

Introduction

Grand Forks Flight Support, Inc. (GFK Flight Support) has engaged Aviation Management Consulting Group (AMCG) to conduct a preliminary review of the Minimum Standards for Commercial Activity (Minimum Standards) for the Minot International Airport (Airport). AMCG understands that these Minimum Standards are in draft form and have not yet been adopted by the City of Minot (City). It is important to note that this review is preliminary and does not provide a detailed identification of all possible or recommended changes. Further, a preliminary review does not necessarily identify all issues that may need to be addressed to bring the Minimum Standards into full compliance with the Airport Sponsor Assurances.

AMCG has extensive experience in the review, revision, and development of Primary Guiding Documents (in particular Minimum Standards). AMCG's experience with Primary Guiding Documents is further outlined in the Appendix. Regardless of whom AMCG is engaged by, the comments and recommendations provided by AMCG are provided without bias or undue influence. Hence, the following comments and recommendations would be the same as if AMCG was engaged by the City.

Minimum Standards

In order for an airport sponsor to assure the uninterrupted provision of quality aviation products, services, and facilities to both based and transient customers, it is incumbent upon the airport sponsor (and the airport management team) to provide existing and prospective operators with the "opportunity to be successful". This is not to imply that the airport sponsor has an obligation to "guarantee success". It does, however, put the impetus on the airport sponsor to create an operating environment that is conducive to success, which, in turn, if successfully achieved, maximizes the benefit (of the airport asset) to the airport sponsor, FBOs and SASOs, consumers, and the community.

Airport sponsors should move cautiously prior to manipulating minimum standards to attract competitive commercial aeronautical activities to an airport when existing commercial operators are meeting previously adopted minimum standards. The FAA makes this clear in Advisory Circular 150/5190-7 (August 28, 2006) whereby it states, "Considerations for applying those standards may include...ensure standards are reasonable, not unjustly discriminatory, attainable, uniformly applied and reasonably protect the investment of providers of aeronautical services to meet minimum standards from competition not making a similar investment..."

Further, the FAA states “in all cases, the airport sponsor must ensure that in changing minimum standards for whatever reason, it is not applying unreasonable standards or creating a situation that will unjustly discriminate against other similarly situated aeronautical service providers.

Minimum Standards establish threshold requirements or entry-level criteria (a minimum ante) that must be met by an aviation business prior to engaging in commercial aeronautical activities at an airport. This provides the opportunity for aviation businesses to qualify and compete on a “level playing field” for available land and/or improvements. This is the essence or underlying philosophy of Minimum Standards. Threshold requirements typically include such areas as scope of activity, premises (land and improvements), facilities, certification, licensing, personnel, equipment, hours of activity, and insurance.

Minimum Standards are one of the best ways to ensure that quality products, services, and facilities are provided to aviation consumers in a safe, secure, efficient, and consistent manner. If properly researched and well written, Minimum Standards promote fair competition, encourage development (investment), and reduce the potential for conflict.

Comments and Recommendations

AMCG has reviewed the Minimum Standards and makes the following preliminary comments and recommendations.

General Comments

1. The cover page describes this document as “Minimum Standards for Commercial Activity” and the document describes the document as “Minimum Standards for Commercial Aeronautical Activities”.
2. Defined words are not consistently capitalized throughout the Minimum Standards.
3. Consistent use of descriptive words. For example, “written agreement” versus “lease” versus “lease agreement” versus “use agreement”, which were all used in just one paragraph.
4. Date of adoption should be included on the cover and within the footer of each page.
5. The name of the airport and the document should be included within the footer or header of each page.
6. City may want to consider varying standards for Single and Multiple Operators that match the type of aircraft intended to be served by the Operators.

7. City should stipulate specific land area requirements for Single, Multiple, and Full Service Operators instead of utilizing the word “enough”.
- 8.

Introduction Section

Second paragraph, first sentence – Change “facilities and service” to “products, services, and facilities”.

Second paragraph, last sentence – Change “without discrimination” to “without unjust discrimination”.

In Airport Sponsor Assurance 22 (Economic Non Discrimination), the Federal Aviation Administration (FAA) states that “(the airport sponsor) will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.”

Further, the assurance states that “the sponsor may establish reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.” Therefore an airport may discriminate, just not unjustly.

Third paragraph, second sentence – Add at end of sentence, “unless provided for within written agreement or lease”.

