Mr. John Martin
Director
San Francisco International Airport
P.O. Box 8097
San Francisco, CA 94128

Dear Mr. Martin:

Thank you for your submittal of the City and County of San Francisco Airport Commission’s Competition Plan for San Francisco International Airport dated August 8, 2000. We have reviewed your competition plan for the Airport and determined that the plan 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 (AIR 21).

Section 155 of AIR 21 enacted 49 U.S.C. 40117(k) and 47106(f). These provisions require the filing of a competition plan for a covered airport seeking FAA approval of a passenger facility fee or of an airport improvement program grant application, beginning fiscal year 2001. The Secretary will review the competition plans to ensure that they meet the statutory requirements and review their implementation from time to time to make sure that they are successfully implemented. The legislative history of the requirement states that “[t]he underlying purpose of the competition plan is for the airport to demonstrate how it will provide for new-entrant access and expansion by incumbent carriers. By forcing the airport to consider this, it would be more likely to direct its AIP and PFC money to that end.” H. Rpt. 106-513. The FAA’s Program Guidance Letter (PGL) 00-3, May 8, 2000, addressed eight features of an airport’s business practices required by section 155 of AIR-21.

As you know, section 155 was enacted after the Department of Transportation published its Report on Airport Business Practices and Their Impact on Airline Competition (Airport Practices report). That report identified a number of airport business practices that could serve as impediments to new entry or expansion of incumbent carriers at an airport and a number of best practices that airport management have followed to achieve compliance with airport ...
obligation to provide access to all aeronautical users on reasonable terms without unjust discrimination.

We note that your plan describes a number of current practices, initiatives and future policy changes associated with the operation of current or planned facilities, as summarized below:

- Opening a new international terminal as an entirely common-use facility, with multiple user computer equipment, including renegotiation of leases with eight carriers. However, we note that the airport contemplates only limited domestic use during the construction phase of the domestic terminal program.
- Reletting exclusive-use gates returned to the airport on a shared-use basis.
- Adoption of a written carrier complaint procedure, including a requirement for issuance of a final decision to the complaining carrier. However, in your first update of the plan, please provide additional information on the airport's complaint procedures, including the steps the airport has taken to make carriers aware of the procedures.
- Incorporating and invoking forced accommodation clauses in current exclusive use leases.
- Revisiting the moratorium on additional third-party ground-handling contractors in the Spring of 2001.
- Consideration of incorporating preferential use leasing philosophies and multiple use equipment in the next phase of domestic terminal renovations and expansion.

The City is to be commended for undertaking these initiatives, which were identified as best practices to foster opportunities for airport access and competition in the Department's.

With respect to the latter two items listed above, please include information on the progress of your deliberations in future updates to your competition plan.

In addition, we note that the City's lease contains a majority-in-interest clause. We suggest that, when possible, the City consider renegotiating the MII agreement so that, at the minimum, it does not prevent or delay projects that may be beneficial to new entrants or smaller airlines serving their airports. As indicated in our Airport Practices report, this type of MII may promote competition at airports compared to MII agreements that permit signatory carriers to veto capacity enhancing projects.

Further, the lease contains a "more favorable terms" clause for signatory carriers. The FAA Policy and Procedures Concerning the Use of Airport Revenue, 64 Federal Register 7698 (February 16, 1999) specifically permits airports to waive or discount airline fees during promotional periods, under
certain circumstances, in order to promote new air service and competition at an
airport. You may want to consider preserving your rights under Federal law by
modifying or eliminating this clause when you have an opportunity to renegotiate
your lease.

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.

We look forward to seeing the future updates of your Competition Plan.

Sincerely,

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