

MEETING NOTICE
Regional Aviation Development Fund Committee

COMMITTEE MEMBERS: *Alice Connors, Mark Rohloff (Perm Alt for Matt Mugerauer), Dave Morack, Kevin Englebert (Perm Alt for Thomas Nelson), Gena Miller, Rob Binns, Chip Juedes, Abe Weber, Pam Seidl, Melissa Kraemer Badtke*

Date: Tuesday, September 3, 2024

Time: 9:00 a.m.

Place: In-Person ECWRPC (400 Anhaip St-Suite 100, Menasha, WI 54952)

AGENDA

1. **Call to Order**
2. **Roll Call**
 - A. Introduction of Alternates and Guests
3. **Approval of Agenda / Motion to Deviate**
4. **Public Comment**
5. **Election of Chair and Vice Chair**
6. **Overview of Committee's Role**
7. **Airport Update – Abe Weber**
8. **Overview of Legal Requirements / Memorandum of Understanding – Attorney Joe Guidote**
9. **Establish Time and Place for Next Committee Meeting**
 - A. The next Regional Aviation Development Fund Committee meeting will be held at the call of the Committee Chair. Additional meeting details will be forthcoming.
10. **Adjourn**

Any person wishing to attend this meeting or hearing, who, because of a disability, requires special accommodations should contact the East Central Wisconsin Regional Planning Commission at (920) 751-4770 at least three business days prior to the meeting or hearing so that arrangements, within reason, can be made.

DATE: September 3, 2024

TO: ECWRPC Regional Aviation Development Fund Committee

FROM: Melissa Kraemer Badtke, Executive Director & Craig Moser, Deputy Director

RE: Regional Aviation Development Fund Committee Background/Overview

PROGRAM: In October, 2023, the East Central Wisconsin Regional Planning Commission (ECWRPC) Board authorized ECWRPC to act as the fiscal agent and grant administrator of a newly created **Regional Aviation Development Fund**, designed to help support continued growth of the aviation sector in the region as a component of East Central’s core Economic Development Program area. Attached for reference is the MEMO and RESOLUTION from the October, 2023 meeting.

EAST CENTRAL’S ROLE: East Central serves as the fiscal agent of a segregated fund to support the development of aviation-related economic development initiatives in East Central’s service area. Fund promotion and development are handled by other stakeholder agencies. Initially, the program is designed to enhance commercial air service development by providing incentives for new route destinations or increased frequency to existing destinations. Additional opportunities to enhance the aviation sector will be evaluated moving forward.

COMMITTEE: ECWRPC established a Special Project Committee, per Article VI, Section 3 of East Central’s By-Laws, to review and award grants from the fund. The Committee structure consists of the following membership:

County/Organization	Appointment Position	Term Expires	Name
Calumet County	Executive Committee Rep	Apr-26	Alice Connors
Winnebago County	Economic Development Committee Rep	Apr-26	Matt Mugerauer / Perm Alt. Mark Rohloff
Waupaca County	Transportation Committee Rep	Apr-26	Dave Morack
Outagamie County	Outagamie Commissioner	Apr-26	Thomas Nelson / Perm Alt. Kevin Englebert
Menasha Packaging	Business Community Rep	Apr-25	Gena Miller, Menasha Packaging
Air Wisconsin	Airport/Aviation Community Rep	Apr-26	Rob Binns, Air Wisconsin
Fox World Travel	Travel/Tourism Community Rep	Apr-27	Chip Juedes, Fox World Travel
Ex-Officio (Non-Voting)	Appleton Airport Director		Abe Weber
Ex-Officio (Non-Voting)	CVB/Tourism/Economic Development Rep		Pam Seidl
Ex-Officio (Non-Voting)	ECWRPC Executive Director		Melissa Kraemer Badtke
	Legal Advisor		Joe Guidote

COMMITTEE MEMBER ROLES & RESPONSIBILITIES: It is anticipated that this Committee will meet at the call of the Committee Chair upon receipt of a proposal to utilize the fund. Initially, it is anticipated that no more than two meetings per year will be necessary, given this is a new initiative and time will be needed to promote and develop the fund.

