

Management of Acquired Noise Land *Inventory, Reuse and Disposal*

Western Pacific
Regional Conference

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Federal Aviation
Administration



Presentation Overview

- Discuss what lead to recent noise land disposal and reuse emphasis
- Provide an overview of the development and issuance of recent FAA guidance
- Describe legal background – statutory requirements and reauthorization proposal
- Discuss sponsor requirements
- Describe FAA plan acceptance and oversight
- Discuss some common misconceptions about noise land disposal and reuse
- Provide guidance on required process and paperwork



In September 2005, the Office of Inspector General issued an audit report:

“Management of Land Acquired Under Airport Noise Compatibility Programs”

Audit focused on three areas:

- Identifying land no longer needed for noise compatibility purpose*
- Disposing of noise land through sales, leases, or other means*
- Ensuring that proceeds from disposed land is used for other noise compatibility projects or is returned to the Trust Fund*

Audit Report is On-line at <http://www.oig.dot.gov/item.isp?id=1668>



Major Report Findings and Recommendations

“OIG Findings: Management of Land Acquired Under Airport Noise Compatibility Programs”

1) The Airports they reviewed “were not in compliance with grant requirements”

- “Airports have not disposed of sizable amounts of unneeded noise land”
- “Airports are improperly using noise proceeds from noise land dispositions”

2) “FAA Program Oversight and Guidance Needed Strengthening”



Six FAA Accepted Recommendations

- 1. Airports must dispose of Unneeded Noise Land and properly recycle the proceeds from the disposal***
- 2. Improve program oversight***
- 3. Provide a program of continuing education***
- 4. Provide airport sponsors with guidance on using leases and reserve bonds***
- 5. and 6.***
For the 11 airports included in the audit, recover FAA's share for land that has been disposed of and land that is no longer needed for noise compatibility.



FAA Actions to Clear Audit

1. Collect Past Due Funds at Airports Cited by OIG. (11 Airports Prioritized by Amount of Noise Grants)

2. Issue Guidance /Monitor to Ensure Adequate Management

- Draft Guidance issued in June 2007 to Industry
- Comments were received in July/August
- Program Guidance Letter PGL-08-02 issued February 2008
- FAA Regions and ADO's to work with sponsor's to submit Land Inventory and Re-use Plans (August 2008 on 11 Airports, October 2009 on other 100 +/- programs)
- Unneeded land disposed - Ongoing



Program Guidance

Broken into Seven Sections and answers questions on:

- **Determining when land is no longer needed for noise compatibility**
- **How disposal proceeds are used**
- **Determining values**
- **Environmental processing requirements**
- **Exhibit A, Inventory Map and Reuse Plan requirements**
- **Escrow Account Requirements for placing proceeds prior to reuse**



FAA Proposed Revisions to Disposal Statutory Requirements

49 USC 47107(c)(2) currently requires that airports:

- 1. Dispose of land at no less than the fair market value at earliest practical time after land no longer needed for noise compatibility.**
- 2. Retain an interest (easement, deed restriction, etc) in the land disposed to ensure compatible land use**
- 3. Apply FAA grant share of land acquisition to proceeds of land disposal and reinvest in future approval noise project or return to Trust Fund**



FAA Proposed Revisions to Disposal Statutory Requirements

FAA proposed that the third requirement of the statute be changed to:

... Apply FAA grant share of land acquisition to proceeds of land disposal and reinvested (in order)

- **1. To other noise projects on airport,**
 - **2. In an environmental project on airport,**
 - **3. In another AIP eligible project on airport,**
 - **4. On a noise project at another airport, or**
 - **5. Return to Trust Fund**
- **Both the House and Senate versions of the reauthorization include FAA's proposed language.**



FAA Requirements to Manage Noise Land.

PGL 08-02 Management of Acquired Noise Land Inventory – Reuse - Disposal

SECTION 1. OBLIGATIONS ASSOCIATED WITH THE ACQUISITION OF NOISE LAND

SECTION 2. MANAGEMENT OF NOISE LAND

Noise Land Inventory and Reuse Plan.

SECTION 3. RETAINING NOISE LAND

A. Defining “No Longer Needed for Noise Compatibility.”

B. Reserving Adequate Property Rights to Prevent Incompatible Land Use.

SECTION 4. DISPOSAL OF UNNEEDED NOISE LAND.

SECTION 5. USE OF DISPOSAL PROCEEDS

SECTION 6. FAA OVERSIGHT OF NOISE LAND

SECTION 7. COMPLIANCE AND REPORTING

ATTACHMENT A: LAND USE COMPATIBILITY

ATTACHMENT B: REQUIREMENTS FOR NOISE LAND INVENTORY

ATTACHMENT C: REQUIREMENTS FOR REUSE PLAN

ATTACHMENT D: APPRAISAL SCOPE OF WORK STATEMENT

ATTACHMENT E: SAMPLE ESCROW ACCOUNT



What is the Sponsor Required to Do?

