

**REVISED PROPOSED REGULATION OF THE
COMMISSION ON TOURISM**

LCB File No. R190-07

December 19, 2007

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-12, section 13 of chapter 345, Statutes of Nevada 2007.

A REGULATION relating to airports; setting forth the circumstances under which the Commission on Tourism may award grants for certain airports; requiring the recipient of a grant to enter into an agreement with the Commission concerning the grant; and providing other matters properly relating thereto.

Section 1. Chapter 231 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Air carrier” means a person that provides commercial air transportation to passengers.*

Sec. 4. *“Commission” means the Commission on Tourism.*

Sec. 5. *“Director” means the Director of the Commission.*

Sec. 6. *“Grant” means an amount of money awarded to a small airport pursuant to sections 2 to 12, inclusive, of this regulation from money appropriated to the Commission for that purpose pursuant to section 13 of chapter 345, Statutes of Nevada 2007.*

Sec. 7. 1. *To receive a grant, a local government applying for a grant for an airport within the jurisdiction of the local government must comply with the criteria and guidelines established by the Commission and apply using a form prescribed by the Commission.*

2. *The application must include, without limitation:*

(a) A reasonable business plan for using the grant, if the application is approved, which includes reasonable cost estimates;

(b) A commitment from an air carrier and the airport which indicates that, if the grant is awarded to the local government, the air carrier and airport will enter into a written operating agreement with the local government requiring the air carrier to commence or continue air service to the airport;

(c) The cost and terms of the operating agreement between the local government, the airport and the air carrier;

(d) The amount of the contribution and the manner in which the contribution from the airport or local government will be paid pursuant to section 9 of this regulation; and

(e) The amount of the grant for which the local government is applying.

3. *The Commission will evaluate each application for a grant in accordance with the criteria and guidelines specified by the Commission pursuant to subsection 1.*

4. *In reviewing an application for a grant, the Commission will give additional consideration to:*

(a) An applicant who has an operating agreement with another airport in this State or who has applied or is eligible to apply for a grant pursuant to any federal law or regulation; or

(b) An air carrier offering intrastate service.

5. *Each applicant is solely responsible for soliciting, reviewing and selecting a regional air carrier for inclusion in the application.*

6. *The Commission will consider and approve or disapprove applications for grants at regularly scheduled meetings of the Commission.*

7. *The airport and local government must concur in the application and present the application to the Commission together.*

8. *If an application is approved, the applicant is responsible for ensuring the provision of the regional air service and the specified level of air service.*

Sec. 8. 1. *To be eligible for a grant, an airport within the jurisdiction of the local government applying for the grant:*

(a) Must be a commercial service airport that does not have more passenger boardings on an annual basis than a small hub airport;

(b) Must be certified by the Federal Aviation Administration pursuant to 14 C.F.R. Part 139;

(c) Must be located more than 150 miles from a medium hub airport or a large hub airport; and

(d) Must demonstrate to the Commission, through the applicant, that air carriers charge unreasonably high fares to service the airport or provide insufficient service to the airport.

2. *As used in this section, the terms “commercial service airport,” “large hub airport,” “medium hub airport,” “passenger boardings” and “small hub airport” have the meanings ascribed to them in 49 U.S.C. § 47102.*

Sec. 9. 1. *A grant may only be used to:*

(a) Guarantee that an air carrier will receive an agreed amount of revenue for each flight that the air carrier operates in or out of the airport; or

(b) Guarantee an amount of profit for the air carrier that is established by an agreement between the air carrier and the airport.

2. A recipient of a grant must use the grant to pay 80 percent of the cost of the guarantee set forth in the operating agreement between the local government, the airport and the air carrier. Except as otherwise provided in subsection 3, the remaining 20 percent of the cost of the guarantee must be paid by the airport or recipient of the grant. The contribution to the cost of the guarantee from the airport or local government must be in the form of money or in kind, or both. An in-kind contribution may be in the following forms:

(a) A waiver or reduction in favor of the air carrier, based on reasonable and customary rates for the following:

(1) Airport rental fees;

(2) Landing fees;

(3) Fees for supporting the operations of the air carrier; or

(4) Any other airport charges or taxes; or

(b) Marketing and advertising services provided by the airport or local government to the air carrier.

3. All or any portion of the contribution required pursuant to subsection 2 may be provided through the recipient of the grant by a connecting airport or any other business entity receiving a benefit from any air service subsidized pursuant to sections 2 to 12, inclusive, of this regulation.

Sec. 10. 1. *If the Commission approves an application for a grant, the recipient of the grant must enter into an agreement with the Commission. The agreement must specify:*

(a) The amount of the grant;

(b) The proper use of the money obtained from the grant;

(c) The date on which the Commission approved the grant;

(d) The specific indicators of performance by which the Commission and the recipient of the grant will measure the progress of the project;

(e) A requirement that the recipient of the grant report to the Commission on a quarterly basis and that the report include a statement setting forth:

(1) The specific indicators of performance specified in paragraph (d);

(2) The projected estimates of costs; and

(3) The amount of money the recipient expects to draw from the grant and the dates on which the recipient of the grant expects to draw money from the grant;

(f) The right of the Commission or its designee to review any document which the Commission or its designee determines is necessary for the appropriate fiscal oversight of the project; and

(g) The date on which the grant will expire.

2. *The Director and the Office of the Attorney General shall review the form of the agreement entered into by the Commission and the recipient of the grant pursuant to subsection 1.*

3. *An agreement entered into pursuant to subsection 1 is not effective unless the Director and the Office of the Attorney General approve the form of the agreement.*

Sec. 11. 1. *The Director may not disburse any money from a grant until:*

(a) The recipient of the grant and a representative of the Commission have signed the agreement required pursuant to section 10 of this regulation; and

(b) The Director has received a request to draw money from the grant from the recipient of the grant pursuant to subsection 2.

2. The recipient of the grant must make a request to draw money from the grant on a form prescribed by the Director. The request must include:

(a) A statement specifying the amount of money the recipient wishes to draw from the grant; and

(b) Evidence of the performance and the calculation of the grant.

3. The recipient of the grant may request an initial advance of not more than 20 percent of the amount of the grant.

4. If the Commission awards a grant to a recipient and, after the recipient receives a disbursement of the grant pursuant to this section, the Commission determines that the recipient no longer needs the grant or any portion of the grant, the Commission may:

(a) Require the Director to cease making any further disbursements of the grant to the recipient of the grant; or

(b) Require the recipient of the grant to repay any unused portion of the grant.

5. The Director shall review and approve or deny a request to draw money from the grant within 10 working days after the date on which the Director receives the request.

6. If the Director approves a request to draw money from the grant, the Director shall cause a check to be issued to the recipient of the grant in the amount requested by the recipient.

7. If the Director denies a request to draw money from the grant, the Director shall provide the recipient who made the request with a written statement:

(a) Stating the reason for the denial of the request; and

(b) Describing any actions the recipient must take to receive approval of the request from the Director.

Sec. 12. *In addition to any money required to be repaid pursuant to section 11 of this regulation, if the Commission finds that the recipient of the grant is not using money from the grant in accordance with the provisions of the agreement entered into pursuant to section 10 of this regulation, the Commission will immediately cease providing the recipient with money from the grant and may determine that the agreement is void. If the Commission finds that money from the grant is not used in accordance with the agreement, the Commission may require the repayment of the grant or any portion of the grant.*