ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

Timothy V. Corrigan
District I

Douglas B. Monger
District II

M. Elizabeth Melton
District III

Work Session

June 1, 2020

LIVE AUDIO WILL BE AVAILABLE BY CALLING 1 (669) 900-6833.
MEETING ID: 522 308 0487
PASSWORD: 522

The Routt County Board of Health or Board of Commissioners may enter executive session pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice related to specific legal questions concerning Routt County's COVID-19 response.

1. **10:30 A.M. CALL TO ORDER**

2. **COUNTY MANAGER UPDATE**

   Mark Collins, Interim County Manager

   The Routt County Board of County Commissioners may enter executive session pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice related to specific legal questions concerning Routt County's COVID-19 response.

3. **LEGAL**

   Erick Knaus, County Attorney

   The Routt County Board of County Commissioners may enter executive session pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice related to specific legal questions concerning Routt County's COVID-19 response.

4. **YAMPA VALLEY REGIONAL AIRPORT**

   Kevin Booth, Airport Director

   A. **CARES ACT FUNDING PROPOSED USE**

      Consideration for approval and authorization for the YVRA Director to move forward with proposed CARES Act fund usage to provide marketing funds in the amount of $200,000 in support of new air service for the 2020-2021 winter flight season.

      Documents:

      BCC AGENDA FORM FOR CARES ACT GRANT FUND USE 18 MAY 20.PDF
      AIR CARRIER INCENTIVE PROGRAM EXCERPTS FROM AAAE CM COURSE MATERIALS 23 ....PDF
      FAA AIR CARRIER INCENTIVE PROGRAM GUIDEBOOK 2010 WITH HIGHLIGHTS.PDF

5. **COVID-19 WORK SESSION**

   The Commissioners will address critical items for regular county and emergency operations related to the COVID-19 pandemic. Action may be taken and direction to staff may be given in relation to any of these items.

The Routt County Board of County Commissioners may enter executive session pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice related to specific legal questions concerning Routt County's COVID-19 response.

6. PUBLIC COMMENT

Public Comment will be heard on any item quasi-judicial land use items County Commissioners will take public comment under consideration but will not make any decision or take action at this time.

1. DUE TO THE CURRENT PANDEMIC, THE COUNTY COMMISSIONERS REQUEST CITIZENS ATTEND THE MEETINGS VIA PHONE. Because public access to the Courthouse has been curtailed we request public comment be submitted in writing to bcc@co.routt.co.us. Public comments will be entered into the record. Please indicate in the subject line of your message that it is public comment and reference the agenda item to which it relates.

7. 1:00 P.M. MEETING ADJOURNED

LIVE AUDIO WILL BE AVAILABLE BY CALLING 1 (669) 900 6833.
MEETING ID: 522 308 0487
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All programs, services and activities of Routt County are operated in compliance with the Americans with Disabilities Act. If you need a special accommodation as a result of a disability, please call the Commissioners Office at (970) 879-0108 to assure that we can meet your needs. Please notify us of your request as soon as possible prior to the scheduled event. Routt County uses the Relay Colorado service. Dial 711 or TDD (970) 870-5444.

ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA COMMUNICATION FORM

ITEM DATE: May , 2020	**ITEM TIME:**

FROM:	Kevin Booth
TODAY'S DATE:	May 26, 2020
AGENDA TITLE:	CARES Act Funding Proposed Use

CHECK ONE THAT APPLIES TO YOUR ITEM:
X ACTION ITEM
❑ DIRECTION
❑ INFORMATION

I. DESCRIBE THE REQUEST OR ISSUE:

Consideration for approval and authorization for the YVRA Director to move forward with proposed CARES Act fund usage to provide marketing funds in the amount of $200,000 in support of new air service for the 2020-2021 winter flight season.

II. RECOMMENDED ACTION:

Approval and authorization for the YVRA Director to move forward with proposed CARES Act fund usage to provide marketing funds in the amount of $200,000 in support of new air service for the 2020-2021 winter flight season.

III. DESCRIBE FISCAL IMPACTS (VARIATION TO BUDGET):

PROPOSED REVENUE: NA

PROPOSED EXPENDITURE: $200,000

FUNDING SOURCE: FAA CARES Act O&M funding

Total CARES Act funding requested is $18,567,547; $15,506,472 in O&M funding has been secured with a fully executed FAA grant agreement; the Development Project grant agreement for $3,061,075 is expected in the next 2-4 weeks. The proposed new air service marketing costs will be funded by the CARES Act O&M grant agreement.

IV. IMPACTS OF A REGIONAL NATURE OR ON OTHER JURISDICTIONS (IDENTIFY ANY COMMUNICATIONS ON THIS ITEM):

None expected

ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA COMMUNICATION FORM

V. BACKGROUND INFORMATION:
This proposal to fund marketing for new air service at YVRA follows previous discussions in Airport Commission (YVAC) meetings and with the BCC about developing a new air service incentive program to promote increased enplanements at YVRA. The FAA clearly defines the difference between incentives (allowed) and subsidies (not allowed); funding for marketing of new air service clearly falls into the allowed incentive category and is an approved use of airport revenues. The proposed marketing cost of $200K for new air service in the 2020-2021 ski season is currently what the Steamboat Ski & Resort Corporation (SSRC) has projected and requested. This proposal follows FAA guidance to provide the marketing funds directly to the marketing firm (in our case SSRC) and not to the airline providing the new air service. In my opinion direct marketing will better support the new air service and enhance the potential for this service to be successful/enduring then the other FAA-approved incentives of fee reductions and fee waivers. The template and marketing agreement YVRA develops for the 2020-2021 ski season will be made available to all YVRA airlines (existing or new) providing new or expanded air service. The incentive amount will be linked to the amount of new service offered.
VI. LEGAL ISSUES:
None expected since we will follow FAA guidelines and make the offer available to other airlines who provide new/additional air service to YVRA in the future.
VII. CONFLICTS OR ENVIRONMENTAL ISSUES:
None anticipated
VIII. SUMMARY AND OTHER OPTIONS:
Attached pls find the following supporting documents: Air Carrier Incentive Program Excerpts from AAAE CM Course Materials FAA Air Carrier Incentive Program Guidebook: A Reference for Airport Sponsors

Air Carrier Incentive Programs are distinguished from "destination marketing programs," which serve to increase revenue to a geographic region. Under the FAA's Policy and Procedures Concerning the Use of Airport Revenue (64 Fed. Reg. 7696, February 16, 1999) (Revenue Use Policy), airport revenue cannot be used to promote any type of general economic development (i.e. a destination marketing program), nor can it be used for marketing or promotional activities unrelated to airport or airport systems. **Airport revenue** is defined as all fees, charges, rents, or other payments received by, or accruing to, the sponsor for activities conducted and rents received from operations at the airport[70].

