

1964 (42 U.S.C. 2000e-2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on a project or contract at—

(A) an airport sponsored by an Indian tribal government; or

(B) an airport located on an Indian reservation.

(2) STATE PREFERENCE.—A State may implement a preference for employment of Indians on a project carried out under this subchapter near an Indian reservation.

(3) IMPLEMENTATION.—The Secretary shall consult with Indian tribal governments and cooperate with the States to implement this subsection.

(4) INDIAN TRIBAL GOVERNMENT DEFINED.—In this section, the term ‘‘Indian tribal government’’ has the same meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1275; Pub. L. 115-254, div. B, title I, §153, Oct. 5, 2018, 132 Stat. 3216.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
47123	49 App.:2219.	Sept. 3, 1982, Pub. L. 97-248, §520, 96 Stat. 694.

The words ‘‘as the Secretary deems’’ and ‘‘the purposes of’’ are omitted as surplus. The words ‘‘The regulations shall be similar to those in effect under’’ are substituted for ‘‘and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under’’ for clarity and to eliminate unnecessary words and because ‘‘rules’’ and ‘‘regulations’’ are synonymous. The words ‘‘The provisions of . . . and not in lieu of the provisions of’’ are omitted as surplus. The word ‘‘is’’ is substituted for ‘‘shall be considered to be’’ to eliminate unnecessary words.

Editorial Notes

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2018—Pub. L. 115-254 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 47124. Agreements for State and local operation of airport facilities

(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an agreement under this subchapter with a qualified entity (as determined by the Secretary), State, or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport facility relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the entity, State, or subdivision in operating the airport facility.

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—

(1) CONTRACT TOWER PROGRAM.—

(A) CONTINUATION.—The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

(B) SPECIAL RULE.—If the Secretary determines that a tower already operating under the Contract Tower Program has a benefit-to-cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit—

(i) for the 1-year period after such determination is made; or

(ii) if an appeal of such determination is requested, for the 1-year period described in subsection (d)(4)(D).¹

(C) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the Cost-share Program.

(2) GENERAL AUTHORITY.—The Secretary may make a contract with a qualified entity (as determined by the Secretary) or, on a sole source basis, with a State or a political subdivision of a State to allow the entity, State, or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the entity, State, or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the entity, State, or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

(3) COST-SHARE PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish a program to contract for air traffic control services at nonapproach control towers, as defined by the Secretary, that do not qualify for the Contract Tower Program.

(B) PROGRAM COMPONENTS.—In carrying out the Cost-share Program, the Secretary shall—

(i) utilize for purposes of cost-benefit analyses, current, actual, site-specific data, forecast estimates, or airport master plan data provided by a facility owner or operator and verified by the Secretary; and

(ii) approve for participation only facilities willing to fund a pro rata share of the operating costs of the air traffic control tower to achieve a 1-to-1 benefit-to-cost ratio using actual site-specific contract tower operating costs in any case in which

¹ So in original.

there is an operating air traffic control tower, as required for eligibility under the Contract Tower Program.

(C) PRIORITY.—In selecting facilities to participate in the Cost-share Program, the Secretary shall give priority to the following facilities:

(i) Air traffic control towers that are participating in the Contract Tower Program but have been notified that they will be terminated from such program because the Secretary has determined that the benefit-to-cost ratio for their continuation in such program is less than 1.0.

(ii) Air traffic control towers that the Secretary determines have a benefit-to-cost ratio of at least .50.

(iii) Air traffic control towers of the Federal Aviation Administration that are closed as a result of the air traffic controllers strike in 1981.

(iv) Air traffic control towers located at airports or points at which an air carrier is receiving compensation under the essential air service program under this chapter.

(v) Air traffic control towers located at airports that are prepared to assume partial responsibility for maintenance costs.

(vi) Air traffic control towers located at airports with safety or operational problems related to topography, weather, runway configuration, or mix of aircraft.

(vii) Air traffic control towers located at an airport at which the community has been operating the tower at its own expense.

