



# Legal Update

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# Agenda

- ▶ Litigation Updates
- ▶ Regulatory Updates
- ▶ BIL and Other Federal Grants
- ▶ Continuing and Emerging Issues

# Litigation

- ▶ *AH Aero Services v. Heber City*
- ▶ *Atlantic Beechcraft Services v. FAA*
- ▶ *JSX v. Orange County*
- ▶ *Ogden Regional Airport Ass'n v. Ogden City Airport*
- ▶ *Spokane Airport Board v. Experimental Aircraft Association*
- ▶ *Rock Creek Master Homeowner's Ass'n v. Jefferson County*
- ▶ *Health Freedom Defense Fund v. Biden*

# Regulatory

- ▶ Updated AIP Grant Assurances (May 2022)
  - ▶ 87 Fed. Reg. 19,571 (April 4, 2022)
- ▶ PFAS
  - ▶ Draft MIL-PRF-XX727
- ▶ SMS rulemaking
  - ▶ Supplemental Notice of Proposed Rulemaking (Aug. 2021)
- ▶ ACDBE rulemaking
  - ▶ Notice of Grant of Petition for Rulemaking (Oct. 2021)

**INFRASTRUCTURE INVESTMENT AND JOBS ACT (PUBLIC LAW 117-58)  
AIRPORT GRANT PROGRAM**

	Airport Infrastructure Grants (AIG)	Airport Terminal Program (ATP)
<b>Citation</b>	H.R. 3684, Div. J (Appropriations), Tit. VIII (Transportation, Housing and Urban Development, and Related Agencies)	
<b>Total Amount</b>	<b>\$14.55B</b>	<b>\$4.85B</b>
<b>Annual Amount</b>	FY22 - \$2.39B (Primary Airports) FY23 - \$2.39B FY24 - \$2.39B FY25 - \$2.39B FY26 - \$2.39B	FY22 - \$970M FY23 - \$970M FY24 - \$970M FY25 - \$970M FY26 - \$970M
<b>Eligibility</b>	<b>All sponsors eligible</b>	<b>Large Hub – 55%</b> <b>Medium Hub – 15%</b> <b>Small Hub – 20%</b> <b>NonHub and NonPrimary – 10%</b>
<b>Source of Funding</b>	General Fund	General Fund
<b>Funding Formula (Commercial Service)</b>	Entitlement Formula, enplanements	Discretionary
<b>Funding Formula (General Aviation)</b>	NPIAS Categories; Nonprimary Airports share not more than \$500M per year	Nonprimary airports eligible
<b>Airport Allocations</b>	<a href="https://www.faa.gov/sites/faa.gov/files/2021-12/BIL_allocations_20211216_0.pdf">https://www.faa.gov/sites/faa.gov/files/2021-12/BIL_allocations_20211216_0.pdf</a>	ATP NOFO : <a href="https://www.govinfo.gov/content/pkg/FR-2022-02-25/pdf/2022-03998.pdf">https://www.govinfo.gov/content/pkg/FR-2022-02-25/pdf/2022-03998.pdf</a> (closed 3/28/22)
<b>Operating Costs</b>	No	No
<b>Debt Service</b>	No	No
<b>Capital Construction</b>	Yes, for “airport-related projects defined under section 40117(a)(3) of title 49”	Yes, for “terminal development” as defined in 49 USC § 47102(28), including on-airport rail and tower projects
<b>Concession Relief</b>	No	No
<b>Local Match</b>	Same as AIP	Large and Medium Hubs – 20% Small, NonHub, NonPrimary – 5%
<b>Period of Performance</b>	<b>4 years</b>	<b>4 years</b>
<b>FAQs</b>	<a href="https://www.faa.gov/sites/faa.gov/files/2022-03/BIL_FAQs_1.pdf">https://www.faa.gov/sites/faa.gov/files/2022-03/BIL_FAQs_1.pdf</a>	

# Airport Stimulus Grants

# Federal Grant Programs

- ▶ BIL Airport Terminal Program
- ▶ Buy American
  - ▶ Temporary Waiver for Construction Materials
- ▶ Alternate Project Delivery Methods
- ▶ Workforce Development Grant Programs

# Continuing and Emerging Issues

- ▶ FAA Reauthorization
- ▶ Airspace Integration (UAS and AAM)
- ▶ Peer-to-Peer Car Share
- ▶ Diversity, Equity and Inclusion

# Friendly Reminders From The Lawyers

- ▶ Do your agreements have subordination clauses?
- ▶ Have you updated your Airport Layout Plan lately?
- ▶ Are you receiving fair market value for non-aeronautical uses of airport property?
- ▶ Have you incorporated required federal contract provisions in your agreements?
- ▶ How old are your Minimum Standards? Do you have them?
- ▶ Read the grant assurances!



# Open Discussion

## Contacts

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