Airport revenue, however, may be used to cover the full costs of activities directed at promoting competition at an airport, raising public and industry awareness of airport facilities and services, or providing new air service. It may also be used to cover a share of promotional expenses such as marketing, advertising, and related activities designed to increase travel at the airport[71].

Air Carrier Incentive Programs are not related to EAS or SCASD, and airports operating under an EAS or SCASD are subject to rules and regulations separate from those required of other Air Carrier Incentive Programs. In building an Air Carrier Incentive Program, there must be a clear understanding of the difference between incentives and subsidies.

1. A **subsidy** is a direct payment of airport revenue to a carrier, or any provider of goods and services to that carrier, in exchange for additional service by the carrier.
2. An **incentive** is any fee reduction, fee waiver, or use of airport revenue for acceptable promotional costs where the purpose is to encourage an air carrier to increase service at the airport. Title 49 U.S.C. 47107, Grant Assurances, mandates that airports must be as self-sustaining as possible under the circumstances at the airport, and airports must set rates and charges consistent with attempting to achieve sustainability. Airports are, however, permitted to forego revenue through fee waivers for a "promotional period."

Unacceptable incentives include subsidies (i.e. a direct payment of airport revenue to a carrier, or any provider of goods and services to that carrier, in exchange for additional service by the carrier) and other subsidies such as providing aircraft parts, free fuel, interest-free loans, pay for service, or any other form of direct or indirect subsidy. Other examples of unacceptable incentives include paying for leased property not owned by the airport on behalf of the air carrier, making direct payments to air carriers to defer costs, dictating ticket prices, providing cash incentives to passengers, or promising to purchase a set number of tickets.

The following are common incentives, but under the FAA rules, not all of these programs can be administered by airports.

Some incentives must be provided by other organizations outside the airport[72]:

- **Revenue Guarantees**: An airline revenue guarantee is not a subsidy. It is designed to reduce an airline's risk in launching service on a new route by covering the airline's loss in the start-up phase of service. Revenue guarantees are almost always limited to a maximum amount, so that the entity providing a guarantee knows exactly how much it has at risk. It is of utmost importance to note that **airport revenue cannot be used for revenue guarantees**. The FAA expressly prohibits it. Revenue guarantees must come from other sources within a community, from the state government, or from the federal Department of Transportation through the Small Community Air Service Development Grant Program[73].
- **Pre-Purchased Ticket Programs**: Sometimes called a "travel bank," pre-purchased ticket programs have waned in popularity. Although there is little risk to a community or to the airline participating in programs like this, they can be difficult to administrate[74].

- **Marketing and Advertising Support**: The FAA puts far fewer restrictions on airports providing cash for marketing and advertising to airlines promoting new service. As long as the amount of cash is pre-determined, and the timeframe for the program has been disclosed, an airport can use virtually any amount of non-aeronautical revenue to promote new service. Marketing can be created and placed by either the airline or the airport. It can also be placed in the market, or outside the market, as a way to push passengers on the other end of the service to the new destination[75].

- **Fee Waivers**: The FAA allows an airport to provide a collection of fee waivers in support of new service for a period of up to two years. Many U.S. airports with scheduled air service have a fee waiver program, waiving landing fees for the new flights. Some airports also waive fuel flowage fees as a way to reduce the cost of operation of new flights. These waivers often cost an airport nothing since the flights did not exist before the service launch, and so the airport is not losing any existing revenue.[76]

- **Start-Up Cost Offsets**: The FAA also permits an airport to provide a new carrier to the market with offsets for its start-up costs. Typically, these costs are relatively minor and are limited to the cost of purchasing computer equipment, IT infrastructure, and signage. But this incentive does allow an airport to remove another barrier to entry[77].

- **Airport-Provided Ground Handling**: In some cases, an airline will not want to hire its own staff to launch a new station. Airports have had success over the last several years in providing local staff to a new carrier at no cost, or at limited cost, to the carrier. The airport hires its own employees, who are then trained by the airline, to provide all ticket counter and gate area services, along with handling of the aircraft on the ground. This incentive can be expensive, depending on the local labor market, but it can reduce an airline's cost in such a way as to turn a market that might not otherwise be profitable into a positive performer[78].

- **Revenue Sharing**: Some airports are beginning to experiment with revenue sharing incentives to help airlines expand service. Under this incentive model, an airport shares revenue that is generated through air service, such as parking fees and terminal concessions, with the carriers that are driving the passengers. This incentivizes airlines to grow passengers, as their revenue in the market increases, not only through more fares being purchased, but also through ancillary sources. This model is approved by the FAA, but it must be shared equally among all carriers serving an airport. Usually airports can accomplish this by pro-rating the shared revenue based on the share of passengers generated by each carrier[79].

- **Ongoing Subsidies**: **The FAA strictly prohibits airports from providing subsidies for air service**. However, a number of communities use non-airport funding to continually subsidize air service as a driver of economic development in the region. Subsidies are a simple payment to a carrier per flight, regardless of the performance of the flight. A number of markets have ongoing subsidies, which are paid by various entities. Examples include ski resort communities such as Vail/Eagle and Mammoth Lakes, where the resorts themselves pay ongoing subsidies to airlines for service during their peak months; casino markets where the casino owners pay subsidies for service on specific routes; and the previously cited example where the state of Kansas pays Southwest to keep service in Wichita. Subsidies are perfectly permissible, as long as the airport has nothing to do with how they are administered[80].

