



# TRANSPORTATION RESEARCH BOARD

OF THE NATIONAL ACADEMIES

September 16, 2010

Request for Proposals:           ACRP 11-01, Study Topic 4-05

Dear Attorney:

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

TRB estimates compensation in the \$55,000 to \$60,000 for ACRP 11-01, Study Topic 4-05, "Compilation of DOT and FAA Airport Legal Determinations and Opinion Letters, through December 2011."

Research reports sponsored by this project are published in ACRP'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.

If you are interested in replying to this request for proposals, your reply should include: A pdf file containing a statement of interest; a resume; a list of your prior publications (you may enclose one or two samples); 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.

Gwen Chisholm Smith, Esq.  
National Academies  
Transportation Research Board  
Cooperative Research Programs

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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) 334-3246 if you have questions.

Sincerely,

*Gwen Chisholm Smith*

Gwen Chisholm Smith, Esquire  
Senior Program Officer  
Transportation Research Board  
Cooperative Research Programs

Enclosure

ACRP Study Topic 11-01/4-05  
**COMPILATION OF DOT AND FAA AIRPORT LEGAL  
DETERMINATIONS AND OPINION LETTERS,  
THROUGH DECEMBER 2011  
Problem Statement**

Virtually all U.S. airports with commercial airline service have accepted federal grants under the Airport Improvement Program (AIP) (Title 49, U.S.C., Chapter 471). In exchange for these grants, airports agree to comply with numerous federal assurances, ranging from requirements that their rates be reasonable to implementation of disadvantaged business enterprise programs. The Federal Aviation Administration (FAA) adjudicates complaints, brought by FAA or raised by third parties, relating to alleged failures by airports to comply with the AIP grant assurances.

Prior to 1996 the FAA's procedures for processing and making determination regarding complaints against federally-funded airports were set forth in 14 CFR Part 13, a set of regulations applicable to a variety of adversarial proceedings within FAA's jurisdiction. In 1996, the FAA promulgated Part 16, regulations relating to processing complaints against airports specifically. Part 16 includes several stages of FAA review, and therefore multiple decisions may be issued by the FAA in a particular Part 16 proceeding.

It is very difficult for attorneys representing airports to find either the older Part 13 decisions relating to airports, or the more recent Part 16 decisions. In addition, airport attorneys are rarely aware of DOT general counsel opinions or FAA chief counsel opinions on airport legal issues. This project would make these materials available.

The subcommittee is aware that the LEXIS™ service contains a library of Part 13 and Part 16 decisions. Many airport attorneys, however, use a different online legal research service and do not have access to LEXIS. In addition, the LEXIS library contains numerous Part 13 decisions that do not relate to airports, and that library, as best we can tell, does not include any DOT general counsel decisions or FAA chief counsel decisions. Furthermore, LEXIS does not include a case summary to accompany the text of Part 13 and Part 16 decisions.

WESTLAW service contains a similar library, subject to comparable limitations on its usefulness.

Part 16 decisions are also maintained on the FAA website. As with other online resources, there is no case summary and no digesting or indexing. Decisions are only searchable by names of party or docket number. Also, DOT general counsel and FAA chief counsel opinions are not available through this on-line source.

ACRP 11-01, "Legal Aspects of Airport Program" previously published ACRP LRD 4, *Compilation of DOT and FAA Airport Legal Determinations and Opinion Letters Through December 31, 2007*, by Spiegel & McDiarmid, August, 2008. That report consists of a bound volume of indexes and a CD-ROM with the same indexes, digested determinations and opinions,

and close to 2000 pages of determinations and opinions. The determinations and opinions are numbered in the indexes by document numbers and linked.

The objective of this study topic is to supplement and update ACRP LRD 4. The product of this research, if all phases are implemented, would be a web-based searchable database containing the full text of each document as well as a short summary of the outcome. The database should allow searches by topic, date, author (where applicable), type of proceeding, FAA region, and by individual word or words (i.e., Boolean searches.) FAA airport compliance staff and attorneys will also benefit from the searchable data base as they assist airports and users with informal resolutions, evaluate complaints, and prepare decisions.

## **Research Implementation**

This research will be conducted in four tasks pursuant to a firm fixed price agreement. The tasks will be as follows:

### **Task 1. Compilation of Relevant Materials, Work Plan, and Detailed Report Outline.**

The consultant will conduct background research and collect relevant statutes, regulations, and cases. Based on the initial but complete review of the source material, the consultant will propose a detailed report outline that organizes the cases, regulations, and statutes into logical categories. The outline should be about 10-15 pages in length and contain sufficient detail to inform the committee of what a 75-100 page, double-spaced report will contain. 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 ACRP project panel for review and approval.

Estimated Length of Time: 60-90 days

Task 2. After ACRP project panel approval of the detailed outline, the consultant should conduct additional research, case, and statutory/regulatory analysis.

Estimated Length of Time: 30-45 days

Task 3. Draft report in accordance with the approved outline (including modifications required by the ACRP project panel).

Estimated Length of Time: 40-60 days

Task 4. Revise report as necessary. The consultant should estimate that two revisions will be necessary.

Estimated Length of Time: 30 days  
Total Estimated Length of Time: 160-225 days  
Estimated Compensation: \$55,000-\$60,000

25% paid upon submission and approval of the Task 1 Report  
50% paid upon submission and approval of the Task 3 Report  
25% paid upon submission and approval of the Revised Final Report

If an offeror's estimation of length of time from those above, the offeror should use his/her estimates.

An important factor in rating offers will be the offeror's commitment to promptly undertake and complete this study. Offerors are evaluated by Project Panel members and TCRP 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.

To propose, please send a single pdf file containing: a statement of interest; a resume; a list of your prior publications (you may enclose one or two sample); 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. The referenced pdf file containing consultant letters of interest, resumes, and statement of resources are to be submitted electronically by close of business, **November 16, 2010**, to:

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