



December 29, 2023

Mr. Donnell E. Harvey
Vice President, Aviation Real Estate
Dallas Fort Worth International Airport
P.O. Box 619428
DFW Airport, TX 75261-9428

**Subject: Dallas Fort Worth International Airport (DFW)
FY 2023 Competition Plan Update**

Dear Mr. Harvey:

Thank you for submitting the above-reverenced Competition Plan Update (Plan Update) for Dallas Fort Worth International Airport (DFW). This update was required because DFW is a Covered Airport,¹ and its Airline Use Agreement (Agreement) was recently updated. This is DFW's fourth update.²

In your submission dated August 2, 2023, DFW indicated the primary purpose of this new Agreement is replacing the expired 2010 agreement. The new Agreement expands opportunities for new and incumbent airlines through the delivery of additional facilities and increased efficiency and utilization of existing terminals. DFW also describes the following pro-competitive actions taken at the DFW since the last approval:

- The Agreement's Pre-Approved Capital Program includes a new Terminal F which will increase capacity for non-hub airlines by 40 percent by 2027.
- The Agreement requires a mandatory schedule submission process that will provide DFW with better information for facilitating gate sharing amongst airlines. This requirement gives DFW full visibility of gate use, opening more opportunities for gate sharing.
 - The new accommodation procedures also correct onerous requirements on new and incumbent airlines requesting gates, eliminating a requirement to seek accommodation with existing airlines before contacting DFW for accommodation. Airlines requesting accommodation are no longer required to negotiate and enter into a sublease or handling agreement directly with the accommodating airline(s). This eliminates delay, administrative burden, and the opportunity for the accommodating airline to charge the requesting airline an administrative charge up to 15 percent.

¹ Section 155 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), Pub. L. No. 106-181 (April 5, 2000), codified at 49 U.S.C. §§ 40117(k) and 47106(f).

² An initial Competition Plan was approved for the Airport on March 15, 2001; the first Plan update was approved on May 31, 2002; the second Plan Update was approved on May 10, 2004; and the third was approved on March 11, 2011.

Under the Agreement, DFW will charge the requesting airline the then current published common use turn rate and provide the accommodating airline the associated credit. So that all parties are protected, DFW ensures that the requesting airline is a party to the Agreement or an agreement of similar form.

- DFW has the right to reclaim gates and facilities of airlines not meeting the utilization threshold. DFW then has the right to reassign the reclaimed gates or to make the reclaimed gates available as common use gates to new or incumbent airlines seeking to expand service.
- The Agreement specifies the rate that will be charged to users of the common use facilities at DFW. The prior agreement did not establish a methodology.

The FAA commends DFW in taking these pro-competitive actions. Nevertheless, the FAA is concerned that the Agreement may provide the airlines, through Signatory Airline considerations or otherwise, with the potential to impair the Airport's statutory and regulatory ability to impose or use Passenger Facility Charge (PFC) revenue to fund, develop, or assign new capacity at DFW.³ Please be aware that PFC Assurance #5 exempts a project financed in whole with PFCs from a Signatory Airline disapproval/approval process. In the case of partial PFC funding, any provision requiring airline approval would apply only to that portion of funding that comes from the airline rate base.

In view of the above, the FAA finds DFW's Plan Update generally to be in accordance with the applicable statutory requirements. Please be aware this letter does not constitute the FAA's approval of DFW's agreement or any specific provisions thereof, which remain subject to all applicable Federal law and regulations.

The Authority has filed (and the FAA has approved) an initial Competition Plan and four Plan Updates. Per FAA policy, no further Plan Updates are required for DFW unless certain circumstances arise.⁴ The most common of these circumstances would be if the airport executes a new or significantly amended lease and use agreement, including an amendment due to the use of PFC financing for gates.

Please also note that, under Section 134 of the FAA Modernization and Reform Act of 2012, Pub. L. No. 112-95 (Feb. 14, 2012), Congress eliminated the need for airports to include data on airfare levels and patterns of air service in Competition Plans. Thus, the FAA no longer requires this information in further updates to the DFW Competition Plan.

The Secretary of Transportation is required by law to review implementation of Competition Plans from time to time to verify each Covered Airport implements its Plan successfully. In connection with this review, the FAA may determine that it would be useful to visit your airport or hold a teleconference with airport officials. A member of my staff will contact you if the FAA decides to visit DFW in connection with its Competition Plan.

³ 49 U.S.C. § 40117(f)(1); 14 CFR § 158.7(b); and PFC Assurance #5.

⁴ See FAA Order 5100.38D, Change 1, Airport Improvement Program Handbook, Appendix W.

If you have any questions regarding this letter, or the FAA's review of your Competition Plan, please contact David F. Cushing, Manager, Airports Financial Assistance Division at (202) 267-3831 or Dave.Cushing@faa.gov.

Sincerely,

Danielle J. Rinsler, AICP
Director, Office of Airport
Planning and Programming

cc: Ignacio Flores, Director, FAA Airports Division, Southwest Region
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