The Committee’s scope will be limited to reviewing proposals for utilization of the fund to support regional aviation development activities and authorizing payments from the fund for that purpose. As such, a minimal time commitment would be anticipated for Committee members.

Meetings will likely be held in person at East Central Wisconsin Regional Planning Commission offices in Menasha or may also be held virtually, at the call of the Committee Chair.

East Central staff will coordinate meeting schedules, agendas, materials, and minutes.

DATE: October 17, 2023

TO: Executive Committee

FROM: Melissa Kraemer Badtke, Executive Director & Craig Moser, Deputy Director

RE: **Resolution 56-23** Authorizing East Central Wisconsin Regional Planning Commission to act as the Fiscal Agent and Grant Administrator for a Regional Aviation Development Fund and Authorizing the Executive Director of the Commission to Develop and Execute any Required Agreements

PROPOSED PROGRAM: Staff have been in discussions with the Appleton Airport Director regarding the administration of a proposed **Regional Aviation Development Fund**, to help support continued growth of the aviation sector in the region as a component of East Central's core Economic Development Program area.

EAST CENTRAL'S ROLE: Under the proposed model, East Central would serve as the **fiscal agent** of a segregated fund to support the development of aviation-related economic development initiatives in East Central's service area. **Fund promotion and development would be handled by other stakeholder agencies.** Initially, the program is designed to enhance commercial air service development by providing incentives for new route destinations or increased frequency to existing destinations. Additional opportunities to enhance the aviation sector will be evaluated moving forward.

ECWRPC would establish a **Special Project Committee**, per Article VI, Section 3 of East Central's By-Laws, **to review and award grants from the fund.** The Committee structure contemplated would consist of the following membership:

- ECWRPC Chair (or designee from Executive Cmte)
- ECWRPC Economic Development Committee Chair (or designee from ED Cmte)
- ECWRPC Transportation Committee Chair (or designee from Transportation Cmte)
- ECWRPC Commissioner – Outagamie County (appointed by the Commission Chair)
- Business Community Representative (appointed by the Commission Chair)
- Airport/Aviation Community Representative (appointed by the Commission Chair)
- Travel/Tourism Community Representative (appointed by the Commission Chair)

Additionally, the following positions would serve as non-voting, Ex-Officio members of the Committee:

- Appleton Airport Director or Designee
- CVB/Tourism/Economic Development Agency Representative
- ECWRPC Director or Designee

Initial terms would be staggered, as shown in the table below. Subsequent terms would be two years and members would be limited to serving two consecutive terms on the Committee.

ECWRPC Exec Committee	- April 2024
ECWRPC Economic Development Committee	- April 2024
ECWRPC Transportation Committee	- April 2024
ECWRPC Outagamie Commissioner	- April 2024

Business Community	- April 2025
Airport/Aviation Community	- April 2026
Travel/Tourism Community	- April 2027

COMMISSION COSTS: All Commission costs to administer the program would be charged to the fund. **No county levy funding would be utilized for the program.** Staff anticipates no more than quarterly meetings of the Special Committee and limited staff time allocated to the program.

Staff has conducted preliminary due diligence by consulting with external legal counsel. The following summary was provided by Von Briesen attorney Chris R. Smith:

"I have reviewed the materials you provided and analyzed what, if any, amendments must be made to the ECWRPC By-Laws (the "Bylaws") to accommodate the Regional Aviation Development Fund Initiative ("RADFI"). I have concluded that no changes to the Bylaws are necessary. A more detailed analysis follows.

The RADFI is an economic development plan to incentivize commercial airlines to add new route destinations or increased route frequency to existing destinations within the region. ECWRPC would collect funding for the program from both public and private sources and act as the fiscal agent for the program. ECWRPC proposes to establish a special committee to oversee the expenditures from the RADFI fund ensure that funds are spent in furtherance of the RADFI purpose.

The Bylaws, as currently written, support the RADFI. The RADFI is a permitted purpose that ECWRPC may support, pursuant to Article I, portions of Article II and Wis. Stat. § 66.0309.