(D) COSTS EXCEEDING BENEFITS.—If the costs of operating an air traffic tower under the Cost-share Program exceed the benefits, the airport sponsor or State or local government having jurisdiction over the airport shall pay the portion of the costs that exceed such benefit, with the maximum allowable local cost share capped at 20 percent. Airports with air service provided under part 121 of title 14, Code of Federal Regulations, and more than 25,000 passenger enplanements in calendar year 2014 shall be exempt from any cost-share requirement under this paragraph.

(E) FUNDING.—Of the amounts appropriated pursuant to section 106(k)(1), not more than \$10,350,000 for each of fiscal years 2012 through 2018 may be used to carry out this paragraph.

(F) USE OF EXCESS FUNDS.—If the Secretary finds that all or part of an amount made available under this paragraph is not required during a fiscal year, the Secretary may use, during such fiscal year, the amount not so required to carry out the Contract Tower Program.

(G) BENEFIT-TO-COST CALCULATION.—Not later than 90 days after receiving an application to the Contract Tower Program, the Secretary shall calculate a benefit-to-cost ratio (as described in subsection (d)) for the applicable air traffic control tower for purposes of selecting towers for participation in the Contract Tower Program.

(4) CONSTRUCTION OF AIR TRAFFIC CONTROL TOWERS.—

(A) GRANTS.—The Secretary may provide grants to a sponsor of—

(i) a primary airport—

(I) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for the construction or improvement of a non-approach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of construction or improvement of a non-approach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(1) and 47114(c)(2) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996, including remote air traffic control tower equipment certified by the Federal Aviation Administration; and

(ii) a public-use airport that is not a primary airport—

(I) from amounts made available under sections 47114(c)(2) and 47114(d) for the construction or improvement of a non-approach control tower, as defined by the Secretary, and for the acquisition and installation of air traffic control, communications, and related equipment to be used in that tower;

(II) from amounts made available under sections 47114(c)(2) and 47114(d)(3)(A) for reimbursement for the cost of construction or improvement of a nonapproach control tower, as defined by the Secretary, incurred after October 1, 1996, if the sponsor complied with the requirements of sections 47107(e), 47112(b), and 47112(c) in constructing or improving that tower; and

(III) from amounts made available under sections 47114(c)(2) and 47114(d)(3)(A) for reimbursement for the cost of acquiring and installing in that tower air traffic control, communications, and related equipment that was acquired or installed after October 1, 1996, including remote air traffic control tower equipment certified by the Federal Aviation Administration.

(B) ELIGIBILITY.—An airport sponsor shall be eligible for a grant under this paragraph only if—

(i)(I) the sponsor is a participant in the Federal Aviation Administration Contract Tower Program or the Cost-share Program; or

(II) construction of a nonapproach control tower would qualify the sponsor to be eligible to participate in such program;

(ii) the sponsor certifies that it will pay not less than 10 percent of the cost of the activities for which the sponsor is receiving assistance under this paragraph;

(iii) the Secretary affirmatively accepts the proposed contract tower into a contract tower program under this section and certifies that the Secretary will seek future appropriations to pay the Federal Aviation Administration's cost of the contract to operate the tower to be constructed under this paragraph;

(iv) the sponsor certifies that it will pay its share of the cost of the contract to operate the tower to be constructed under this paragraph; and

(v) in the case of a tower to be constructed under this paragraph from amounts made available under section 47114(d)(2) or 47114(d)(3)(B), the Secretary certifies that—

(I) the Federal Aviation Administration has consulted the State within the borders of which the tower is to be constructed and the State supports the construction of the tower as part of its State airport capital plan; and

(II) the selection of the tower for funding is based on objective criteria.

(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for regular safety assessments of air traffic control towers that receive funding under this section.

(d) CRITERIA TO EVALUATE PARTICIPANTS.—

(1) TIMING OF EVALUATIONS.—

(A) TOWERS PARTICIPATING IN COST-SHARE PROGRAM.—In the case of an air traffic control tower that is operated under the Cost-share Program, the Secretary shall annually calculate a benefit-to-cost ratio with respect to the tower.