Third paragraph, last sentence – Recommend that renewal of an existing agreement trigger the requirement for compliance with newly adopted Minimum Standards.

Without this, new commercial aeronautical activity operators may be placed at a continuous disadvantage over incumbents that continually renew their agreements without changing their activities.

Definitions

A. Aeronautical Activity – Recommend including aircraft deicing, aircraft ground handling, aircraft management.

E. Commercial Aeronautical Activity – Recommend including aircraft deicing, aircraft ground handling, aircraft management, and fractional aircraft programs.

E. Commercial Aeronautical Activity (fifth line) – Replace “include” with “include, but are not limited to,”.

H. Full Service Operator, K. Multiple Service Operator, and O. Single Service Operator – These definitions utilize the phrases “sale of fuel” and “retail sales of fuel”. AMCG recommends clear differentiation between (and/or definition of) the “sale of fuel” and “into-plane fueling”.

The “sale of fuel” typically being associated with general aviation aircraft and “into-plane fueling” being associated with air carrier (passenger and cargo) refueling.

There have been Part 13, Part 16, and legal cases surrounding these issues and what is required of, assigned to, and permitted by FBOs or other commercial aeronautical activity operators.

It is further recommended that the commercial dispensing of aviation fuels be included in the definition of “sale of fuel” as entities desirous of dispensing through commercial self-serve units attempt to circumnavigate the FBO requirements.

Section II – Application Requirements

AMCG recommends that the City have a formal application that can be completed by prospective operators. This ensures the submittal of all desired information and in a complete and organized manner.

AMCG recommends that the City require the submittal of a business plan (or, at a minimum, a financial proforma). Without this information, the City will have no way of judging the financial viability of the proposed operation and the ability of the prospective operator to fund the development, management, and operation of the proposed enterprise and, most importantly, make timely payments of rents and fees.

Section III – General Conditions and Requirements

A. Non Discrimination (Section 2 and 3) – Replace “equal and non-discriminatory” in section 2 and “non-discriminatory” in section 3 with “not unjustly discriminatory”.

Just as the FAA allows the airport to discriminate, just not unjustly, an FBO may discriminate in its pricing and delivery of service, just not unjustly.

Section V – Minimum Standards

A. Single Service Operator, 6. Commercial Aircraft Storage

Commercial aircraft storage is commonly a key and primary service of an FBO. Allowing Single Service Operators to provide this service in competition with an FBO without the availability or delivery of the other products, services, and facilities required of an FBO will dilute the viability of an FBO and may reduce the overall type, level, and quality of the FBO's products, services, and facilities.

1. *Airframe or Powerplant/Specialized Aircraft Services (paragraph a)* – The land requirement should stipulate that this applies only to lessees and not sublessees.
2. *Flight Instruction (paragraph a)* – How is 200 square feet supposed to accommodate “a classroom, restrooms, customer lounge, and study area”? Recommend an increase of the square footage requirement to a proper level that would adequately accommodate all facilities commonly required of and utilized by a flight instruction operator.
3. *Aerial Application (paragraph a)* – What is the 7,000 square feet referring too. Is the hangar space? Why does an aerial application operator require a facility of this size?
4. *Air Taxi and Charter Services (paragraph b)* – Unless this operator is going to conduct aircraft maintenance on their aircraft, why should the operator be required to have a hangar?
4. *Air Taxi and Charter Services (paragraph e)* – The performance of services for this type of operator really doesn't have much to do with the building. This paragraph should be significantly modified or deleted.
5. *Specialized Aircraft Services* – Why are there no minimums stipulated for these type of activities? These activities could be provided on a standalone basis.

B. Multiple Service Operator, 6. Commercial Aircraft Storage

Commercial aircraft storage is commonly a key and primary service of an FBO. Allowing Single Service Operators to provide this service in competition with an FBO without the availability or delivery of the other products, services, and facilities required of an FBO will dilute the viability of an FBO and may reduce the overall type, level, and quality of the FBO's products, services, and facilities.

- B. *Multiple Service Operator (paragraph a)* – The land requirement should stipulate that this applies only to lessees and not sublessees.

B. Multiple Service Operator – Does a Multiple Service Operator not have minimum requirements related to personnel, hours of operation, performance of services, equipment, and insurance coverage? If they are supposed to be same as the Single Service Operators, then this should be stated in this section. Further, the combination of aeronautical activities that a Multiple Service Operator could undertake are too numerous and to establish a building requirement in advance may be deemed unjustly discriminatory (either from being not enough or too much). Recommend that the standards established for the Single Service Operators be foundational to the establishment of standards for a Multiple Service Operator.

