

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.04.04 - RULES GOVERNING IDAHO AIRPORT AID PROGRAM

DOCKET NO. 39-0404-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rule-making procedures. The action is authorized pursuant to Sections 21-105 and 21-111, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2008.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

New application provisions for airport maintenance and safety supplies and small projects are based on recommendations from the Legislative Services Office Audit Team Memo, dated October 26, 2007. Language has been reorganized and refined to clarify requirements for the distribution of Idaho Airport Aid Program grant funds.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ((\$10,000) during the fiscal year resulting from this rulemaking:

There is no impact on the state general fund.

NEGOTIATED RULE-MAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this action was initiated in response to a Legislative Audit. Changes were for the purpose of clarification for the benefit of the program applicants.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bill Statham, Aeronautics Program Manager, 334-8784.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2008.

DATED this 22nd day of August, 2008.

Linda L. Emry
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THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0404-0801

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.04.04 "Rules Governing Idaho Airport Aid Program." IDAPA 39, Title 04, Chapter 04. ()

02. Scope. This rule is for the discretionary allocation of ~~the Idaho Airport Aid Program~~ airport development funds by the Idaho Transportation Board. Allocations must meet high priority needs and achieve maximum benefit and use of available funds. ~~All aid projects may be~~ Allocations may require matching financial participation and are reimbursable as approved by the Board subject to restrictions the Board may impose. (+1-90)()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. ()

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department Division of Aeronautics maintains a central office in Boise at 3483 Rickenbacker with a mailing address of P O Box 7129, Boise ID 83707-1129. ()

02. Office Hours. Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. ()

03. Telephone and FAX numbers. The central office may be contacted during office hours by phone at 208-334-8775 or by fax at 208-334-8789. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ()

007. -- 099. (RESERVED).

100. AIRPORT SPONSOR ELIGIBILITY.

The Idaho Airport Aid Program is available only to public entities that own or lease and operate a landing facility that is open to the public without use restrictions. Allocation may be made only on facilities that are not under exclusive lease or monopoly control of private individuals or corporations. The Idaho Airport Aid Program consists of grants, small projects, and maintenance and safety supplies. The grants (for scheduled projects) and small projects (for unscheduled or emergency projects) are available to municipal entities such as a city, county, airport authority, political subdivision, or public corporation, hereinafter referred to as the airport sponsor, but not to facilities operated by divisions of the state of Idaho or the Federal government. The maintenance and safety supplies are available to all public entities that own or lease and operate a landing facility that is open to the public without use restrictions. ()

101. -- 199. (RESERVED).

200. PROJECT ALLOCATION PRIORITIES.

The discretionary allocation programs will be based on six (6) important principles. These principles are: (1-1-90)

01. Preservation and Acquisition. Priority will be given to the preservation and acquisition of existing aircraft landing facilities in danger of being lost. (1-1-90)

02. Aircraft Landing Projects. Priority will be given to projects at existing aircraft landing facilities where need is demonstrated. Projects must provide benefits associated with aircraft landing facility utilization on a statewide basis. (1-1-90)

03. Aircraft Landing Development. Priority will be given to the development of new, additional aircraft landing facilities in areas of greatest need: (1-1-90)

a. Large geographical areas with no "air accessibility." (1-1-90)

b. Additional new sites in urban areas where landing sites are rapidly becoming non-existent. (1-1-90)

c. Recreational area development where land availability is becoming difficult to obtain. (1-1-90)

04. Aircraft Operations Safety. Priority will be given to projects involving safety of aircraft operations. (1-1-90)

05. Federal Funds. Priority will be given to assuring maximum use and benefit of available federal funds. (1-1-90)

06. Priority Will Be Given to Projects Which Protect Prior Public Investments. (1-1-90)

2300. ALLOCATION PROGRAM CRITERIA, ELIGIBILITY, AND LIMITATIONS.

The allocation program is designed to provide the greatest and best utilization of limited Idaho ~~Aid to~~ Airport Aid Program Funds. The primary goal of the allocation program is to further the proper development of a statewide system of airports and fair distribution of aviation tax money. This policy requires: ~~(1-2-93)~~()

01. Master Plan. Each city, county, airport authority, political subdivision, or public corporation ~~must,~~ hereinafter referred to as airport sponsor, should have a master plan or an airport or heliport layout plan to be eligible for participation in the allocation program. The plan must be approved by the Division of Aeronautics. ~~(1-2-93)~~()

02. Percentages of Cost. Matching percentages must be determined not to exceed the following guidelines, subject to the approval of the Idaho Transportation Board: (1-1-90)

a. Municipal governments not eligible for Federal funding assistance that are supporting towns with a population of less than one thousand (1,000), which do not have an airport, may receive up to one hundred percent (100%) of the cost for a minimum standard airport to serve towns of less than one thousand (1,000) population which do not have an airport. The ~~community or county~~ airport sponsor shall provide the land required. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. ~~(1-1-90)~~()

b. Airport sponsors not eligible for Federal funding assistance that are supporting towns with a population of less than one thousand (1,000) may receive up to ninety percent (90%) of the cost for maintenance and upgrade of a minimum standard airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. ()

b.c. For Airport sponsors not eligible for Federal funding assistance that are supporting towns with a population of less than one thousand up to five thousand (5,000), but more than one thousand (1,000) population, a State financial participation grant of may receive up to seventy-five percent (75%) of project cost may be approved for maintenance and upgrade of a minimum standard airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. ~~(1-1-90)~~()