(B) TOWERS PARTICIPATING IN CONTRACT TOWER PROGRAM.—In the case of an air traffic control tower that is operated under the Contract Tower Program, the Secretary shall not calculate a benefit-to-cost ratio after the date of enactment of this subsection with respect to the tower unless the Secretary determines that the annual aircraft traffic at the airport where the tower is located has decreased—

(i) by more than 25 percent from the previous year; or

(ii) by more than 55 percent cumulatively in the preceding 3-year period.

(2) COSTS TO BE CONSIDERED.—In establishing a benefit-to-cost ratio under this section with respect to an air traffic control tower, the Secretary shall consider only the following costs:

(A) The Federal Aviation Administration's actual cost of wages and benefits of personnel working at the tower.

(B) The Federal Aviation Administration's actual telecommunications costs directly associated with the tower.

(C) The Federal Aviation Administration's costs of purchasing and installing any air

traffic control equipment that would not have been purchased or installed except as a result of the operation of the tower.

(D) The Federal Aviation Administration's actual travel costs associated with maintaining air traffic control equipment that is owned by the Administration and would not be maintained except as a result of the operation of the tower.

(E) Other actual costs of the Federal Aviation Administration directly associated with the tower that would not be incurred except as a result of the operation of the tower (excluding costs for noncontract tower-related personnel and equipment, even if the personnel or equipment is located in the contract tower building).

(3) OTHER CRITERIA TO BE CONSIDERED.—In establishing a benefit-to-cost ratio under this section with respect to an air traffic control tower, the Secretary shall add a 10 percentage point margin of error to the benefit-to-cost ratio determination to acknowledge and account for the direct and indirect economic and other benefits that are not included in the criteria the Secretary used in calculating that ratio.

(4) REVIEW OF COST-BENEFIT DETERMINATIONS.—In issuing a benefit-to-cost ratio determination under this section with respect to an air traffic control tower located at an airport, the Secretary shall implement the following procedures:

(A) The Secretary shall provide the airport (or the State or local government having jurisdiction over the airport) at least 90 days following the date of receipt of the determination to submit to the Secretary a request for an appeal of the determination, together with updated or additional data in support of the appeal.

(B) Upon receipt of a request for an appeal submitted pursuant to subparagraph (A), the Secretary shall—

(i) transmit to the Administrator of the Federal Aviation Administration any updated or additional data submitted in support of the appeal; and

(ii) provide the Administrator not more than 90 days to review the data and provide a response to the Secretary based on the review.

(C) After receiving a response from the Administrator pursuant to subparagraph (B), the Secretary shall—

(i) provide the airport, State, or local government that requested the appeal at least 30 days to review the response; and

(ii) withhold from taking further action in connection with the appeal during that 30-day period.

(D) If, after completion of the appeal procedures with respect to the determination, the Secretary requires the tower to transition into the Cost-share Program, the Secretary shall not require a cost-share payment from the airport, State, or local government for 1 year following the last day of the 30-day period described in subparagraph (C).

(e) DEFINITIONS.—In this section:

(1) CONTRACT TOWER PROGRAM.—The term “Contract Tower Program” means the level I air traffic control tower contract program established under subsection (a) and continued under subsection (b)(1).

(2) COST-SHARE PROGRAM.—The term “Cost-share Program” means the cost-share program established under subsection (b)(3).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1276; Pub. L. 106–181, title I, §131, Apr. 5, 2000, 114 Stat. 78; Pub. L. 108–7, div. I, title III, §370(b)(1), (2), Feb. 20, 2003, 117 Stat. 425, 426; Pub. L. 108–176, title I, §105, Dec. 12, 2003, 117 Stat. 2498; Pub. L. 112–55, div. C, title I, §119, Nov. 18, 2011, 125 Stat. 649; Pub. L. 112–95, title I, §147, Feb. 14, 2012, 126 Stat. 30; Pub. L. 113–76, div. L, title I, §118, Jan. 17, 2014, 128 Stat. 581; Pub. L. 113–235, div. K, title I, §118, Dec. 16, 2014, 128 Stat. 2704; Pub. L. 114–55, title I, §102(c), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114–141, title I, §102(c), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114–190, title I, §1102(c), July 15, 2016, 130 Stat. 617; Pub. L. 115–63, title I, §102(d), Sept. 29, 2017, 131 Stat. 1169; Pub. L. 115–141, div. M, title I, §102(c), Mar. 23, 2018, 132 Stat. 1046; Pub. L. 115–254, div. B, title I, §133(a)–(c), Oct. 5, 2018, 132 Stat. 3206–3208.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
47124(a)	49 App.:2222.	Sept. 3, 1982, Pub. L. 97–248, §526, 96 Stat. 698.
47124(b)(1) ..	49 App.:2222 (note).	Dec. 30, 1987, Pub. L. 100–223, §306, 101 Stat. 1526.
47124(b)(2) ..	49 App.:1344(h).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 747, §303(h); added Oct. 31, 1992, Pub. L. 102–581, §201(a), 106 Stat. 4890.

