13 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982; amended October 29, 2010, effective October 30, 2010, 40 Pa.B. 6273. Immediately preceding text appears at serial page (284989).

§ 473.14. Liability; forfeiture of funds; repayment.

(a) If a sponsor fails to comply with an offer or aviation development grant agreement, the sponsor shall immediately reimburse the Department the amount for which a demand is made by the Department.

(b) The claim shall be a first lien on the airport property to the extent of the unpaid balance. The Department may seek judgements to seize, attach or place liens on the assets or accounts of a sponsor declared in default.

Source

The provisions of this § 473.14 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982. Immediately preceding text appears at serial page (113686).

Cross References

This section cited in 67 Pa. Code § 473.16 (relating to appeal).

§ 473.15. Waiver.

(a) *Waiver of requirements.* The Department may waive requirements to submit specific maps, reports, plans, information or data normally required for a grant application. The waivers may be granted only after written request to the Director and formal written response to the sponsor by the Director prior to submission of the completed application to the Bureau.

(b) *Special projects procedures.* The Department may develop modified procedures for grant applications pertaining to, but not limited to, runway markings, highway signing or highway visibility markers.

Source

The provisions of this § 473.15 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982. Immediately preceding text appears at serial page (113687).

§ 473.16. Appeal.

A person aggrieved by a decision of the Department under § 473.14 (relating to liability; forfeiture of funds; repayment) may take an appeal under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to practice and procedure of Commonwealth agencies and judicial review of Commonwealth agency action) and 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

Source

The provisions of this § 473.16 adopted October 3, 1986, effective October 4, 1986, 16 Pa.B. 3693; readopted July 20, 1990, effective July 21, 1990, 20 Pa.B. 3982. Immediately preceding text appears at serial page (113687).

[Next page is 475-1.]