Since 2008, many carriers have made more pronounced efforts to concentrate service in airports with lower costs. Airlines typically measure airport cost on a per passenger basis, looking at a metric called the **Cost Per Enplanement (CPE)**, which is all the charges paid by the airline, to the airport, divided by the number of passengers that enplane, or board flights, at that airport[81]. Lower CPE allows low cost carriers to access more revenue per passenger. A difference of only $1 quickly adds up when an airline carries tens of thousands of passengers per year. As airports look to the future, low costs will likely be as effective in retaining and recruiting new airline service as cash incentives[82].

Federal Aviation Administration

Air Carrier Incentive Program Guidebook:

A Reference for Airport Sponsors

TC10-0034

Cover and Above Photo: FAA

This publication provides guidance to airport sponsors interested in offering promotional incentives to attract new air carrier service at federally obligated facilities.

For additional information and assistance, airport sponsors may contact their FAA Airports District Office.
See pages 25-27.

Published by:

FAA Office of Airports
Airport Compliance and Field Operations
ACO-1

800 Independence Avenue, SW
Washington, DC 20591

202.267.3085

Differences: Destination Marketing

Photo: King County Boeing Field

A properly structured and administered Air Carrier Incentive Program may enhance air carrier service at an airport and may create an opportunity to increase traffic. However, a destination marketing program promotes a region, attraction, or business. The goal of the latter focuses on increasing regional revenue, not an airport's services or facilities. While the airport's services and facilities may benefit from a destination marketing program, the sponsor may not use airport revenue to promote any kind of general economic development. This includes activities, materials, and expenses related to tourism marketing, showcasing community events or businesses, and/or featuring non-airport locations, services, and attractions.

In accordance with Federal statutes (49 U.S.C. § 47107(1)) and the FAA's *Policy and Procedures Concerning the Use of Airport Revenue* (64 Fed. Reg. 7696, February 16, 1999) (*Revenue Use Policy*), airport revenue **may** be used to cover:

- The full costs of activities directed at promoting competition at an airport
- Public and industry awareness of airport facilities and services
- New air service and competition at the airport (other than direct subsidy of air carrier operations prohibited by Section VI.B.12 of the *Revenue Use Policy* – see "New Service" on Page 6)
- A share of promotional expenses such as marketing, advertising, and related activities designed to increase travel using the airport (must meet requirements prescribed in the *Revenue Use Policy*, Section V.A.3 and include specific information about the airport)

Airport revenue **may NOT** cover:

- Destination or tourism marketing
- Any activities, materials, or expenses for general economic development not related to the airport (see Section VI.B.3.)
- Marketing or promotional activities unrelated to airports or airport systems (see Section VI.B.4.)

Four Steps to Creating an Air Carrier Incentive Program

Step 1 Review and understand Airport Sponsor Assurances and applicable laws and policies.

Step 2 Identify the goals of the program and the types of service that may be covered under incentive programs.

Step 3 Define incentive program timelines.

Step 4 Design a properly structured incentive program.

If, after reviewing this handbook, you have additional questions, you may contact your local FAA Airports District Office. You also may submit your proposed program to FAA for a compliance review. This process can identify -- and help sponsors eliminate -- potential problems. See pages 25-27 for FAA offices and contact information.

Photo: FAA

1 Review and understand Airport Sponsor Assurances and applicable laws and policy.

When airport sponsors accept funds from FAA-administered airport financial assistance programs, they must agree to comply with certain contractual obligations or assurances. Assurances appear in the application for federal assistance and become part of the final grant offer. They also are included in restrictive covenants to property deeds. An example of applicable policy that may affect air carrier incentive programs includes:

Exclusive Rights and Economic Nondiscrimination.

> The airport sponsor must make the proposed incentives (e.g., reduced landing fees) available to all similarly situated air carriers that provide the specified new service in accordance with Grant Assurances 22 and 23. Incentives may not be based on aircraft type since this could unreasonably exclude certain carriers that do not operate the type of aircraft identified. Incentive levels may vary, however, based on the category of new service offered (for examples, see Question 9 on Page 10). The program must identify the incentives available for each category. The cost of providing incentives to one or more air carriers cannot be included in the rate base for air carriers not participating in the incentive program without their express permission. For more information and examples, see Pages 13, 22, and 23.

Sponsors also must ensure incentive programs comply with all applicable laws and policies, including, but not limited to:

- FAA's *Policy and Procedures Concerning the Use of Airport Revenue*, 64 Fed. Reg. 7696 (February 16, 1999), 49 U.S.C. §§ 47107(b), 47133 (*Revenue Use Policy*);
- FAA's *Policy Regarding Airport Rates and Charges*, amended at 73 Fed. Reg. 3310 (July 10, 2008); originally published at 61 Fed. Reg. 31994 (June 21, 1996), 49 U.S.C. § 47129(b) (*Rates and Charges Policy*); and
- 49 U.S.C. § 41713 Preemption (Prices, Routes, and Service).

2 Identify goals of the program and the types of service that may be covered.

New Service.

FAA allows promotional incentives to air carriers for *new service* to (a) increase travel using the airport and/or (b) promote competition at the airport. Incentive programs may not be designed for the purpose of promoting general economic development. *See page 3, "Destination Marketing."*

FAA defines new service as (a) service to an airport destination not currently served, (b) nonstop service where no nonstop service is currently offered, (c) new entrant carrier, and/or (d) increased frequency of flights to a specific destination. (In the last case, the incentive would be available only on the added flights.) FAA does not recognize repeated seasonal service, upgrade of equipment type, or increased number of seats on existing flights as new service.

Destination.

The airport sponsor may offer marketing incentives (e.g., reduced landing fees) to attract new service to targeted airport destinations. The airport sponsor identifies the new service it is seeking. The airport sponsor is not obligated to provide an incentive for those destinations not targeted by the sponsor.

NOTE

Incentives v. Subsidies

Throughout this booklet, there are numerous references to incentives and subsidies. The FAA's *Revenue Use Policy* maintains a distinction between subsidizing air carriers and the waiving of fees as incentives; summarily the Policy prohibits the former.

