

PART 331—PROCEDURES FOR REIMBURSEMENT OF GENERAL AVIATION OPERATORS AND SERVICE PROVIDERS IN THE WASHINGTON, DC AREA

Subpart A—General Provisions

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APPENDIX TO PART 331—APPLICATION FORM FOR REIMBURSEMENT UNDER SECTION 185 OF PUBLIC LAW 109-115

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SOURCE: 72 FR 17387, Apr. 9, 2007, unless otherwise noted.

Subpart A—General Provisions

§ 331.1 What is the purpose of this part?

The purpose of this part is to establish procedures to implement section 185 of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriation Act, 2006 (“the Act” or “the 2006 Appropriation Act”), Public Law 109-115, 119 Stat. 2396. Section 185 is intended to reimburse certain fixed-base general aviation operators or providers of general aviation ground support services at five airports in the Washington, DC metropolitan area for direct and incremental losses due to the actions of the Federal government to close airports to general aviation operations following the terrorist attacks of September 11, 2001.

§ 331.3 What do the terms used in this part mean?

The following terms apply to this part:

Airport means Ronald Reagan Washington National Airport; College Park Airport in College Park, Maryland; Potomac Airfield in Fort Washington, Maryland; Washington Executive/Hyde Field in Clinton, Maryland; or Washington South Capitol Street Heliport in Washington, DC.

Closed or *closure* means the period of time until the first general aviation operations were generally permitted at Ronald Reagan Washington National Airport; until November 30, 2005 at Washington South Capitol Street Heliport; or the earliest that transient traffic was generally permitted to return to the three Maryland airports.

Department means the U.S. Department of Transportation and all its components, including the Office of the Secretary (OST) and the Federal Aviation Administration (FAA).

Direct and incremental losses means losses incurred by a fixed-base general aviation operator or a provider of general aviation ground support services as a result of the Federal government’s closure of an airport following the terrorist attacks against the United States on September 11, 2001. These losses do not include any losses that

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would have been incurred had the terrorist attacks on the United States of September 11, 2001 not occurred.

Fixed-base general aviation operator means an entity based at a particular airport that provides services to and support for general aviation activities, including the provision of fuel and oil, aircraft storage and tie-down, airframe and engine maintenance, avionics repair, baggage handling, deicing, and the provision of air charter services. The term does not include an entity that exclusively provides products for general aviation activities (e.g. a parts supplier).

Forecast or forecast data means a projection of revenue and expenses during the eligible reimbursement period had the attacks of September 11, 2001 not occurred.

Incurred means to become liable or subject to (as in “to incur a debt”).

Loss means something that is gone and cannot be recovered.

Provider of general aviation ground support services means an entity that does not qualify as a fixed-base general aviation operator but operates at a particular airport and supplies services, either exclusively or predominantly, to support general aviation activities, including flight schools or security services. The term does not include an entity that exclusively provides products for general aviation activities (e.g. a parts or equipment supplier).

You means fixed-base general aviation operators or providers of general aviation ground support services.

§ 331.5 Who may apply for reimbursement under this part?

If you are or were an eligible fixed-base general aviation operator or provider of general aviation ground support services (collectively “operators or providers”) at an eligible airport or airports in the Washington, DC area, and incurred direct or incremental losses during the applicable reimbursement periods stated at § 331.13 that were solely due to the actions of the Federal government following the terrorist attacks on the United States on September 11, 2001, you may apply for reimbursement under this part. If you are applying for reimbursement based

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on losses at more than one airport, then you must submit separate applications for each airport. For example, if you are a provider of general aviation ground support services at Ronald Reagan Washington National Airport and Potomac Airfield in Fort Washington, Maryland, you must submit two separate applications.

§ 331.7 What losses will be reimbursed?

(a) You may be reimbursed an amount up to the difference between the adjusted income you actually or reasonably forecasted for the eligible reimbursement period and the actual adjusted income you earned during the eligible reimbursement period. If you did not forecast for the eligible reimbursement period or any part of the eligible reimbursement period, you may be reimbursed for the difference between what you can show you would have reasonably expected to earn as adjusted income during that period had the airport at which you are or were an operator or provider not been closed as the result of Federal government actions, and the actual adjusted income you earned during the eligible reimbursement period. Adjusted income is calculated on a pretax basis. It is the total of Operating Profit or Loss (i.e., Total Operating Revenues minus Total Operating Expenses) and Nonoperating Income (Loss); however, it excludes certain expenses, including lobbying expenses that were incurred to promote reimbursement for losses after the terrorist attacks or enact what became Section 185 of Pub. L. 109–115. Extraordinary, non-recurring, or unusual adjustments, and capital losses are normally ineligible for reimbursement. If you wish to claim for such an adjustment or loss, you must demonstrate that such adjustments were solely attributable to the Federal government’s closure of the five Washington-area airports, are in conformity with Generally Accepted Accounting Principles, were fully borne within the statutory reimbursement period, that the loss was not discretionary in nature, and that reimbursement would not be duplicative of other relief.

(b) A temporary loss that you recovered after the attacks of September 11, 2001, or that you expect to recover, is