Article I authorizes ECWRPC to engage in activities permitted by law. Wis. Stat. §66.0309 provides examples of various permitted activities, which are largely incorporated into Article II of the Bylaws.

Various provisions of Article II lead me to the interpretation that the RADFI is a permitted ECWRPC activity. At its core, the RADFI is an economic development program. Subsection B states ECWRPC may create and adopt plans for the economic development of the region. Subsection E allows ECWRPC to act as a coordinating agency for programs and activities as they relate to ECWRPC's objectives. I interpret this Subsection to allow ECWRPC to act as the fiscal agent for the RADFI, as proposed. Finally, Subsections F and G give ECWRPC the broad authority to accept aid and funding from private and public donors in furtherance of activities that support ECWRPC's purpose.

As indicated above, to carry out the RADFI, ECWRPC intends to form a special project committee. The Bylaws support a creation of such a committee as will in Article VI, Subsection 3."

Staff Recommendation: Based on feedback from Executive Committee, Economic Development Committee and Transportation Committee, **staff recommends approval of Resolution 56-23.**

RESOLUTION NO. 56-23

Authorizing East Central Wisconsin Regional Planning Commission to act as the Fiscal Agent and Grant Administrator for a Regional Aviation Development Fund and Authorizing the Executive Director of the Commission to Develop and Execute any Required Agreements

WHEREAS, East Central Wisconsin Regional Planning Commission has several core program areas, including Economic Development and Transportation, and;

WHEREAS, the Appleton International Airport serves as the primary commercial airport in the region, with over 50% of airport visitors in 2022 residing East Central's ten-county region, and;

WHEREAS, the Appleton Airport has experienced significant growth over the past decade and is now the third-busiest airport in Wisconsin, behind only Milwaukee and Madison, and;

WHEREAS, the Appleton Airport Director has proposed the creation of a Regional Aviation Development Fund to support and incentivize continued commercial air service expansion, and;

WHEREAS, East Central Wisconsin Regional Planning Commission has been approached to serve as the fiscal agent and administrator of the Regional Aviation Development Fund, and;

WHEREAS, East Central's By-Laws permit receipt of private and public funding to support programming and allow for the creation of Special Project Committee which would review and award grants from the segregated fund, and;

WHEREAS, the Commission's role would be limited to the activities described above and would not involve raising funds in the community to support the initiative, and;

WHEREAS, all Commission costs to administer the Regional Aviation Development Fund would be covered by the fund and no county levy would be utilized to support the program, so;

NOW THEREFORE, BE IT RESOLVED BY THE EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION

Section 1: That the Commission is authorized to serve as the fiscal agent and grant administrator for the Regional Aviation Development Fund, to be held in a segregated account which will cover all administrative costs borne by the Commission, and;

Section 2: That the Executive Director of the Commission is authorized to develop and execute any required agreements to implement this new program, and;

Section 3: That the Commission Chair is authorized to establish a Special Project Committee, per Article VI, Section 3 of East Central's By-Laws, for the purpose of reviewing and awarding grants from the fund. The Regional Aviation Development Fund Committee shall consist of the following membership:

- ECWRPC Chair (or designee from Executive Committee)
- ECWRPC Economic Development Committee Chair (or designee from ED Committee)
- ECWRPC Transportation Committee Chair (or designee from Transportation Committee)
- ECWRPC Commissioner – Outagamie County (appointed by the Commission Chair)
- Business Community Representative (appointed by the Commission Chair)
- Airport/Aviation Community Representative (appointed by the Commission Chair)

RESOLUTION NO. 50-22

- Travel/Tourism Community Representative (appointed by the Commission Chair)


Additionally, the following positions shall serve as non-voting, Ex-Officio members of the Committee:

- Appleton Airport Director or Designee
- CVB/Tourism/Economic Development Agency Representative (appointed by the Commission Chair)
- ECWRPC Director or Designee

Initial terms shall be staggered, as shown in the table below. Subsequent terms would be two years and members would be limited to serving two consecutive terms on the Committee.