In subsection (a), the words “In the powers granted under section 2218 of this Appendix” and “contract or other” are omitted as surplus. The word “relieves” is substituted for “contain, among others, a provision relieving”, and the words “from any liability arising out of, or related to” are substituted for “of any and all liability for the payment of any claim or other obligation arising out of or in connection with”, to eliminate unnecessary words.

In subsection (b)(1), the words “in effect” are omitted as surplus. The words “on December 30, 1987” are added for clarity.

In subsection (b)(2), the word “Secretary” is substituted for “Administrator” for consistency in the chapter.

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (d)(1)(B), is the date of enactment of Pub. L. 115–254, which was approved Oct. 5, 2018.

AMENDMENTS

2018—Subsec. (b)(1)(B). Pub. L. 115–254, §133(a)(1), substituted “under the Contract Tower Program” for “under the program continued under this paragraph” and “exceeds the benefit—” and cls. (i) and (ii) for “exceeds the benefit for a period of 18 months after such determination is made”.

Subsec. (b)(1)(C). Pub. L. 115–254, §133(c)(1), substituted “the Cost-share Program” for “the program established under paragraph (3)”.

Subsec. (b)(3). Pub. L. 115–254, §133(c)(2)(A), substituted “Cost-share program” for “Contract air traffic control tower program” in heading.

Subsec. (b)(3)(A). Pub. L. 115–254, §133(c)(2)(B), substituted “Contract Tower Program” for “contract tower program established under subsection (a) and continued under paragraph (1) (in this paragraph referred to as the ‘Contract Tower Program’)”.

Subsec. (b)(3)(B). Pub. L. 115–254, §133(c)(2)(C), substituted “In carrying out the Cost-share Program” for “In carrying out the program” in introductory provisions.

Subsec. (b)(3)(C). Pub. L. 115–254, §133(c)(2)(D), substituted “participate in the Cost-share Program” for “participate in the program” in introductory provisions.

Subsec. (b)(3)(D). Pub. L. 115–254, §133(a)(2), substituted “under the Cost-share Program” for “under the program” and inserted at end “Airports with air service provided under part 121 of title 14, Code of Federal Regulations, and more than 25,000 passenger enplanements in calendar year 2014 shall be exempt from any cost-share requirement under this paragraph.”

Subsec. (b)(3)(E). Pub. L. 115–141 substituted “2012 through 2018” for “2012 through 2017 and not more than \$5,160,822 for the period beginning on October 1, 2017, and ending on March 31, 2018,”.

Subsec. (b)(3)(F). Pub. L. 115–254, §133(c)(2)(E), substituted “the Contract Tower Program” for “the program continued under paragraph (1)”.

Subsec. (b)(3)(G). Pub. L. 115–254, §133(a)(4), added subpar. (G).

Subsec. (b)(4)(A)(i)(III), (ii)(III). Pub. L. 115–254, §133(a)(3)(A), inserted “, including remote air traffic control tower equipment certified by the Federal Aviation Administration” after “1996”.

Subsec. (b)(4)(B)(i)(D). Pub. L. 115–254, §133(a)(3)(B), substituted “Contract Tower Program or the Cost-share Program” for “contract tower program established under subsection (a) and continued under paragraph (1) or the pilot program established under paragraph (3)”.