A **subsidy** is direct payment of airport revenue to a carrier or to any provider of goods or services to that carrier, in exchange for additional service by the carrier.

An **incentive** is any fee reduction, fee waiver, or use of airport revenue for acceptable promotional costs, where the purpose is to encourage an air carrier to increase service at the airport.

See Page 17 for Acceptable v. Unacceptable Incentives

Keywords:

New entrant
Routes
Pro-rated incentive
New service
Low cost carrier
Targeting/tailoring incentives
Equipment/Seats
Class of service
Limits
Signatory carriers
Request for Proposals (RFP)

What You May Do:

Q1: May I offer incentives to new entrants only and not to incumbent air carriers?

A1: *Yes, but the incentives in that case must be limited to no more than one year. After one year, the new entrant would be considered a tenant air carrier (similarly situated) and no longer a new entrant. It then would be similarly situated to any other tenant air carrier on the airport. In addition, the incentive must be available to all new entrants on the same basis. The incentive program may not select one new entrant and deny the program to another similarly situated new entrant as that could be unjustly discriminatory.*

Q2: May I offer an incentive to a new entrant on a route already flown by an incumbent without offering the same incentive to the incumbent?

A2: *Yes, but only for the first year. This is allowed because the new entrant would not be similarly situated to the incumbent. However, after one year, the FAA would consider the air carriers offering service on the same route to be similarly situated; in that case, you may not offer an incentive to one without also offering it to the other.*

See page 16 for the differences between one and two year limits.

Q3: If the incentive is for new daily service, may I offer a pro-rated incentive for less than daily service?

A3: *Yes, but you would not be required to do so. The airport sponsor may elect to offer an incentive for less than the specified service. The policy on this issue should be clearly explained in the incentive program, and may not be unjustly discriminatory.*

What You May Do (continued):

Q4: Do I have to offer the same incentive for incumbents already serving the destination I am choosing to incentivize?

A4: *You may or you may not, but there are restrictions either way. If you do, the incentive must be only for new scheduled service to that destination without any loss in previously scheduled service to the same destination. For example, if the air carrier already offers three flights weekly to the destination being incentivized and adds two more flights under the incentive for a total of five flights, the two additional flights would qualify for the incentive, but not the first three flights. If the air carrier changes its schedule, adding two new flights but dropping one for a total of four flights to the named destination, the air carrier would qualify for the incentive on one new flight only. It is important to write the incentive program so that this is clear.*
If you do not, you may only offer the incentive to the new entrant(s) for service on that route only for up to one year. After one year, the new entrant would be considered similarly situated to incumbent carrier(s) and thereby no longer eligible for an incentive only offered to new entrants providing service on that route.

Q5: May I specify that an air carrier will not qualify for a new service incentive if it had – and then canceled – service to that same destination within a specified period of time? For example, if an air carrier had service to the named destination previously, but cancelled that service within the last six months, could that air carrier be prevented from participating in the incentive program as new service?

A5: *Yes. An air carrier may be barred from participating in the incentive for new service to a destination it previously served within a specified period of time. The incentive program must be clear on what the time period is and its limits, both looking forward and looking back. The program may not be unjustly discriminatory.*

See page 9 for an example of new service eligibility requirements.

What You May Do (continued):

Your airport wants to increase service to New City Airport ("END"). Airline A currently offers two flights per day.

March Flight Schedule to "END"

Airline	Flight	Departure Time
Airline A	111	8:00 a.m.
Airline A	112	12:00 p.m.

In response to the incentive program, Airline A ceases Flight 112 and adds Flight 113; Airlines B and C start service to "END." Airline A is not eligible for the incentive program because Flight 113 replaced flight 112. Airline A did not increase service, it only changed its schedule; therefore, there is no additional service and thus it does not meet the program's criteria to increase service. Airlines B and C are eligible for the incentive because they added new service.

November Flight Schedule to "END"

Airline	Flight	Departure Time
Airline A	111	8:00 a.m.
Airline A	113	5:00 p.m.
Airline B	222	8:00 a.m.
Airline C	333	2:00 p.m.

Suppose Airline A retains its original schedule with Flight 111 departing at 8:00 a.m. and Flight 112 departing at 12:00 p.m., but also **adds** Flight 113 departing at 5:00 p.m. In the scenario below, Airline A's Flight 113 may be eligible for the incentive program because is it an additional flight and therefore qualifies as new service if the program's goal is to increase service. Airlines B and C also qualify for the new service incentive.

November Flight Schedule to "END"

Airline	Flight	Departure Time
Airline A	111	8:00 a.m.
Airline A	112	12:00 p.m.
Airline A	113	5:00 p.m.
Airline B	222	8:00 a.m.
Airline C	333	2:00 p.m.

However, if the program's stated goal is to increase competition, Airline A's new flight would not be eligible; Airlines B and C would only be eligible for up to one year at which time they would be similarly situated to Airline A.

What You May Not Do:

Q6: We are trying to attract a low cost carrier. May I offer an incentive only to a low cost carrier?
A6: *No. Incentives must be for new service, not for a specific type of carrier. Targeting only low cost carriers would violate the grant assurance on economic nondiscrimination, and could possibly violate the exclusive rights grant assurance.*

Q7: May an incentive be tailored for a particular air carrier?
A7: *No. All similarly situated air carriers must have the same opportunity to receive the same incentives under the same circumstances. Incentives may not be designed and offered to air carriers on an individual basis.*

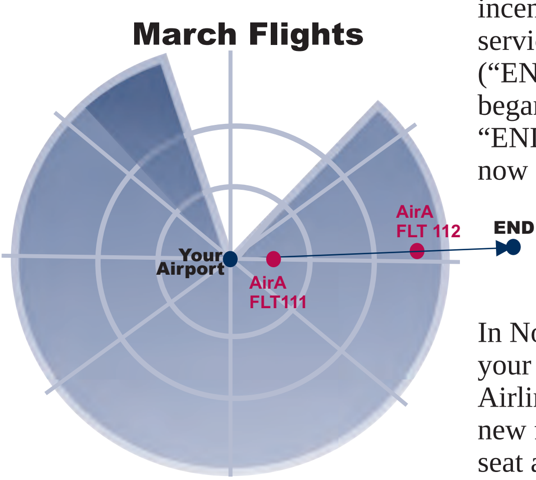
Q8: May the incentive be limited to air service provided by aircraft that must offer both coach service and either business or first class service?
A8: *No. Incentives may be based on routes selected by the airport sponsor, not on service or equipment provided by the air carrier.*