C. Full Service Operator (paragraph 2) – The aircraft maintenance requirements are very broad and lack clear definition. The way it reads, AMCG interprets the requirement to include every type and level of aircraft maintenance (i.e., complete), for every type of aircraft that exists in the world. Recommend a narrowing of the type and level of aircraft maintenance required and for only aircraft normally frequenting the airport. There could also be a differentiation between full aircraft maintenance and line aircraft maintenance for different types of aircraft.

Further, AMCG recommends including “or arrange under contract for” after “provide” as aircraft maintenance is commonly provided by a sublessee of an FBO on the FBO’s leased premises.

C. Full Service Operator (paragraph 3) – Is there sufficient demand within the market to support the operation of single engine reciprocating, multi engine reciprocating, and business jet aircraft? Is there no market for turboprop aircraft? What types of aircraft are based at the airport today that is utilized for aircraft charter? A Single Service Operator has no minimum aircraft types specified. Allowing a Single Service Operator to compete with a Full Service Operator with lower minimums may be considered unjustly discriminatory.

C. Full Service Operator (paragraph 4 and paragraph i.) – Is there sufficient demand within the market to support the flight training and aircraft rental of a multi engine aircraft? The flight training (and aircraft rental) industry has changed dramatically since 9/11. Multi-engine flight training is now typically provided by institutions focused on training students desirous of becoming a professional pilot for the airline industry. These institutions attract large volumes of students that can support the ownership and operating costs of multiengine aircraft. AMCG recommends reducing the aircraft requirements to single engine reciprocating aircraft. A Single Service Operator has a requirement of only one aircraft, with no specification of being a multi-engine aircraft. Allowing a Single Service Operator to compete with a Full Service Operator with lower minimums may be considered unjustly discriminatory.



Further, this section is written in a way that a single multi-engine aircraft could be utilized to meet the requirements, thereby forcing students to utilize a multi-engine aircraft (versus a single-engine aircraft) and thereby missing the primary market of flight training.

C. Full Service Operator (paragraph b) – Based upon a review of the RFP, the building requirements have been reduced from 17,000 square feet to 16,000 square feet. The City should seriously consider keeping the Minimum Standards consistent with the RFP as other unsuccessful responders or those that did not respond (because of the higher requirement) may have sufficient grounds for a complaint against the RFP process.

Further, single and multiple service operators are required to have contiguous building space on contiguous property. AMCG highly recommends the same for the full service operator.

C. Full Service Operator (paragraph d) – 24 hours for fuel and line services appears to be a minimum and a maximum. Does the existing market require a 24 hour operation?

C. Full Service Operator (paragraph g) – What happens if a refueling truck becomes disabled? Can the market support the requirement of two vehicles for each fuel type? If not, the airport should require the Full Service Operator to have a plan in place to return to service a disabled vehicle in a reasonable period of time. In most situations, and most likely in the situation of Minot International Airport, AMCG would recommend the requirement of two refueling vehicles for each fuel type. Further, these refueling vehicles should be late model (no older than 10 years).

Section VII – Indemnity and Insurance

Paragraph A (second subparagraph) – This paragraph states, “The policy will provide the amounts of insurance specified in this Section”. Based upon AMCG’s review, we were unable to identify any minimum insurance requirement amounts. These amounts should be stipulated in (or attached to) the Minimum Standards. These insurance requirements should be relevant to the activity and applicable to the activity level (and or type of aircraft utilized or serviced by) of the operator. The insurance minimums should be adequate to protect the City, the operator, and the customers of the operator.