ECWRPC Exec Committee	- April 2024
ECWRPC Economic Development Committee	- April 2024
ECWRPC Transportation Committee	- April 2024
ECWRPC Outagamie Commissioner	- April 2024
Business Community	- April 2025
Airport/Aviation Community	- April 2026
Travel/Tourism Community	- April 2027

Effective Date: October 27, 2023
Submitted For: Executive Committee
Prepared By: Craig Moser, Deputy Director


Jeff Nooyen, Chair – Outagamie Co.


Melissa Kraemer-Badtke – ECWRPC Executive Director

10-27-2023
Approval Date

MEMORANDUM

T0: Melissa Kraemer-Badtke, Executive Director
Craig Moser, Deputy Director

FROM: Attorney Joe Guidote

DATE: May 7, 2024

East Central Wisconsin Regional Planning (EC) is considering the establishment of an Air Carrier Incentive Program (ACIP). The Federal Aviation Administration (FAA), on December 3, 2023 updated its Air Carrier Incentive Program Policy (Policy), which covers two types of ACIPS:

1. Programs funded by the airport itself ‘(airport sponsored incentives’) and
2. Programs funded by the local community (community sponsored incentives), which cannot include any airport sponsored funding.

A community sponsored incentive program is funded by non-airport funds and administered by an entity independent of the airport and its administration. Although still regulated by the FAA, a community-sponsored ACIP has much more flexibility in granting funds to incentivize the development of new and expanded air carrier routes. On the other hand, an airport sponsored incentive program must comply with many more federal law and FAA grant assurance requirements. A significant portion of airport funding and assets are federally derived resulting in greater scrutiny of the disbursement of airport revenue. This scrutiny comes in the form of regulated compliance with FAA grant assurances as a means of protecting the federal investment. Since community based incentive programs utilize community- based funding and not airport funding, a community based ACIP grant may, for example, directly assist in the financing of new routes, including minimum revenue guarantees, travel banks, and marketing that may include destination marketing. Such funding measures may be more attractive to an air carrier exploring the viability of establishing a new route.

Other Policy requirements of community-based incentive programs are:

1. Any use of funds must still meet Grant Assurance obligations that prohibit unjust discrimination. In FAA parlance, “unjust discrimination” in this context relates to discrimination against other similarly situated air carriers. The policy does, however, recognize that an incentive to a specific carrier is not viewed as discriminatory to other carriers, because an air carrier operating a **new** route is not considered to be “similarly

situated” to other carriers operating established routes. Thus, the incentive must be for a limited time, until “the new service becomes known and accepted.” FAA Policy Sec .III(B)2

2. In the event a community based incentive program chooses to fund a new air service using non-airport funds, such funds cannot be commingled with airport funds. For example, EC cannot decide to grant the funds to an air carrier and then forward the funds to the airport for distribution to the air carrier. FAA Policy, Sec. III(B)(3)a
3. The airport cannot have a direct management role in community based ACIP, however, it can have a limited role in advising the ACIP. The Airport Director cannot, for example, vote on the issue of an incentivized Air Service agreement. The Airport Director can, however, be an ex-officio, non-voting member of the committee; he/she may participate in debate and provide technical advice on an issue at hand. FAA Policy Sec. III(B)(3)(b)i-iii It is my opinion that such technical advice could include presenting a community based air incentive opportunity to EC, negotiating a tentative air service agreement, after receiving EC’s approval to proceed with negotiations, and presenting the agreement with recommendations to EC for consideration and action.

If EC proceeds with the formation of a community based ACIP, it is my recommendation that EC enter into a memorandum of understanding with ATW, to set forth the parameters of each entity’s authority and expected duties and obligations, consistent with the FAA Policy Regarding Air Carrier Incentive Program.

MEMORANDUM OF UNDERSTANDING BETWEEN APPLETON INTERNATIONAL AIRPORT AND EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION

The purpose of this Memorandum of Understanding (MOU) between East Central Wisconsin Regional Planning Commission (ECWRPC) and Appleton International Airport (ATW) is to define the relationship between ECWRPC's Air Carrier Incentive Program (ACIP) and ATW. ECWRPC has established an ACIP to incentivize commercial air carriers to develop new or expand existing routes to various destinations. This endeavor is intended to benefit ECWRPC's regional economy and to provide new and expanded routes to and from a wider range of destinations for the benefit and convenience of the region's business and recreational travelers.