Q9: May the incentive be based on the type or size of aircraft?
A9: *No. Incentive levels may vary based on the category of new service offered. For example, incentives for international destinations may be different from incentives for short hop flights, but all air carriers meeting the destination requirement specified must be offered a comparable incentive based on the goals of the air carrier incentive program. The program must identify the incentives available for each category. The program may not be unjustly discriminatory.*

Q10: Can the incentive apply only if the new service adds a certain number of seats to the market?
A10: *No. Incentives must be based on destinations the airport sponsor wishes to support, not equipment the air carrier chooses to use or the number of passengers who choose to use the new service.*

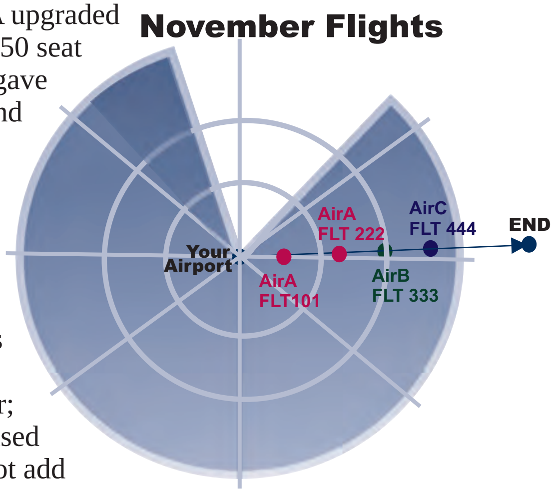
What You May Not Do (continued):

Your airport wants to offer incentives to airlines to add/begin service to New City Airport ("END"). In March, Airline A began offering two flights to "END" on 50 seat aircraft. It's now September and you want to increase service to "END" so you implement an incentive program specifying this.



In November, two months after your incentive program began, Airlines B and C began offering new flights to "END" also using 50 seat aircraft.

Also in November, Airline A upgraded its two existing flights from 50 seat aircraft to 126 seat aircraft, gave both flights new numbers, and moved the second flight to later in the day. In this scenario ***Airline A is not eligible for the incentive program*** because: 1.) the first two flights entered service in March, which was months before the incentive program began in September; and 2.) Airline A only increased its gauge of aircraft, it did not add an additional qualifying flight.



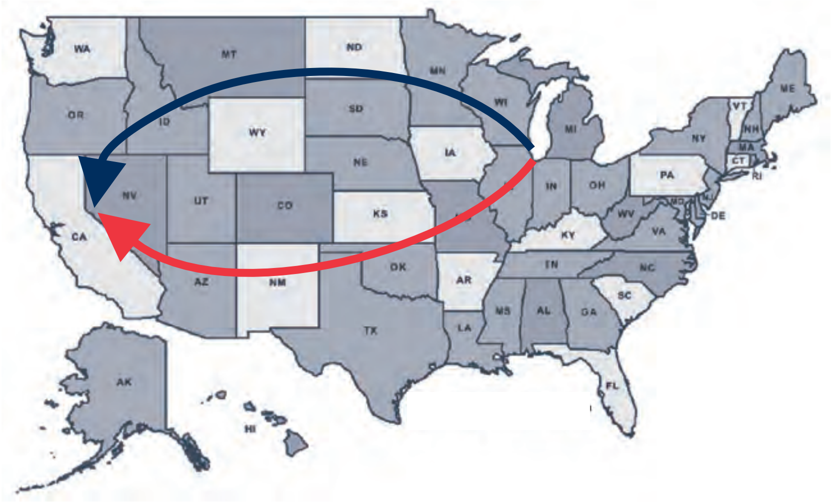
Airlines B and C, both offering new service on 50 seat aircraft, are eligible.

See page 22 for more information on incremental discounts.

What You May Not Do (continued):

Q11: May incentives be limited to aircraft with at least a certain number of seats?

A11: *No. Incentives must be based on the airport destinations the airport sponsor wishes to support, not equipment the air carrier chooses to use.*



You offer an incentive for airlines to begin service from Chicago to Reno.

- **Uniworld Airlines** begins once daily service using a CRJ-700.
- **TransAmerican Airlines** begins once daily service using a B737.

Both airlines are eligible for the same incentive.

Q12: May I limit the incentives to one incentive per air carrier?

A12: *No. The incentives are for the destination, not the carrier. You may limit the incentives per destination. This limitation must be clearly explained in the incentive program and may not be unjustly discriminatory.*

What You May Not Do (continued):

Q13: Do I have to consult with tenant air carriers before designing and initiating an incentive program, similar to a rates and charges consultation?
A13: *No. However, the airport sponsor may find it advisable to involve tenant air carriers in the development process to identify any areas that may create red flags for the sponsor, but it is not required. The cost of providing incentives to one or more air carriers cannot be included in the rate base for air carriers not participating in the incentive program without their express permission, so rates and charges will not be affected by the incentive program.*

Q14: We have a residual airport use agreement with signatory air carriers. Do I have to consult with them before designing and implementing an air carrier incentive program?
A14: *No. Again, it is recommended, but not required. Since the airport sponsor cannot include the costs of the incentive program in the rate base without the express written permission of <u>all</u> air carriers, there is no direct negative impact to the air carriers. (However, the airport sponsor must ensure it complies with its own signatory agreement.)*

Q15: May I require an air carrier to be a signatory in order to qualify for an incentive?
A15: *No. Incentives must be offered on a nondiscriminatory basis to all air carriers meeting the airport's new service goals.*

Q16: May I offer the incentive on a first-come, first served basis?
A16: *Possibly. A small airport that can support only one carrier is encouraged to use a Request for Proposals (RFP) to give every carrier an equal opportunity to be that one carrier. Larger airports may set a cap on what they will spend in total for incentives, but the program should include a sufficient level of incentives to cover a number of carriers that may qualify.*

3 Define incentive program timelines.

Sample Service Schedule

Now that you have identified the goals of the program and the qualifying service(s) to be included in the incentives, next we consider timelines. While a sponsor's air carrier incentive program may be ongoing for several years, each air carrier's incentive period should be limited to no more than two years except under special circumstances (e.g. new entrants, see page 7. Also, see page 16 for more information on the differences between incentive program time limits for new entrants versus incumbents).

