Mr. John L. Martin
Airport 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 FY 2002 update of the Competition Plan for San Francisco International Airport (SFO). We have reviewed your Competition Plan update for the Airport and determined that it 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.

As we indicated in our letter of October 13, 2000, annual Competition Plan updates are required for a covered airport applying for a new passenger facility charge (PFC) or a grant to be issued under the Airport Improvement Program (AIP) in FY 2002. In Program Guidance Letter (PGL) 00-3 (May 8, 2001), the FAA addressed the information needed to be provided in Competition Plan updates on each of the eight areas specified in section 155. On August 16, 2001, we issued guidance reminding covered airports of the requirement to have a Competition Plan update accepted by the FAA before new AIP grants or PFC approvals could be issued in FY 2002. We also reminded covered airports of the need to address the issues raised in our review letters for their FY 2001 submittals.

The September 11 terrorist attacks necessitated an immediate response to security requirements. Therefore, on October 1, 2001, we modified the August 16, 2001, guidance to indicate that we would make AIP and PFC funding decisions before May 1, 2002, regardless of the status of the Competition Plan update. Additionally, we requested that Competition Plans be filed by March 1, 2002, in order to meet the statutory requirement and to provide sufficient time for our review. The Aviation and Transportation Security Act, Pub. L. 107-71 (November 16, 2001) exempted a covered airport from filing a Competition Plan or update for a PFC approved or grant made in FY 2002 if the fee or grant is to be used to improve security at a covered
airport. We interpret this provision to apply only in cases where a PFC approval or AIP grant issued in FY 2002 will be used exclusively for improved security. Since SFO has not indicated that PFC and AIP requests in FY 2002 will be limited exclusively to security projects, it is necessary to review your update for compliance with section 155 of AIR-21.

Your plan indicates the airport is implementing the following competitive actions:

- Opening of the new International Terminal Complex (ITC) as a common-use facility;
- Monitoring gate usage in the ITC through the use of a computer-based monitoring program;
- The establishment of a formal complaint resolution process by which airport staff works closely with airlines and other tenants to resolve disputes;
- The use of contractual provisions in the Lease and Use Agreements to accommodate new entrants and other air carriers;
- Offering Vanguard Airlines the option of commencing service with either a direct lease or sub-lease arrangement; and
- Retaining greater control over usage of two formerly exclusive-use gates occupied by Southwest under a 30 day revocable space permit, following Southwest’s withdrawal from San Francisco.

Your plan also indicates the airport plans to implement the following competitive actions in the future:

- Making available TWA’s exclusive-use gates, that likely will revert to the airport in TWA’s bankruptcy proceedings, to airlines on a combination of 30 day space permits and a preferential assignment/joint-use basis; and
- Incorporating preferential and common-use arrangements for facilities in the refurbishment of Terminal 2.

We commend the City and County for pursuing policies that encourage new airline entry and undertaking initiatives that will promote air carrier competition at SFO. However, we have identified some areas where additional information would be helpful in understanding your business arrangements or where additional progress could be made toward fully incorporating the “best practices” identified in the 1999 FAA/OST Task Force Study, Airport Business Practices and Their Impact on Airline Competition (Airport Practices report) as reflected in the Competition Plan statute. For your convenience, we have categorized the remaining areas of concern according to the applicable
features discussed in PGL 00-3 and request that you address them in your next Competition Plan update.

Gate availability

Your Competition Plan update states that airport staff continues to monitor use of all airport gates. Please describe in more detail the procedures that the staff uses to monitor gates outside of the new ITC. In addition, we encourage you to consider expanding the computerized technology used to monitor gate usage in the ITC to SFO’s other terminal facilities.

In addition, we understand that consolidation in the ground handling industry has led to uncertainty regarding the airport’s policy of accommodating new independent ground handlers. However, the ability of carriers to have access to a full array of independent ground handling options continues to be a concern to the Department, and we encourage the City and County to complete the actions necessary to permit the current moratorium to be lifted. Please address this issue in your next update.