Prepare an inventory of Acquired Noise Land.

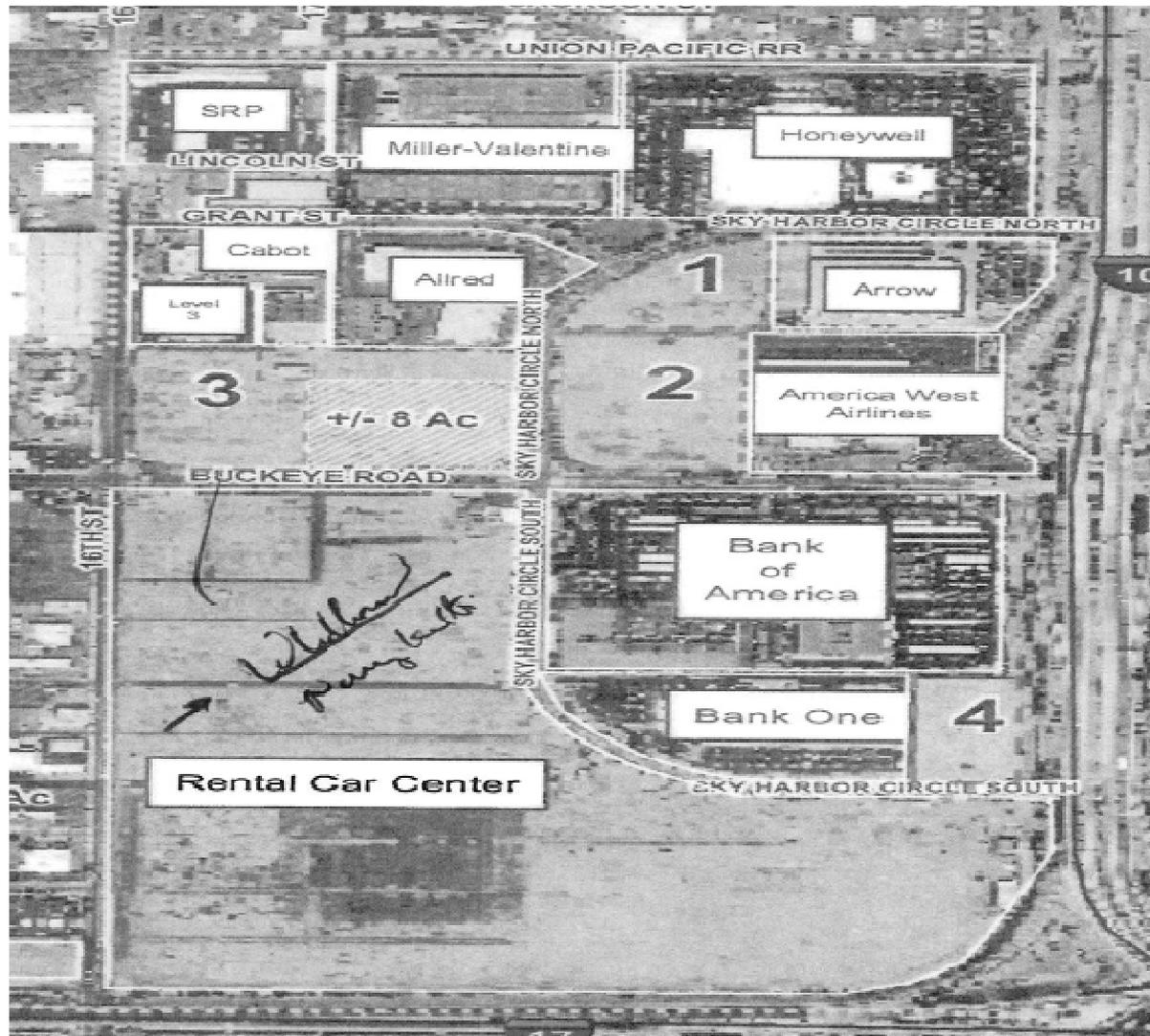
- Include a schedule of all acquired noise land (should be the same as the Exhibit A) Show:
 - Current Status per approved Reuse Plan; e.g. Sold, leased, retained for noise compatibility, converted to AIP eligible use, converted to aeronautical related (revenue producing)
 - APN other Recordation Data on Sold Redevelopment Parcels
- Include an aerial photo / map showing acquired land, Show:
 - Noise Contour shown (latest approved NEM)
 - Airport Development / Aeronautical Use Parcels Outlined
 - Redevelopment Parcels Outlined (to be disposed or disposed)
 - Retained easements, deed covenants, other retained property rights



What is the Sponsor Required to Do?