The incentive program must be for a specified duration. Timelines for offering an incentive program may be staggered but the time period for each incentive offered to similarly situated, eligible carriers must be limited to no more than two years. (See page 16). Remember, an incentive program tests the viability of discrete markets. It is not a subsidy to air service. If the service cannot stand on its own after two years, it may not be viable at this time.

In this example, the Incentive Program started on January 1, 2008, and ends on December 31, 2012. Airlines participate in staggered terms but none exceed two years and all must conclude when the program ends.

Sample Participation Timelines

Air Carrier	Incentives Begin	End
RedJet Airlines	03-01-08	02-28-10
Take Me There Air	10-15-08	10-14-10
Northern Airways	01-01-09	12-31-10
Air Plane	09-09-09	09-08-11
FlyAway Airlines	12-01-11	12-31-12

3 Frequently Asked Questions

Define incentive program timelines.

Keywords:

Time periods
New entrant
Incumbent
New destination
Eligibility limits

What You May Do:

Q17: If my airport does not have service to "NEW" airport and I offer an incentive, how long may that incentive last?

A17: *The incentive period must be limited and should be defined. The incentive period must not exceed two years for each qualifying air carrier based on each new destination. Since there currently is no service to "NEW" airport, any carrier that starts qualifying service under the incentive program is eligible for the incentive in accordance with your program's limit, but the time period for incentives for each participant should be no more than two years.*

Q18: Do I have to limit my incentive program to two years?

A18: *No. The program itself may be for a longer period of time, which should be defined in the incentive program. (See "Sample Participation Timelines" graphic page 14.) However, incentives for each carrier must be limited to no more than two years for each new qualifying service.*

Q19: Do I have to offer incentives for two years for each new destination I want to incentivize?

A19: *No. The airport sponsor may decide to offer the incentive for any period of time up to two years. This should be clearly explained in the incentive program.*

Q20: May I offer the same incentive to both new entrant and incumbent carriers, but extend the new entrant carrier's incentive for a longer period of time after the first year?

A20: *No. After one year of service, the FAA considers all carriers to be similarly situated.*

See page 16 for the differences between one and two year limits.

What You May Do (continued):

Q21: May I limit eligibility to participate in the program to a relatively short period of time? For example, can I require airlines to apply to participate within 30 days and initiate service by a specified date?

A21: *The FAA may determine that such a requirement is unjustly discriminatory if it finds one or more air carriers had advance planning time. It is more reasonable to set up the incentive program to permit participation at different points within a given set of dates. Incentives will only apply after service is initiated.*

One Year vs. Two Years

This booklet references one year time limits versus two year limits. There are two different time limits based on the way the incentive program is structured.

One-year time limits apply to incentives for new entrants when the incumbent offering the same service is not getting any incentive.

North Airport (NOA) currently offers service to South Airport (SOA) provided once daily by FlyAway Airlines. NOA wants to increase competitive service to SOA, so it offers an incentive to new entrant airlines without providing any incentive to incumbent air carriers.

RedJet Airlines establishes a presence at NOA and begins once daily service from NOA to SOA that is eligible for the incentive program. FlyAway's existing service is not eligible for the incentive because the program is limited to new entrants; however, this type of incentive must be ***limited to one year*** because a new entrant is deemed similarly situated to incumbent carriers after one year.

Two-year time limits apply when all air carriers (new entrants & incumbents) are offered an incentive.

Using the NOA to SOA scenario, if NOA also included as part of its incentive program **added** service to SOA and incumbent FlyAway began offering a second daily flight from NOA to SOA, then the second daily flight would be eligible for the incentive. This type of incentive may be available to incumbent and new entrant carriers for ***up to two years*** provided it is available to all air carriers adding the specified new service.

If NOA does not offer incumbents incentives for added service, then the incentives to new entrants must end after one year because after a year of service, the FAA considers all carriers to be similarly situated.

4 Design a properly structured incentive program.

The final step is to structure the incentive program within acceptable parameters. While an airport may offer discounts or waivers of fees and rates as part of the program, the use of airport revenue to pay an air carrier to serve markets is strictly prohibited by FAA's *Policy and Procedures Concerning the Use of Airport Revenue*, 64 Fed. Reg. 7696 (February 16, 1999) (*Revenue Use Policy*). This section discusses acceptable versus unacceptable incentives an airport sponsor may offer as part of an air carrier incentive program in accordance with FAA policy and the sponsor's federal obligations. This section also covers permitted subsidies using tax revenue that is not subject to the *Revenue Use Policy*.

Acceptable Incentives.

> Incentives may include, but are not limited to, waiving or reducing landing fees, rental fees, or fuel flowage fees. An airport's rates and charges for air carriers not participating in the incentive program may not be impacted negatively by any incentive program without the carriers' express permission. Any financial deficit as a result of these incentives must be covered by other discretionary airport revenue or by non-airport revenue sources. The airport sponsor may use airport revenue to advertise the new service provided the airport is featured prominently in the advertising. Air carriers may be mentioned too.

Unacceptable Incentives.

> Consistent with the *Revenue Use Policy* and statute, the airport sponsor may not use airport revenue for air carrier subsidies. Subsidies would include providing aircraft parts, free fuel, interest-free loans, pay for service, or any other form of direct or indirect air carrier subsidy. State or local taxes on aviation fuel (except taxes in effect on December 30, 1987) are considered to be airport revenue subject to the revenue-use requirement and may not be used in such an incentive program. *(Note: While revenues from state taxes on aviation fuel may be used to support state aviation programs or for noise mitigation purposes, on or off the airport, the incentive and subsidy programs described here cannot be considered state aviation programs.)*

4 Design a properly structured incentive program.

Non-airport revenue sources.