Leasing and subleasing

Your FY 2002 Competition Plan update described various airline committees and airline liaison offices as forums for resolving complaints, and states that written complaints are now accepted by the Airport Director. Please describe in more detail the procedures employed after a complaint is filed. Are there firm deadlines for issuing decisions? Is there a firm deadline for disposing of complaints? Is there an administrative appeal process from an initial staff determination? If not, we encourage you to consider incorporating these features into the airport’s written complaint procedures. Please report on the status of your consideration of this issue in your next Competition Plan update.

Your FY 2002 Competition Plan update reported that the Airport has invoked the forced accommodation provision in the past to accommodate temporary gate needs of new entrant airlines. Please describe the circumstances of invoking section 206 of the Lease and Use Agreement and explain the procedures for determining which gates have unused capacity.

Please provide the protocols for the ITC space reallocation and recapture for our review.

Your FY 2001 Competition Plan provided the Airport’s policy on subleasing by airlines, indicating that subleases must receive prior written consent of the Airports Commission of the City and County of San Francisco. Our experience over the last year suggests that the opportunity to sublease itself—or lack of.
such opportunity – can also have implications on fulfillment of the airports’ obligation to provide reasonable access for subtenants. Consequently, we also recommend that you consider a policy that encourages signatory carriers to employ a universal notification procedure when gates become available for sharing or subleasing, as well as fair and transparent bidding or negotiating procedures. Adoption of such a policy could enhance the ability of new entrants to gain needed facilities.

Financial constraints

Our October 13, 2000, letter encouraged the City and County to consider modifying or eliminating the “most favorable terms clause,” when the opportunity presents itself, to take advantage of Federal rights to offer promotional discounts to encourage new air service or competition. Your Competition Plan update reported no change in circumstances, but did not address this suggestion. Please address this issue.

In addition, you indicated that in connection with the opening of the new international terminal, you worked with the San Francisco Terminal Equipment Company to establish a separate tier of charges for domestic airlines and identified baggage claim carousels for domestic operations to reduce the burden of Federal Inspection System carousel joint-use space on domestic carriers. We commend you on achieving levels of fees that accomplished the purposes of the variety of interests at the terminal. Please describe more fully the separate tier of charges for domestic airlines and compare the basis for the charges to those assessed international carriers. Additionally, please compare the fees assessed domestic airlines at the international terminal to the fees assessed domestic airlines at the domestic terminals. To what extent are gates available to new entrants only at the international terminal?

Gate Availability

Your FY 2002 Competition Plan update indicated that Airport staff continues to work aggressively with airlines to ensure there are no barriers to new entrants. We encourage the airport to adopt gate-sharing policies or procedures to inform new entrants that have expressed an interest in operating at the airport of available gates or gate-sharing arrangements. Your obligation to provide access on reasonable terms without unjust discrimination applies to new entrants as well as incumbent carriers, and implementation of this recommendation will assist in meeting this obligation. Our Airport Practices report found that airport managers that routinely make this information available to all such carriers facilitate competition at the airport. Please address this in your next update.
Airport controls over capacity

As noted in our previous letter, dated October 13, 2000, we continue to encourage the City and County, at the appropriate time, to renegotiate the Majority-in-Interest (MII) clause in your agreements, so at a minimum, it does not delay projects that may be beneficial to new entrants or smaller airlines serving this market. While your Competition Plan update described features of your MII that provide some flexibility, we are concerned that the MII process resulted in deferrals of significant capital expenditures during the past year.

Finally, in reviewing your web-site, we were unable to locate your FY 2001 Competition Plan. Please indicate whether the plan is accessible on your web-site and, if so, provide its precise web address. Once again, we encourage the County to post the FY 2001 and 2002 plan submittals and all FAA responses on the airport's web-site promptly.

Further, pursuant to our authority under 49 U.S.C. sections 47107(a)(15) and 47122, we have determined that your Competition Plan is a report within the meaning of section 47107(a)(15) and AIP grant assurance No. 26. Consequently, under the terms of the assurance, the Competition Plan must be made available to the public. The posting of your Plan and update in accordance with our suggestion is one method of satisfying this requirement. If you have determined not to post the Competition Plan and related documents on your web-site, please inform us within 30 days of the method you are using to make these documents publicly available to facilitate accountability to the public and air carriers and advise us of the reasons for this decision.

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.

Sincerely,

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