Qualifications and Experience (Primary Guiding Documents/Minimum Standards)

Projects

Aviation Management Consulting Group has reviewed, revised, and developed Primary Guiding Documents at more than 60 airports over the last 15 years. When it comes to the development of Primary Guiding Documents, AMCG has been at the forefront (on the leading edge) for over 10 years. As such, Primary Guiding Documents have been and continue to be a core service provided by the firm. A listing of Primary Guiding Document projects completed over the last 5 years (or currently on going) follows (with the most current being first in each category):

Airport Systems

- Jacksonville Aviation Authority – Jacksonville International Airport, Herlong Airport, Craig Airport, and Cecil Field, Florida
- Port of Portland – Portland International Airport, Hillsboro Airport, and Troutdale Airport, Oregon
- Columbus Regional Airport Authority – Port Columbus International Airport, Rickenbacker International Airport, and Bolton Field Airport, Ohio
- Palm Beach County – Palm Beach International Airport, Palm Beach County Glades Airport, North Authority General Aviation Airport, and Palm Beach County Park Airport, Florida
- Jackson Municipal Airport Authority – Jackson-Evers International Airport and Hawkins Field, Mississippi
- City of Phoenix – Phoenix Sky Harbor International Airport, Deer Valley Airport, and Goodyear Airport, Arizona
- Tucson Airport Authority – Tucson International Airport and Ryan Airfield, Arizona

Individual Airports

- Delaware County Airport Authority – Delaware County Airport, Indiana
- Norfolk Airport Authority – Norfolk International Airport, Virginia
- Roanoke Regional Airport Commission – Roanoke Regional Airport, Virginia
- City of Long Beach – Long Beach Airport, California
- City of Rapid City – Rapid City Regional Airport
- Town of Barnstable – Barnstable Municipal Airport, Massachusetts
- Auburn University – Auburn-Opelika Robert G. Pitts Airport, Alabama
- St. Lucie County – St. Lucie County International Airport, Florida
- City of Hayward – Hayward Executive Airport, California
- City of Palm Springs – Palm Springs International Airport, California
- Town of Buckeye – Buckeye Municipal Airport, Arizona
- Lancaster County – McWhirter Field, South Carolina
- City of Portland – Portland International Jetport, Maine
- Cities of Wheeling and Prospect Heights – Chicago Executive Airport, Illinois
- Kent County – Gerald R. Ford International Airport, Michigan

Seminar, Workshop, and Presentations

For the past 10 years, the principals of AMCG have conducted the Airport Sponsor Assurances, Leasing Policies, and Minimum Standards (Primary Guiding Documents) Workshop on behalf of the American Association of Airport Executives and often times, with the Federal Aviation Administration participating.

In addition to thoroughly examining the airport (sponsor) assurances, this annual workshop focuses on the development, implementation, and enforcement of general aviation Lease/Rates and Charges Policies, Minimum Standards, and Rules and Regulations. AMCG believes these documents are essential to the operation and management of an airport – large or small.

This workshop helps attendees gain a better understanding of how these documents are interrelated, why they are important, what purpose they serve, what elements make up each document, and what processes can be utilized to develop, implement, and enforce them. This workshop also examines the issues and challenges associated with developing, implementing, and enforcing these documents.

Some of the most recent seminars, workshops, and presentations (relating to Primary Guiding Documents, Minimum Standards, and related documents) conducted or made by AMCG include:

- Primary Guiding Documents/Minimum Standards, Colorado Airport Operators Association Spring Conference, Colorado Springs, Colorado, May 21-22, 2008
- Sponsor Assurances, Leasing Policies, and Minimum Standards, American Association of Airport Executives and AMCG, Van Nuys, California, May 6-7, 2008
- Primary Guiding Documents Short Course, Port of Portland and State of Oregon Department of Aviation, Portland, Oregon, February 14, 2008
- Sponsor Assurances, Leasing Policies, and Minimum Standards, American Association of Airport Executives and Aviation Management Consulting Group, Naples, Florida, October 20-21, 2007
- Primary Guiding Documents Workshop (Airport Assurances, Lease/Rates and Charges Policy, and Minimum Standards), South Dakota Annual Airports Conference, South Dakota Department of Transportation Office of Local Transportation Programs, Yankton, South Dakota, March 29-30, 2007
- Sponsor Assurances, Leasing Policies, and Minimum Standards, American Association of Airport Executives and Aviation Management Consulting Group, Denver, Colorado, September 20-22, 2006
- General Aviation Rates and Charges, American Association of Airport Executives Rates and Charges Workshop, Washington, District of Columbia, April 6, 2005
- Importance of Minimum Standards at Airports: Airports and Tenant Relations, 58th Florida Aviation Trades Association Annual Convention and Trade Show, West Palm Beach, Florida, June 15, 2004
- Sponsor Assurances, Leasing Policies, and Minimum Standards, American Association of Airport Executives and Aviation Management Consulting Group, Denver, Colorado, March 1-3, 2004