FAA does not allow airport sponsors to use airport revenue subject to the *Revenue Use Policy* for air carrier subsidies under any circumstances. However, sometimes the sponsor may have separate tax revenue not subject to the *Revenue Use Policy* that could possibly be used for direct air carrier subsidies. For example, some airport authorities benefit from special tax districts, similar to school tax districts, in which local property owners pay a tax surcharge dedicated to support of the airport. The taxes are based on property location and value, and have no relation to use of the airport. The taxing authority may be either the sponsor or a non-sponsor. Revenue that is derived from such a tax imposed for the benefit of the airport, but on property not owned by the airport, is not considered airport revenue subject to the *Revenue Use Policy*. Thus, revenues from a property tax for the benefit of the airport could be used for air carrier subsidies. In those cases, the airport sponsor must make this subsidy available to all similarly situated air carriers providing the same level of new service. (Whenever the airport has revenue not subject to the *Revenue Use Policy* that it intends to use for subsidies, the sponsor must ensure these funds are maintained in a separate account and are not comingled with other airport revenue.)

In addition, under certain circumstances, a local government or community organization (e.g., local chamber of commerce) not affiliated with the airport sponsor may offer a subsidy to one air carrier without making the same offer available to all similarly situated air carriers. In those cases, the sponsor must not be a party to the agreement and must not be involved in negotiating, implementing, or monitoring the program in any manner.

EAS and SCASDP.

The Air Carrier Incentive Program is **NOT** related to the Essential Air Service (EAS) or the Small Community Air Service Development Program (SCASDP), both of which are administered by the Office of the Secretary of Transportation. (*For more information on these programs, visit www.dot.gov*)

4

Frequently Asked Questions

Design a properly structured incentive program.

Keywords:

Landing fees	Airport revenue
Rents	Ticket prices
Fuel flowage fees	Cash incentives
Rebates	Guarantees
Marketing/advertising	Increased weight
Payments	Rate base
Loans	FAA funds/PFCs

Acceptable Incentives Include:

Q22: May I reduce the landing fee down to zero?

A22: *Yes. You may charge a reduced or no landing fee for the incentive period. However, an airport may not have the other carriers make up the difference for the lost revenue in the landing fee requirement because of the incentive program. In addition, the airport sponsor retains the obligation to make the airport as self-sustaining as possible under the specific circumstances existing at that airport.*

Photo: FAA

Q23: May I reduce terminal rents down to zero?

A23: *Yes. An airport may charge reduced or no terminal rents (zero) for the incentive period. However, an airport may not have the other carriers with terminal leases make up the difference in the terminal rent requirement because of the incentive program. In addition, the airport sponsor retains the obligation to make the airport as self-sustaining as possible under the specific circumstances existing at that airport.*

Acceptable Incentives Include (continued):

Q24: May I offer a reduced or no fuel flowage fee?

A24: *Yes. An airport may charge a reduced or no fuel flowage fee for the incentive period. An airport may not, however, provide free fuel. It may not incorporate the lost revenue because of the incentive program into the airport rate base to be covered by other air carriers. In addition, the sponsor retains the obligation to make the airport as self-sustaining as possible under the specific circumstances existing at that airport.*


Photo: FAA

See pages 6 & 17 for more information on incentives vs. subsidies

Q25: I am offering an incentive that includes reduced landing fees. May I collect the full landing fees and then provide a rebate of fees when the air carrier meets the designated threshold to earn the incentive?

A25: *Yes. However, the airport sponsor must be careful to ensure the rebate does not resemble a subsidy. The airport sponsor could apply the rebated landing fees as a credit to the next period where landing fees would be collected. The airport sponsor should not issue a check for the rebate.*

Q26: I am offering an incentive that includes marketing and advertising assistance. May I just write a check to the air carrier to cover the documented costs for these services?

A26: *The FAA recommends that the airport sponsor pay marketing and advertising costs directly to the entity providing the service. This reduces the risk and appearance of providing a direct air carrier subsidy. It also provides greater control for the sponsor. Airport revenue may be used for a proportionate share of marketing and advertising only when the airport is included in the advertising with the carrier, in accordance with the Revenue Use Policy.*

Unacceptable Incentives Include:

Q27: May I pay for leased property not owned by the airport on behalf of the air carrier?
A27: *No. This would represent a subsidy to the air carrier; subsidies to air carriers are prohibited by the Revenue Use Policy.*

Q28: May I use airport revenue to make a direct payment to an air carrier to help defray start-up costs?
A28: *No. The Revenue Use Policy prohibits direct subsidies to air carriers.*

Q29: May I provide an incentive that includes interest-free loans to a start-up air carrier?
A29: *No. This is a violation of the Revenue Use Policy.*

Q30: May I tie the incentive to ticket price?
A30: *No. The airport sponsor may not dictate or influence the ticket price because such conduct may be considered unreasonable under Federal law and the grant assurances.*

Q31: May I provide a cash incentive to passengers who depart on the first leg of their journey from my airport?
A31: *No. The FAA considers cash payments to airport customers to be, in effect, a subsidy to air carriers in violation of the Revenue Use Policy.*

Q32: May I promise to purchase a set number of tickets from the air carrier?
A32: *No. However, the DOT offers a Small Community Air Service Development Program; funds granted under this program have different limitations on usage. See www.dot.gov for more information.*

Unacceptable Incentives Include (continued):

Q33: May I guarantee the number of seats that will be filled?
A33: *No. That could result in a subsidy paid to the air carrier in violation of the Revenue Use Policy.*

Q34: May I guarantee gross passenger revenue?
A34: *No. That could result in a subsidy paid to the air carrier in violation of the Revenue Use Policy.*

Q35: May I offer incremental discounts based on increased weight for a previously scheduled flight?
A35: *No. This does not qualify as new service. It would also appear to be based on aircraft type since the carrier would be changing the aircraft to add seats on an existing scheduled flight. Incremental discounts based on weight could be discriminatory to those airlines that do not have different sizes of aircraft.*

Your Incentive Program may NOT:

- Guarantee gross passenger revenue
- Guarantee ticket sales
- Influence ticket prices
- Include direct payments to carriers from airport revenue

Photo: FAA

- Offer incremental discounts based on weight for existing service
- Offer incentives based on incremental weight or increased number of seats on existing flights.

