



U.S. Department
of Transportation
Federal Aviation
Administration

Office of Airport Planning
and Programming

800 Independence Ave., SW.
Washington, DC 20591

AUG 21 2002

Mr. Lester W. Robinson
Chief Executive Officer
Wayne County Airport Authority
L. C. Smith Terminal - Mezzanine
Detroit, MI 48242

Dear Mr. Robinson:

Lester

Thank you for your April 1 reply to our March 4 review of the Wayne County Department of Airport's FY 2002 Competition Plan update for Detroit Metropolitan Wayne County Airport (DTW), requesting additional information and clarification. The information you provided was responsive to our request. In addition, thank you for your August 6th letter, in which you detailed DTW's policy to assist new entrants or expanding signatory carriers. Specifically, you indicated that

"Notwithstanding the provisions in the 'Use Agreements' with the Signatory Carriers, upon request by a new entrant carrier or an expanding signatory carrier, the Airport will become involved to ease any perceived burden and reduce any unnecessary delays associated with acquiring the use of gates and related facilities when the Airport is unable to provide those facilities."

In light of these responses, we have determined that your Plan update is in accordance with the requirements of section 155 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21), Pub. L. 106-181, April 5, 2000. However, there are some areas that we request you more fully address in your next update to assist us in monitoring the airport's ability to accommodate new entry and competition. These suggestions are in addition to those we provided in our initial response to your Plan update.

We commend the County for pursuing a policy of converting exclusive-use leases to preferential ones and for formulating a gate-use monitoring program. In addition, we acknowledge that the extensive terminal development and renovation effort at DTW will enable the Airport to accommodate existing air carrier operations, future growth of incumbent air carriers, and the potential initiation of service by new air carriers—something the existing terminal configuration would not allow.

We thank you for providing a copy of Northwest's new lease agreement for the McNamara Terminal and await receiving a copy of the reformulated use agreement, which the airport may submit with its next Plan update. In addition, as mentioned previously, we identified a number of additional issues that required further elaboration for our complete understanding of your update. We thank you for addressing these

issues in your April 1, 2002 letter. However, as noted, we have identified additional issues to be addressed in your next Plan update. For your convenience, we have categorized our suggestions according to the applicable features specified in Program Guidance Letter (PGL) 00-3 (May 8, 2001), which outlines the information needed to be provided in Plan updates.

Leasing and subleasing

Our *Airport Practices* report found that entry is facilitated when airport management oversees efforts by new entrants to enter into sublease arrangements. The report also found that new entrants are more likely to be treated fairly by an air carrier tenant when the airport imposes a reasonable cap on sublease fees. An airport is obligated to make sure that the terms and conditions imposed on all the air carriers operating at the airport, including carriers operating under sublease, are reasonable.

Your April 1 letter to us indicated that Northwest's lease agreement with the County establishes a cap on fees that a signatory carrier may charge to another carrier for using or sharing preferential gates under a forced accommodation. Further the airport would apply the provisions when reviewing voluntary sublease agreements. We suggest that the County, and subsequently, the new Authority, formally adopt a policy that applies the cap to voluntary subleases and publicize the policy once adopted.

Gate availability

We understand the difficulties associated with revising use agreements, however, we suggest that you explore revising your preferential leases to secure the Airport's ability to recapture unused gates, when the opportunity presents itself. Further, we continue to encourage you to approach the signatory carriers from the perspective that the County has certain rights and obligations to arrange for gate sharing on an exclusive-use lease, even prior to a new negotiated agreement, as was discussed in our *Airport Practices* report.

Airport controls over ground-side and airside capacity

Thank you for providing additional clarification regarding the County's Weighted Majority in Interest requirements included in Northwest Airlines' new use agreement and the agreement for signatory carriers for the North Terminal project. Your April 1 letter to us indicated that the County believes that with a long term agreement in hand Northwest and the other carriers would be willing to invest in the Airport in a way that would maximize the development of the Airport and provide pro-competitive Airport facilities. However, our *Airport Practices* report recommends that airports ensure that MII agreements do not prevent or delay projects that could be beneficial to new entrants or other competitors. We again encourage the County to consider modifications to the MII that, at the least, would reduce the length of time a project could be deferred, when the opportunity presents itself. Please address this issue.

Finally, your April 1 letter indicated that Competition Plan material (including FAA review letters) would be posted on the new Authority's web-site, once the Authority

begins operating the airport. Please advise us within 30 days of the precise web-site location where this information will be placed and the date on which the material will be available on the web.

Further, pursuant to our authority under 49 U.S.C. sections 47107(a)(15) and 47122, we have determined that your Competition Plan is a report within the meaning of section 47107(a)(15) and AIP grant assurance No. 26. Consequently, under the terms of the assurance, the Competition Plan must be made available to the public. The posting of your Plan and update in accordance with our suggestion is one method of satisfying this requirement. If the Competition Plan documents will not be posted on your web-site within 30 days, please inform us within that time-frame of the method you will use, until the material is posted, to make these documents publicly available to facilitate accountability to the public and air carriers.

We look forward to reviewing your next Competition Plan update. We have revised the schedule for submittal of future updates, effective for FY 2003. Under this new schedule, your next Plan update shall be due 18 months after the date of approval of your FY 2002 update, i.e., the date of this letter.

As you may know, the Secretary is required to review the implementation of the competition plans from time-to-time to make sure each covered airport successfully implements its plan. In connection with our review, we may determine that additional contacts with, or site visits to one or more locations would be useful. We will notify you should we decide to visit DTW in connection with its competition plan.

Further, as part of the Secretary's review responsibility, we may be contacting you from time-to-time to review the status of the negotiations with carriers discussed in this letter. We are also available at any time for consultation should you have questions about whether a particular proposal would contribute toward achieving the objectives of the Competition Plan statute.

If you have any questions regarding this letter or the FAA's review of your plan, please contact Mr. Barry Molar, Manager, Airports Financial Assistance Division at (202) 267-3831.

Sincerely,



Catherine M. Lang
Director, Office of Airport
Planning and Programming