Subsec. (b)(4)(C). Pub. L. 115–254, §133(a)(3)(C), struck out subpar. (C). Text read as follows: “The Federal share of the cost of construction of a nonapproach control tower under this paragraph may not exceed \$2,000,000.”

Subsecs. (d), (e). Pub. L. 115–254, §133(b), added subsecs. (d) and (e).

2017—Subsec. (b)(3)(E). Pub. L. 115–63 inserted “and not more than \$5,160,822 for the period beginning on October 1, 2017, and ending on March 31, 2018,” after “fiscal years 2012 through 2017”.

2016—Subsec. (b)(3)(E). Pub. L. 114–190 substituted “fiscal years 2012 through 2017” for “fiscal years 2012 through 2015 and not more than \$8,193,750 for the period beginning on October 1, 2015, and ending on July 15, 2016,”.

Pub. L. 114–141 substituted “\$8,193,750 for the period beginning on October 1, 2015, and ending on July 15, 2016,” for “\$5,175,000 for the period beginning on October 1, 2015, and ending on March 31, 2016,”.

2015—Subsec. (b)(3)(E). Pub. L. 114–55 inserted “and not more than \$5,175,000 for the period beginning on October 1, 2015, and ending on March 31, 2016,” after “fiscal years 2012 through 2015”.

2014—Subsec. (b)(3)(D). Pub. L. 113–76 and Pub. L. 113–235, which identically directed substitution of “benefit, with the maximum allowable local cost share capped at 20 percent,” for “benefit,” could not be executed because of the prior amendment by Pub. L. 112–55. See 2011 Amendment note below.

2012—Subsec. (b)(1). Pub. L. 112–95, §147(a)(1), designated existing provisions as subpar. (A), inserted par. and subpar. headings, and added subpars. (B) and (C).

Subsec. (b)(2). Pub. L. 112–95, §147(a)(2), inserted heading.

Subsec. (b)(3)(E), (F). Pub. L. 112–95, §147(b), added subpars. (E) and (F) and struck out former subpar. (E). Prior to amendment, text of subpar. (E) read as follows: “Of the amounts appropriated pursuant to section 106(k), not more than \$6,500,000 for fiscal 2004, \$7,000,000

for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007 may be used to carry out this paragraph.”

Subsec. (b)(4)(C). Pub. L. 112-95, §147(c), substituted “\$2,000,000” for “\$1,500,000”.

Subsec. (c). Pub. L. 112-95, §147(d), added subsec. (c). 2011—Subsec. (b)(3)(D). Pub. L. 112-55 substituted “benefit, with the maximum allowable local cost share capped at 20 percent.” for “benefit.”

2003—Subsec. (a). Pub. L. 108-176, §105(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “The Secretary of Transportation shall ensure that an agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility.”

Subsec. (b)(2). Pub. L. 108-176, §105(2), added par. (2) and struck out former par. (2) which read as follows: “The Secretary may make a contract, on a sole source basis, with a State or a political subdivision of a State to allow the State or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the State or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the State or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.”

Subsec. (b)(3). Pub. L. 108-176, §105(3)(A), (B), struck out “PILOT” before “PROGRAM” in par. heading, before “program to contract” in subpar. (A), before “program, the Secretary” in subpars. (B) and (C), and before “program exceed” in subpar. (D).

Subsec. (b)(3)(A). Pub. L. 108-7, §370(b)(2)(A), substituted “nonapproach control towers, as defined by the Secretary,” for “Level I air traffic control towers, as defined by the Secretary.”

Subsec. (b)(3)(E). Pub. L. 108-176, §105(3)(C), substituted “\$6,500,000 for fiscal 2004, \$7,000,000 for fiscal year 2005, \$7,500,000 for fiscal year 2006, and \$8,000,000 for fiscal year 2007” for “\$6,000,000 per fiscal year”.

Pub. L. 108-7, §370(b)(2)(B), substituted “Of” for “Subject to paragraph (4)(D), of”.

Subsec. (b)(4). Pub. L. 108-7, §370(b)(1), reenacted heading without change and amended text generally. Prior to amendment, par. authorized the Secretary to provide grants under this subchapter to not more than two airport sponsors for the construction of a low-level activity visual flight rule (level 1) air traffic control tower.