Unacceptable Incentives Include (continued):

Q36: We expect any lost revenue from waiving landing fees, etc., to be recovered through additional concession revenue. If this additional concession revenue is not sufficient to cover the cost of operating the incentive program, may I include the extra cost in the rate base?

A36: *No. The cost of providing incentives to one or more carriers cannot be included in the rate base for air carriers not participating in the incentive program without their express permission. The airport sponsor must have some other means for making up any shortfall resulting from the incentive program. It may not unilaterally adjust the rate base to cover extra costs from the incentive program.*

Q37: We have a residual airport use agreement with signatory air carriers. The airport has no separate discretionary income not subject to the residual agreement. Under this scenario, may concession revenues cover the cost of the incentive program in the rate base without the approval of the signatory air carriers?

A37: *No. The cost of providing incentives to one or more carriers cannot affect the rate base for air carriers not participating in the incentive program without their express permission.*

Q38: May I use funding from FAA grants or Passenger Facility Charge (PFC) collections to cover the cost of incentives?

A38: *No. This funding cannot be used to cover the cost of air carrier incentive programs.*

Q39: May I use tax revenue that is not subject to the *Revenue Use Policy* to offer subsidy incentives?

A39: *Yes. We recognize that some airport authorities benefit from special tax districts, similar to school tax districts, in which local property owners pay a tax surcharge that is dedicated to support of the airport. The taxes are based on property location and value, and have no relation to use of the airport. The taxing authority may be either the sponsor or a non-sponsor. Revenue that is derived from such a tax imposed for the benefit of the airport, but on property not owned by the airport, would not be considered airport revenue subject to the Revenue Use Policy.*

[Answer continued on page 24]

Non Airport Revenue Sources:

Photo: FAA

[A39 Continued] For example, revenues from a property tax for the benefit of the airport could be used for air carrier subsidies, provided the subsidy is otherwise consistent with applicable grant assurances. Whenever the airport has revenue not subject to the Revenue Use Policy that it intends to use for subsidies, the sponsor must ensure these funds are maintained in a separate account and are not comingled with other airport revenue.

Q40: May an independent group not affiliated with the airport or airport sponsor offer subsidy incentives to a single air carrier?

A40: *Yes, but the airport and airport sponsor cannot be a party to the agreement and must not be involved in negotiating, implementing, or monitoring the program in any manner. Funds must not be funneled through the airport and record-keeping for the purpose of subsidy payments may not be maintained by the airport or airport sponsor. (Note: If the independent group is unable to support the program as initiated, the sponsor may not step in to run or pay for the program.) See also, EAS and SCASDP on page 18.*

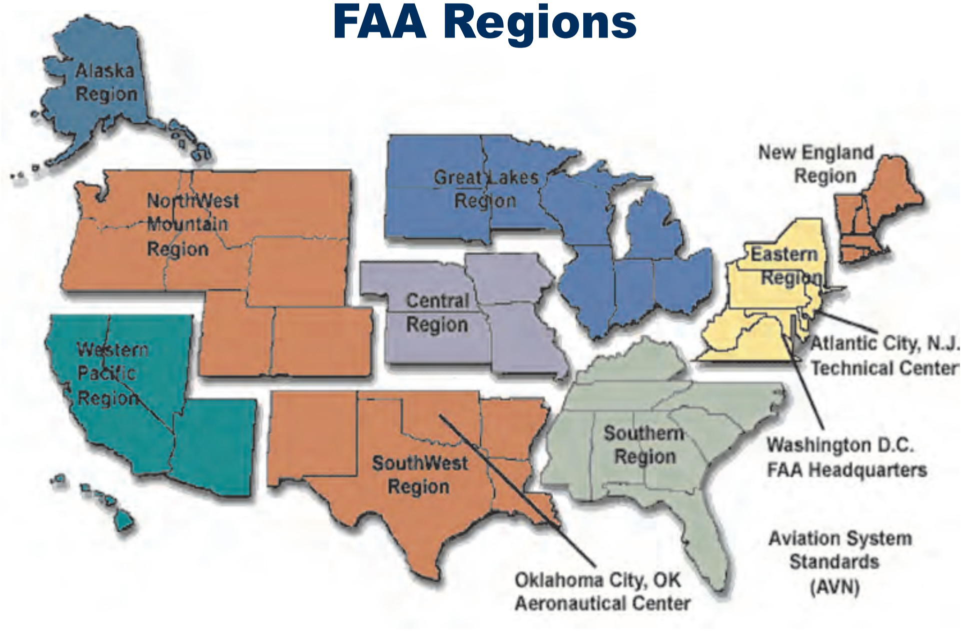
For more information on airport revenue, see FAA's *Policy and Procedures Concerning the Use of Airport Revenue* (64 Fed. Reg. 7696, February 16, 1999)

Q41: The airport sponsor is a member of the Chamber of Commerce. The Chamber of Commerce plans to offer a subsidy incentive from its own revenue, which is not subject to the Revenue Use Policy. The airport sponsor will not vote on issues involving the subsidy incentive program. Is there a conflict of interest?

A41: *Yes. The FAA does not consider the airport sponsor to be removed from an incentive program simply because the sponsor refrains from voting. So long as the sponsor has influence, however limited, in the negotiations or planning of an air carrier incentive program, it is obligated by the grant assurances to offer the same incentives to all similarly situated air carriers.*

Questions?
Contact your Airports District Office

FAA Regions



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Published by:

FAA
Office of Airports
Airport Compliance and Field Operations (ACO-1)
800 Independence Avenue SW
Washington, DC 20591

September 2010