



June 16, 2009

Reissued Request for Proposals: ACRP 11-01, Study Topic 3-04  
Digest of Department of Transportation Decisions on Airport Rates and Charges  
Assessed On Air Carriers

Dear Attorney:

The Transportation Research Board (TRB), as part of its work with the Airport Cooperative Research Program (ACRP), plans to award a contract for a study and report. The research Problem Statement is enclosed for your consideration.

TRB anticipates an estimated 275-395 hour level of effort and compensation in the \$30,250.00 to \$41,500.00 range. Research reports sponsored by this project are published in TRB's Legal Research Digests (LRD) series or in electronic format. Publications are made available to some libraries and to approximately 3000 transportation lawyers and officials through the TRB distribution network.

After reviewing the enclosed statement, if you are interested in being considered as the researcher and author, you should reply by email on or before July 15, 2009 to:

James B. McDaniel Counsel for Legal Research Projects Transportation Research Board 500 5 <sup>th</sup> Street, NW, 4 <sup>th</sup> Floor Washington, DC 20001	Tel: (202) 334-3209 Fax: (202) 334-2003 Email: <a href="mailto:jmcdaniel@nas.edu">jmcdaniel@nas.edu</a>
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Your reply should include: a statement of interest; a resume; a list of your prior publications (you may enclose one or two publications); a statement of resources you will allocate to this project; any additions, deletions, or changes you may wish to suggest for undertaking the work; and your requested compensation.

Offerors are evaluated by Project Panel members and ACRP staff consisting of individuals collectively knowledgeable in the problem area. Evaluations are based upon the offerors': 1) experience in the subject area; 2) understanding of the work (demonstrated by the commitment of resources); 3) prior relevant publications (including briefs); 4) schedule for completing the work; and 5) price.

Feel free to call me at (202) 334-3209 if you have questions.

Sincerely,  
James B. McDaniel  
Counsel for Legal Research Projects

Enclosure

**REISSUED**  
**ACRP 11-01, Study Topic 3-04**  
**Digest of Department of Transportation Decisions on Airport Rates and Charges**  
**Assessed On Air Carriers**

**PROBLEM STATEMENT**

Sponsors of airports that have received Federal Airport Improvement Program assistance are under a Federal obligation to provide access to all categories of aeronautical users on reasonable terms without unjust discrimination. This obligation encompasses the obligation to establish fees or rates and charges for aeronautical use of the airport that are reasonable and not unjustly discriminatory. Specific statutory requirements for airport rates and charges are applicable only to air carriers, e.g. 49 U.S.C. §§ 47129 and 47107(a)(2). An important source for precedent and policy on permitted practices for setting fees charged to air carriers, as well as procedural issues associated with air carrier challenges to air fees is the collection of Department of Transportation decisions issued under expedited administrative review procedures contained in Subpart F of 14 CFR Part 302.

ACRP Research Digest 4 was intended to provide a comprehensive collection of DOT and FAA administrative determinations regarding airport grant assurances, including assurances relating to airport rates and charges. Based on a review of the published digest, it appears that a number of Department of Transportation (“Department”) decisions issued under subpart F were inadvertently omitted from the digest. A contributing factor may be lack of complete electronic docket records for Subpart F decisions stored on [www.regulations.gov](http://www.regulations.gov).

The objective of this research project is to provide a comprehensive review of DOT decisions under Subpart F. The final report should provide a comprehensive guide to airport management and airport attorneys on those rates and charges practices the Department has found to be consistent or inconsistent with airport’s Federal obligations and to the circumstances that could affect a Department decision. For those decisions reviewed by the U.S. Court of Appeals, the summary should also include a discussion of the court decision, including the issues raised on appeal and the summary should be in sufficient detail to serve as a research guide addressing all major holdings.

Documents summarized should include, where applicable, Administrative Law Judge decisions and any preliminary orders that may dispose of procedural issues or otherwise establish precedent, as well as final decisions. The report should allow searches by topic, date, author (where applicable), and airport involved. The final research report should be a legal research digest similar in form, organization and content to Legal Research Digest #4.