What is the Sponsor Required to Do?



What is the Sponsor Required to Do?

Re-Use Plan Guidance

The Airport Sponsor in consultation with the FAA District Office and Region will submit the following for FAA Acceptance

- Part A: Identify acquired parcels Needed for Noise Compatibility
- Part B: Identify Unneeded land to be disposed by Market Sale
 - Include and update as disposal of redevelopment parcels progresses. Show appraised FMV information and sales proceeds when disposed.
- Part C: Identify Unneeded land to be incorporated as eligible Airport development land and used as airport owned Aeronautical related revenue producing land.
 - ALP changes required to incorporate land. Applicable Environmental documentation completed.

FAA will accept and monitor Sponsor compliance with the Grant Assurance.



What is the Sponsor Required to Do?

Disposed of Unneeded Noise Land:

- Disposal does not mean that an airport has to sell the property.
- Disposal is simply getting the land “off the noise land books” (including dealing with the proceeds, of course)
- It is the airport sponsor’s decision how to dispose (subject to FAA acceptance).
 - **Disposal by Exchange**
 - **Disposal by Sale**
 - **Disposal by Conversion to AIP Eligible Airport Development Land**
 - **Disposal Through Long Term Lease or Conversion to AIP-ineligible airport –owned land**
- **Disposal of unneeded noise land is not a land release that requires public notice or FAA letter of release. Disposal of Noise Land requires FAA acceptance of Inventory and Reuse Plan.**



What is the Sponsor Required to Do?

✓ Fair Market Value Standard for Land Disposal

Sale or Lease of the Unneeded Land Must be at FMV \$\$\$

Statutory Requirement, per Assurance 31:

The airport sponsor will dispose of land that was purchased under a grant for airport noise compatibility purposes, when the land is no longer needed for such purposes (or eligible airport purposes), at fair market value, at the earliest practicable time.*

**PGL 08-02 Clarifies Land Retention Eligibility*



What is the Sponsor Required to Do?

✓ **Airport must retain adequate property rights and restrictions on the use and development of the land:**

- Enforceable Easement and/or Deed Restriction Must be Recorded With or Prior to any Sale or Lease of Excess Noise Land.
- Land is Appraised Subject to Retained Rights & Development Restrictions.
- Land use or development not compatible with Airport Use or Operations Prohibited
- Current FAA / Airports Cooperative Research Project on enforcement of compatible land use restrictions: easements, deed restrictions/covenants....



What is the Sponsor Required to Do?

✓ **Must Appraise FMV of Land**

PGL 08-02 Attachment D – Sample Appraisal Scope of Work

- Fair Market Land is Assembled and Appraised at its Highest and Best Use
- Land may be valued as Raw Land, prior to any infrastructure or zoning changes, BUT Appraiser MUST Anticipate a Zoning Change and Market Demand for the Redevelopment of the Land.
- If zoning and redevelopment approvals are in place, land may be valued as entitled buildable lots
- Land is Appraised Subject To Retained Property Rights
(avigation easement or deed covenants to prevent incompatible development)
- USPAP and FAA Requirements Stated for Scope of Work



What is the Sponsor Required to Do?

- ✓ **Sales Proceeds must be applied to Eligible Noise Compatibility Programs**

Per Grant Assurance #31, The sponsor must reinvest the Federal share of net land sales proceeds (or long term lease value / or gains on exchanges) in eligible noise projects or return to Trust Fund.

For Example: Suppose 5 acres of unneeded land was sold for \$1,000,000. Eligible sales and development expenses total \$200,000. Net Proceeds are \$800,000. The land acquisition was funded at 80% by FAA, and therefore 80% of the \$800,000 or \$640,000 must be reinvested in noise projects at the airport.



What is the Sponsor Required to Do?

✓ Eligible Sale Expenses – Per AIP Handbook / Guidance

Paragraph 811 a.

(3) Costs attributable to preparing land for resale may be deducted from the proceeds of disposal, but are not allowable costs under a grant. Such costs may include, but are not limited to, rezoning, replatting and upgrading of utilities and services (infrastructure cost acceptable only to the extent that it may be shown to be cost effective, e.g. up to the increase in land value).

(4) Costs associated with holding land are not allowable under a grant, nor may they be deducted from the proceeds of resale. Such holding costs may include, but are not limited to, property taxes assessed against the sponsor during the period of ownership, charges for utilities and public services, insurance, financing charges, and assessments.



What is the Sponsor Required to Do?