d. Airport sponsors not eligible for Federal funding assistance that are supporting towns with a population of more than five thousand (5,000) may receive up to fifty percent (50%) of the cost for maintenance and upgrade of a minimum standard airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. ()

ee. ~~All other projects, whether new or reconstruction of existing facilities~~ Airport sponsors eligible for Federal funding assistance, may be considered for State funding assistance up to fifty percent (50%) ~~state aid for the project. Participation for any project shall be considered at a maximum of half of the sponsor's share if when using Federal aid for the cost of maintenance and upgrade of existing facilities.~~ If no Federal participation, each such project shall be considered on its merit. The amount of State financial aid will be negotiated in each case. (+1-1-90)()

f. All airport sponsors eligible for funding under IDAPA 39.04.04, "Rules Governing Idaho Airport Aid Program," may apply to participate in the maintenance and safety supplies program. This is part of the discretionary allocation program that provides at no charge or a reduced charge for the following such items: ()

- i. Runway and taxiway light fixtures, bulbs, and parts; ()
- ii. Rotating beacon fixtures; ()
- iii. Windsocks, windsock frames and standards; ()
- iv. Tie-down chain sets; ()
- v. Utility light bulbs; and ()
- vi. Taxiway reflectors. ()

g. All municipal airport sponsors eligible for funding under IDAPA 39.04.04, may apply to participate in the small projects program which provides grant funding assistance of less than two thousand dollars (\$2,000) for unscheduled or emergency improvements, with approval from the aeronautics administrator, from the current years allocation. ()

03. Face Value Contributions. Labor and equipment contributions by the airport sponsor may be approved at face value in force-account financial evaluation as matching funds. ~~However, allowance~~ The following items will not be ~~made~~ eligible for force-account contribution: (+1-1-90)()

- a. Land values previously acquired. (1-1-90)
- b. ~~Previous~~ Buildings construction or improvements. (+1-1-90)()
- c. Previous State or FAA grants. (1-1-90)

04. Public Funds Protection. In order to protect the investment of public funds, the Idaho Transportation Board may require proof of ownership or lease of all land upon which any project is proposed, and that the airport be zoned to prevent the creation or establishment of structures or objects of natural growth which would constitute hazards or obstructions to aircraft operating to, from, or in the vicinity of the subject airport. (+1-2-93)()

05. Applications for Aid. ()

a. Each project ~~received~~ submitted for funding consideration from airport sponsors not eligible for Federal funding assistance will be presented in a written application for aid which outlines economic capability and source of funds. The application form will be supplied by the Division of Aeronautics. Eligibility and priority will be determined by an annual revision of a State allocation program for airport improvement. ~~Projects deemed by the~~

~~Board to require special legislative appropriations will be submitted for legislative support and consideration.~~
~~(1-1-90)()~~

b. Each project application submitted for funding consideration from airport sponsors that are eligible for Federal funding assistance will consist of a full and complete copy of the federal application for assistance. ()

c. Each request for participation in the maintenance and safety supplies program or the small projects program must be made through written, telephone, or electronic request. ()

d. Projects deemed by the Board to require special legislative appropriations will be submitted for legislative support and consideration. ()

06. Projects Other Than Allocation Plan. All projects ~~considered~~ other than the annual allocation plan will be individually considered and acted upon at a regular meeting of the Board. All projects will be resolved by eligibility and priorities established by each year's review of the total State need. The availability of funds, or legislative appropriations, shall always be the final determination of grant approvals. Consideration of all factors, including relative needs and priorities involved in an airport construction project will be considered. Attention will be given to effort made at the sponsor's level to assure availability of continuing financing and management support to keep the airport in good repair. (1-1-90)()

07. Granted Allocation Items. Allocations may be granted for the following items: (1-1-90)

a. Development of required airport planning, land ownership, airspace, land use compatibility, and land use zoning documents. (1-1-90)()

b. Land acquisition for development and improvement of aircraft landing facilities. (1-1-90)

c. Grading and drainage necessary for construction or reconstruction of runways or taxiways. (1-1-90)

d. Construction or reconstruction of runways or taxiways. (1-1-90)

e. Acquisition of "runway ~~clear~~ protection zones" as defined in current regulations of the Federal Aviation Administration. (1-1-90)()

f. Acquisition of easements through or other interests in airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility. (1-1-90)

g. Removal of natural obstructions from runway ~~clear~~ protection zones. (1-1-90)()

h. ~~Original~~ Installation or rehabilitation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration. (1-1-90)()

i. ~~Original~~ Installation or rehabilitation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment. (1-1-90)()

j. ~~Original~~ Erection or rehabilitation of appropriate security fencing around the perimeter of an aircraft landing facility. (1-1-90)()

k. Grading and drainage necessary to provide for parking of transient general aviation aircraft. (1-1-90)

l. Air navigation facilities. (1-1-90)

m. Such other capital improvements as may be designated by the Board. (1-1-90)

~~n. Allocation may be made only on publicly owned/public use facilities. Allocations will not be made on airport or heliport facilities under exclusive lease or monopoly control of private individuals or corporations. New building construction of public use facilities such as storage hangars, pilot lounge, rest rooms, etc., that are owned by the airport sponsor. (1-1-90)()~~

~~08. Eligibility. Only public entities are eligible to participate in the Idaho Airport Aid Program. Any county, as described in Title 31, Chapter 1, Idaho Code, legal subdivisions thereof; cities, villages, or agencies designated in Sections 21-105 and 21-142 (10), Idaho Code, shall be deemed eligible public entities for the purpose of participation in the Idaho Airport Aid Program. (1-2-93)~~

~~2301. -- 999. (RESERVED).~~