ECWRPC DUTIES

ECWRPC shall authorize and create a community sponsored ACIP and shall also appoint a special project committee, as permitted per Article VI, Section 3 of ECWRPC's Bylaws, to provide oversight and policy direction for the ACIP. The Regional Aviation Development Fund Committee's duties shall be authorized by the ECWRPC and the special project committee shall regularly inform the ECWRPC of its activities. The ACIP shall be administered in compliance with the FAA Policy Regarding Air Carrier Incentive Programs.

The committee shall be composed of seven voting members, composed of stakeholders from the following:

- ECWRPC Chair (or designee from the Executive Committee)
- ECWRPC Economic Development Committee Chair (or designee from Committee)
- ECWRPC Transportation Committee Chair (or designee from the Committee)
- ECWRPC Commissioner – Outagamie County (appointed by the Commission Chair)
- Business Community Representative (appointed by the Commission Chair)
- Airport/Aviation Community Representative (appointed by the Commission Chair)
- Travel/Tourism Community Representative (appointed by the Commission Chair)

The special project committee shall also include ex-officio members whose professional backgrounds will provide expertise in the Committee's review and deliberation of grant proposals. Ex-officio members will be non-voting members, but will otherwise have the ability to provide technical, professional and industry-relevant advice to the committee, and when requested to the full Commission. Ex-officio members shall include:

- Appleton Airport Director or Designee
- CVB/Tourism/Economic Development Agency Representative
- ECWRPC Director or Designee

Any technical advice tendered by an ex-officio member will in no way be determinative, and such advice may be considered by the subcommittee and the ECWRPC in their deliberations and decision making.

All meetings of the subcommittee shall be subject to the Wisconsin Open Meetings Law.

Any funds received by the ECWRPC for the purpose of incentivizing aviation development shall be deposited in a segregated, interest bearing account.

Funds in said account shall be disbursed for the purpose of incentivizing new or expanded routes that demonstrate sufficient passenger interest to sustain the route for the long term. Incentive funding for such routes may include, but is not limited to:

1. Marketing activities, including destination marketing, in support of a new or expanded route.
2. Direct financing of routes, including minimum revenue guarantees.

The Committee shall consider each grant applicant's submitted materials, deliberate and recommend to the full Commission its recommendation, along with a tentative grant agreement setting forth the terms and conditions of the grant. The recommendation(s) of the Committee shall be approved by a majority of those present, assuming there is a quorum.

Funds in said account shall also be disbursed for the purpose of reimbursing ECWRPC for actual administrative costs of program administration.

APPLETON INTERNATIONAL AIRPORT DUTIES

ATW agrees to the appointment of its Airport Director as an ex-officio member of the Committee, and neither the Airport Director, nor his/her staff, shall have the right to vote on the Committee.

The Airport Director shall provide technical advice to the Committee and Commission including but not limited to:

1. Identifying opportunities for new or expanded air carrier routes,
2. Discuss recommended strategies as to how ECWRPC's ACIP may assist in incentivizing an identified air carrier to create a new or expanded route.
3. The Airport Director, upon recommendation by the Committee, shall enter into negotiations with the designated air carrier and reach a tentative written agreement for consideration by the Committee and, upon recommendation by the Committee, the Commission.

The Airport Director specifically agrees that neither he/she or any member of the Airport Director's staff can or will make any representations, statements, or enter into any agreement that would bind ECWRPC in any way without specific prior approval by the Commission.

The Airport Director understands that any ECWRPC approved grant funds cannot be commingled with airport funds in any way or for any time period, and that any approved grants shall be disbursed directly to the grantee. Grant funds shall never be disbursed to ATW for later disbursement to a grantee.

The Airport Director shall be primarily responsible for identifying and meeting with community stakeholders to discuss potential contribution to the ECWRPC ACIP.