Subsec. (b)(4)(C). Pub. L. 108-176, §105(4), substituted “\$1,500,000” for “\$1,100,000”.

2000—Subsec. (b)(3), (4). Pub. L. 106-181 added pars. (3) and (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

SAVINGS PROVISION

Pub. L. 108-7, div. I, title III, §370(b)(3), Feb. 20, 2003, 117 Stat. 426, provided that: “Notwithstanding the amendments made by this section [amending this sec-

tion and section 47102 of this title], the towers for which assistance is being provided on the day before the date of enactment of this Act [Feb. 20, 2003] under section 47124(b)(4) of title 49, United States Code, as in effect on such day, may continue to be provided such assistance under the terms of such section.”

APPROVAL OF CERTAIN APPLICATIONS FOR THE CONTRACT TOWER PROGRAM

Pub. L. 115-254, div. B, title I, §133(d), Oct. 5, 2018, 132 Stat. 3209, provided that:

“(1) IN GENERAL.—If the Administrator of the Federal Aviation Administration has not implemented a revised cost-benefit methodology for purposes of determining eligibility for the Contract Tower Program before the date that is 30 days after the date of enactment of this Act [Oct. 5, 2018], any airport with an application for participation in the Contract Tower Program pending as of January 1, 2017, shall be approved for participation in the Contract Tower Program if the Administrator determines the tower is eligible under the criteria set forth in the Federal Aviation Administration report entitled ‘Establishment and Discontinuance Criteria for Airport Traffic Control Towers’, and dated August 1990 (FAA-APO-90-7).

“(2) REQUESTS FOR ADDITIONAL AUTHORITY.—The Administrator shall respond not later than 60 days after the date the Administrator receives a formal request from an airport and air traffic control contractor for additional authority to expand contract tower operational hours and staff to accommodate flight traffic outside of current tower operational hours.

“(3) DEFINITION OF CONTRACT TOWER PROGRAM.—In this section [probably means “subsection”], the term ‘Contract Tower Program’ has the meaning given the term in section 47124(e) of title 49, United States Code, as added by this Act.”

NONAPPROACH CONTROL TOWERS

Pub. L. 108-7, div. I, title III, §370(c), Feb. 20, 2003, 117 Stat. 426, provided that:

“(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a lease agreement or contract agreement with a private entity to provide for construction and operation of a non-approach control tower as defined by the Secretary of Transportation.

“(2) TERMS AND CONDITIONS.—An agreement entered into under this section—

“(A) shall be negotiated under such procedures as the Administrator considers necessary to ensure the integrity of the selection process, the safety of air travel, and to protect the interests of the United States;

“(B) may provide a lease option to the United States, to be exercised at the discretion of the Administrator, to occupy any general-purpose space in a facility covered by the agreement;

“(C) shall not require, unless specifically determined otherwise by the Administrator, Federal ownership of a facility covered under the agreement after the expiration of the agreement;

“(D) shall describe the consideration, duties, and responsibilities for which the United States and the private entity are responsible;

“(E) shall provide that the United States will not be liable for any action, debt, or liability of any entity created by the agreement;

“(F) shall provide that the private entity may not execute any instrument or document creating or evidencing any indebtedness with respect to a facility covered by the agreement unless such instrument or document specifically disclaims any liability of the United States under the instrument or document; and

“(G) shall include such other terms and conditions as the Administrator considers appropriate.”

USE OF APPORTIONMENTS TO PAY NON-FEDERAL SHARE OF OPERATION COSTS

Pub. L. 108-7, div. I, title III, §370(d), Feb. 20, 2003, 117 Stat. 427, provided that:

“(1) **STUDY.**—The Secretary of Transportation shall conduct a study of the feasibility, costs, and benefits of allowing the sponsor of an airport to use not to exceed 10 percent of amounts apportioned to the sponsor under section 47114 to pay the non-Federal share of the cost of operation of an air traffic control tower under section 47124(b) of title 49, United States Code.

“(2) **REPORT.**—Not later than 1 year after the date of enactment of this Act [Feb. 20, 2003], the Secretary shall transmit to Congress a report on the results of the study.”

