

Memorandum

To: CHAIR AND MEMBERS
Airspace Advisory Committee

Date: March 27, 2001

File: AIRSPACE
General

From: DEPARTMENT OF TRANSPORTATION
DIVISION OF RIGHT OF WAY
Mail Station 37

Subject: Process for Directly Negotiated Leasing with Private Entities

SUMMARY AND DISCUSSION:

The Airspace Advisory Committee (AAC), at your meeting on October 19, 1998, approved on a trial basis, a new process to approve directly negotiated Airspace leases with private entities. Historically, leases with private parties are leased through a public bid process, which requires no approval by the AAC or California Transportation Commission (CTC). However, in certain circumstances it is felt that it will be in the State's best interest to directly negotiate the lease. In those cases the AAC will recommend proceeding with direct negotiations, recommend approval of the terms and conditions of the directly negotiated lease to the CTC, and the CTC will approve the lease.

The procedure that has been in use since the October 1998 AAC meeting provided that the department could follow a new process, which is described as follows:

1. Lease less than \$5,000 per month, non-complex real estate issues, standard terms and conditions:

No AAC action, CTC approval to execute lease agreement.

2. Lease less than \$5,000 per month, non-complex real estate issues, non-standard terms and conditions:

No AAC approval to directly negotiate, but AAC recommends approval of terms and conditions, CTC approval to execute lease agreement.

3. Lease less than \$5,000 per month, includes complex real estate issues, standard terms and conditions:

AAC approves permission to directly negotiate, AAC does not review terms and conditions, CTC approval to execute lease agreement.

4. Lease over \$5,000 per month:

AAC concurrence to directly negotiate, and approval of terms and conditions, CTC approval to execute lease agreement.

Since the inception of this new process, there have been two leases processed under this new approach.

The AAC at the October 1998 meeting expressed concerns about the proposed process including:

1. Lack of definition of terms such as "complex" and "non -complex".
2. Insurance that the approval parameters were sufficient to protect the state's interests.

Authorization was obtained from the Committee on a trial basis.

CURRENT SITUATION:

The Department continues to use the public bid as the primary method of leasing Airspace parcels. The new process that was approved on a trial basis by the AAC has provided some reduction in time in presenting proposed leases to the CTC. However, the reduction in time is offset by not having valuable input from the AAC.

RECOMMENDATION:

It is recommended the AAC agree to terminate the trial process, as described above, and return to the historical approach which will be as followed on directly negotiated Airspace leases with private entities:

AAC consent to direct negotiations, and recommendation of approval of terms and conditions.

CTC approval to execute lease agreement.

It is anticipated the process will be easier to interpret, and provide an opportunity for AAC input. This action will have no impact on the public bid process for leasing Airspace.

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