Consultant will review DOT decisions included in the ACRP Legal Research Digest #4 and include appropriate digests from ACRP LRD #4 in this report. Consultant will also identify DOT decisions not included in Digest #4 and conduct appropriate

research to locate the decisions and digest them. Sources of information on decisions omitted from Digest #4 may include case references in the digested decisions, the Department's original paper docket (to the extent available) official Department records stored at the National Records center and current or former Department and FAA staff who were involved in or are otherwise familiar with DOT decisions under Subpart F.

## **Research Implementation**

This research will be conducted in 4 tasks pursuant to a firm fixed price contract.

Task 1. Research and Collect Interpretative material. Consultant will review Legal Research Digest #4, interview current and former Department officials, confer with other groups, and collect Department materials. .

Research Plan and Detailed Report Outline. The consultant will conduct background research and collect relevant data. Based on the initial but complete review of the source material, consultant will propose a compilation format as part of a report outline. The outline should be about 8-15 pages in length and contain sufficient detail to inform the committee of what the report will contain (subject to the number of qualifying commercial activities and categories of standards identified in the research). This outline should also contain the estimated pagination for each proposed section and/or subsection. Also, draft questionnaires and/or interview questions should be submitted if there are plans to use that method of data collection. This material will be submitted to the Principal Investigator for committee consideration and approval.

Estimated Length of Time: 45-60 days  
Estimated Work Effort: 100-125 hours

Task 2. After conferring with the TRB Principal Investigator, the Consultant will produce the documents and a topic index for the material, or a Legal Research Results Report (LRRP). summaries are about 10-15 typewritten pages that detail the results of the research.

Estimated Length of Time: 45-60 days  
Estimated Work Effort: 40-60 hours

After completion of tasks 1 and 2 the project committee will determine whether there is sufficient information to proceed to the next phase or to discontinue work on this study topic.

Task 3. Read and categorize the DOT materials based on topic, date, author (where applicable), airport involved and other party and enter these criteria, along with the text of the decision, and a short summary, into the database. This should result in a searchable compilation of decisions that provides guidance to commercial airports on Federal policies applicable to airport rates and charges assessed on air carriers. ALJ decisions and final agency decisions in these cases are often lengthy – addressing multiple, complex technical issues with voluminous administrative record. The

Consultant should anticipate devoting a considerable amount of time to reading and summarizing each decision, as reflected in the estimates of work effort below.

Estimated Length of Time: 40-60 days  
Estimated Work Effort: 100-150 hours

Task 4. Revise report as necessary. The consultant should estimate that 2 revisions will be necessary. One revision may be required after review by the Principal Investigator and members of a select subcommittee. Additional revisions may be required after the full committee has reviewed the report.

Estimated Length of Time: 30 days  
Estimated Work Effort: 40-60 hours

Totals

Total Estimated Length of Time: 60-210 days  
Total Estimated Work Effort: 275-395 hours  
Estimated Compensation: \$30,250.00-41,500.00  
15% paid upon submission and approval of the Task 1 Report  
20% paid upon submission and approval of the Task 2 Report  
40% paid upon submission and approval of the Task 3 Report  
25% paid upon submission and approval of the Task 4 Report

Offerors should include their commitment of length of time to complete the project. The successful offeror will be held strictly accountable for complying with the schedule actually included in the contract. The contract term will include up to 120 days for committee and staff review time.

Submit Statements of Interest on or before July 15, 2009 by email to (the proposal should be combined into one document not to exceed a total of 50 pages (including resumes, writing samples, etc)):

James B. McDaniel  
Counsel for Legal Research Projects  
Transportation Research Board  
500 – 5<sup>th</sup> Street, NW, 4<sup>th</sup> Floor  
Washington, DC 20001  
202/334-3209  
FAX: 202/334-2003  
jmcdaniel@nas.edu