



U.S. Department of Transportation Announces Establishment of Unmanned Aircraft Systems (UAS) Integration Pilot Program

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The U.S. Department of Transportation (DOT) recently announced the details of the Unmanned Aircraft Systems (UAS) Integration Pilot Program (the "Program"), as directed in an October 25, 2017 memorandum from President Trump. The purpose of the Program is to:

- accelerate the safe integration of UAS into the national airspace (NAS);
- address ongoing concerns regarding the potential security and safety risks associated with UAS operating in proximity to human beings and critical infrastructure;
- promote innovation in, and development of, the U.S. unmanned aviation industry; and
- identify the most effective models of balancing local and national interests in UAS integration.

The DOT hopes that the Program will eventually lead to regulations that will allow for more sophisticated drone operations, such as beyond visual line of sight (BVLOS) operations over people, and package delivery.

Although the DOT has stated that the success of the Program will depend on "mutually beneficial partnerships" between state and local governments and the private sector, only state, local or tribal jurisdictions are eligible to apply to participate in the program. The jurisdiction may then partner with one or more private sector stakeholders or other government agencies. Private sector stakeholders that are interested in participating, and jurisdictions that have not identified a program partner, may submit a request to be added to an Interested Parties list, which the Federal Aviation Administration (FAA) will publish on its website at <http://faaco.faa.gov/>.

In order to participate, an eligible government entity must submit a notice of intent within 20 days after

the Program is officially published in the Federal Register. Instructions for filing a notice of intent can be found in the SIR DTFAWA-18-R-00001, available online at <http://faaco.faa.gov/>. The DOT is encouraging jurisdictions to submit a notice of intent even if they are unsure whether they will go forward.

A formal application to participate will be due within 57 days after publication in the Federal Register. Applications should be submitted through the FAA/UAS Program Portal. An application will be expected to include key information about the applicant's proposal, such as:

- identification of the airspace to be used, including shape files and altitudes;
- description of the types of planned operations;
- identification of stakeholder partners to test and evaluate planned operations;
- identification of available infrastructure to support planned operations;
- description of experience with UAS operations and regulations;
- description of existing UAS operator and any other stakeholder partnerships and experience; and
- description of plans to address safety, security, competition, privacy concerns and community outreach.

Applicants are also expected to demonstrate advances in technological capabilities or operational concepts, and the means of communication with the public and law enforcement agencies.

An applicant may include reasonable time, place and manner limitations on low-altitude UAS operations within its jurisdiction. For example, a municipality may include a prohibition on flights during specified morning and evening rush hours, or may limit operations over fixed-site public roads and parks. The municipality may also require notice to public safety or zoning/land use authorities prior to operating, or prohibit operations related to sporting events that occur in more than one venue. If the FAA accepts an application with limitations, the affected jurisdiction must ensure that any time, place and manner limitations ? including those adopted through means such as legislation or regulation ? automatically terminate when the pilot program concludes.

The FAA will select a minimum of five applications, based on the following criteria:

- overall economic, geographic and climatic diversity of the selected jurisdictions;
- overall diversity of the proposed models of government involvement;
- overall diversity of the UAS operations to be conducted;
- the location of critical infrastructure;
- the involvement of commercial entities in the proposal and their ability to advance objectives that may serve the public interest as a result of further integration of UAS into the NAS;
- the involvement of affected communities in, and their support for, participating in the Program;
- the commitment of the governments and UAS operators involved in the proposal to comply with requirements related to national defense, homeland security and public safety, and to address competition, privacy and civil liberties concerns; and

- the commitment of the governments and UAS operators involved in the proposal to:
 - promote innovation and economic development;
 - enhance transportation safety;
 - enhance workplace safety;
 - improve emergency response and search and rescue functions; and
 - use radio spectrum efficiently and competitively.

Successful applicants will be required to enter into a Memorandum of Agreement (MOA) with the FAA. A sample MOA can be found at <http://faaco.faa.gov/>. However, the FAA expects to negotiate MOAs tailored to the specifics of each proposal. Each MOA will contain requirements for the successful applicant to develop and adhere to privacy policies. MOAs will also require such applicants to share data with the FAA resulting from their development and testing of the concepts of operations to enable the FAA to study the effects of UAS integration into the NAS. It is important to note that no Federal Government funds will be provided through the MOA.

The Unmanned Aircraft Systems (UAS) Integration Pilot Program is a unique opportunity for government and industry to work hand in hand on the major challenges associated with the integration of UAS into the NAS. **Williams Mullen will be discussing this Program and related issues at its seminar on "Selling Unmanned Systems Products and Services to Federal, State and Local Government Agencies" from 8:00 - 11:00 a.m. on November 15, 2017 at the Tower Club in Tysons, VA. The event is free and open to CEOs, CFOs, COOs and in-house counsel. For more information, and to register, please [click here](#).**

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