CONTRACT TOWER ASSISTANCE

Pub. L. 103-305, title V, §508, Aug. 23, 1994, 108 Stat. 1596, provided that: “The Secretary shall take appropriate action to assist communities where the Secretary deems such assistance appropriate in obtaining the installation of a Level I Contract Tower for those communities.”

§ 47124a. Accessibility of certain flight data

(a) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATION.**—The term “Administration” means the Federal Aviation Administration.

(2) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(3) **APPLICABLE INDIVIDUAL.**—The term “applicable individual” means an individual who is the subject of an investigation initiated by the Administrator related to a covered flight record.

(4) **CONTRACT TOWER.**—The term “contract tower” means an air traffic control tower providing air traffic control services pursuant to a contract with the Administration under section 47124.

(5) **COVERED FLIGHT RECORD.**—The term “covered flight record” means any air traffic data (as defined in section 2(b)(4)(B) of the Pilot’s Bill of Rights (49 U.S.C. 44703 note)), created, maintained, or controlled by any program of the Administration, including any program of the Administration carried out by employees or contractors of the Administration, such as contract towers, flight service stations, and controller training programs.

(b) **PROVISION OF COVERED FLIGHT RECORD TO ADMINISTRATION.**—

(1) **REQUESTS.**—Whenever the Administration receives a written request for a covered flight record from an applicable individual and the covered flight record is not in the possession of the Administration, the Administrator shall request the covered flight record from the contract tower or other contractor of the Administration in possession of the covered flight record.

(2) **PROVISION OF RECORDS.**—Any covered flight record created, maintained, or controlled by a contract tower or another contractor of the Administration that maintains covered flight records shall be provided to the Administration if the Administration requests the record pursuant to paragraph (1).

(3) **NOTICE OF PROPOSED CERTIFICATE ACTION.**—If the Administrator has issued, or subsequently issues, a Notice of Proposed Certificate Action relying on evidence contained in the covered flight record and the individual who is the subject of an investigation has re-

quested the record, the Administrator shall promptly produce the record and extend the time the individual has to respond to the Notice of Proposed Certificate Action until the covered flight record is provided.

(c) **IMPLEMENTATION.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of the Fairness for Pilots Act, the Administrator shall promulgate regulations or guidance to ensure compliance with this section.

(2) **COMPLIANCE BY CONTRACTORS.**—

(A) **IN GENERAL.**—Compliance with this section by a contract tower or other contractor of the Administration that maintains covered flight records shall be included as a material term in any contract between the Administration and the contract tower or contractor entered into or renewed on or after the date of enactment of the Fairness for Pilots Act.

(B) **NONAPPLICABILITY.**—Subparagraph (A) shall not apply to any contract or agreement in effect on the date of enactment of the Fairness for Pilots Act unless the contract or agreement is renegotiated, renewed, or modified after that date.

(d) **PROTECTION OF CERTAIN DATA.**—The Administrator of the Federal Aviation Administration may withhold information that would otherwise be required to be made available under section¹ only if—

(1) the Administrator determines, based on information in the possession of the Administrator, that the Administrator may withhold the information in accordance with section 552a of title 5, United States Code; or

(2) the information is submitted pursuant to a voluntary safety reporting program covered by section 40123 of title 49, United States Code.

(Added Pub. L. 115-254, div. B, title III, §395(a), Oct. 5, 2018, 132 Stat. 3326.)

Editorial Notes

REFERENCES IN TEXT

Section 2 of the Pilot’s Bill of Rights, referred to in subsec. (a)(5), is section 2 of Pub. L. 112-153, which is set out as a note under section 44703 of this title.

The date of enactment of the Fairness for Pilots Act, referred to in subsec. (c), is the date of enactment of subtitle C of title III of div. B of Pub. L. 115-254, which was approved Oct. 5, 2018.

§ 47125. Conveyances of United States Government land

(a) **CONVEYANCES TO PUBLIC AGENCIES.**—Except as provided in subsection (b) of this section, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the na-

¹ So in original. Probably should be “this section”.