✓ Use of Sale Proceeds – Per AIP Handbook / Guidance

Section 2. NOISE COMPATIBILITY PROJECTS

810. GENERAL.

a. Eligible noise compatibility projects generally fall into the following categories: land acquisition (including relocation assistance), noise insulation, runway and taxiway construction (including associated land acquisition, lighting and NAVAIDs), noise monitoring equipment, noise barriers and other Part 150 approved noise abatement/compatibility measures. Sponsors may from time to time propose

b. Noise compatibility projects usually are located in areas where aircraft noise exposure is significant, as measured in day-night average sound level (DNL) of 65 decibels (dB) or greater. However, projects mayalso be approved and made eligible in areas of less noise exposure. ...



FAA Acceptance of Inventory and Re-use Plans.

FAA Review of Inventory and Reuse Plan

FAA may accept upon finding that:

- ✓ Inventory is Accurate and Includes all AIP and PFC assisted land acquisition (Verify against Exhibit A or the funding documents)
- ✓ Adequate property rights (easement/deed restrictions) are retained by the airport to prevent incompatible use or development of the land disposed.
- ✓ Sale, lease or exchange of the unneeded land will be at the Fair Market Value, and;
- ✓ Disposal proceeds will be used for an FAA-approved AIP-eligible noise compatibility project or returned to the Trust Fund.
- ✓ Sponsors may dispose of noise land by long-term lease provided the sponsor arranges to repay the federal share of the current FMV of the property at the time it enters into the lease as a lump sum. Repayment of the federal share over time is not allowed.



FAA Acceptance of Inventory and Re-use Plans.

FAA Environmental Review

- Land Acquired for Noise Compatibility *is not treated the same way as Airport Development Land*. The intent of acquiring noise land is to allow it to be redeveloped in a compatible manner.
- Noise Land is not part of the airport and does not fall under the airport land environmental requirements. Therefore, FAA does not require an environmental assessment to dispose of noise land.
- If however, the land is disposed of by conversion to airport development land, then all the usual environmental provisions apply to the “acquisition of airport development land.”



FAA Acceptance of Inventory and Re-use Plans.

FAA Environmental Treatment on Disposal of Unneeded Noise Land

- **Prior Acquisition Approval.** FAA approval to fund and amend ALPs to depict acquisition of noise land. Subject to NEPA and is normally categorically excluded (FAA Order 1050.1E, paragraph 307d. Alternatively, these actions may be addressed as part of an environmental assessment or impact statement.
- **Noise Land Inventory and Reuse Plan.** FAA's actions are administrative, not discretionary in nature. Therefore, the application of NEPA is not triggered.
- **Conversion or Exchange of Unneeded Noise Land for Airport Development Land.** FAA approves changes to the ALP and the Airport Property Map to incorporate development/operational land (including retained restrictions). FAA Order 5050.4B determines the level of environmental review under NEPA required for these projects.
- **Market Sale/lease for Redevelopment.** The market sale/lease for redevelopment does not involve Federal action subject to NEPA or other federal environmental laws, regulations, or executive order. Airspace reviews, including those under 14 CFR Part 77 associated with disposal of noise land, are advisory actions per FAA Order 1050.1E, Environmental Impacts: Policies and Procedures, paragraph 301.



FAA Oversight / Compliance Reporting

Compliance Schedule

- ✓ **April 2007.** The 11 airports included in the 2005 OIG audit submitted their noise land Inventory by April 2007.
- ✓ **August 2008.** The 11 airports must submit their Re-Use Plan to FAA.
- ✓ **October 2009.** Other airports with pre-2006 noise land grants submit Reuse Plan. Noise Land Inventory for all acquired noise land must be completed prior to submittal of Reuse Plan as agreed upon between the FAA and the individual airport.
- ✓ **Noise land acquisition grants issued in FY 2006 or later.** Noise Land Inventories and Reuse Plans must be completed or updated by project completion, in accordance with the grant special condition.
- ✓ **Ongoing Monitoring.** FAA Regions will routinely monitor compliance and disposal progress as documented on accepted current inventory and reuse plan.



Frequently Misunderstood Items

Disposal

- Disposal does not mean that an airport has to sell the property to another.
- Disposal is simply getting the land “off the noise land books” (including dealing with the proceeds, of course)
- Whether unneeded noise land is sold, kept by the airport and leased, or disposed of by other means is the airport’s decision.

There can be:

- **Disposal by Exchange**
- **Disposal by Sale**
- **Disposal by Conversion to AIP Eligible Airport Development Land**
- **Disposal Through Long Term Lease or Conversion to AIP-ineligible airport –owned land**
- **Disposal of unneeded noise land is not a land release that requires public notice or FAA letter of release.**



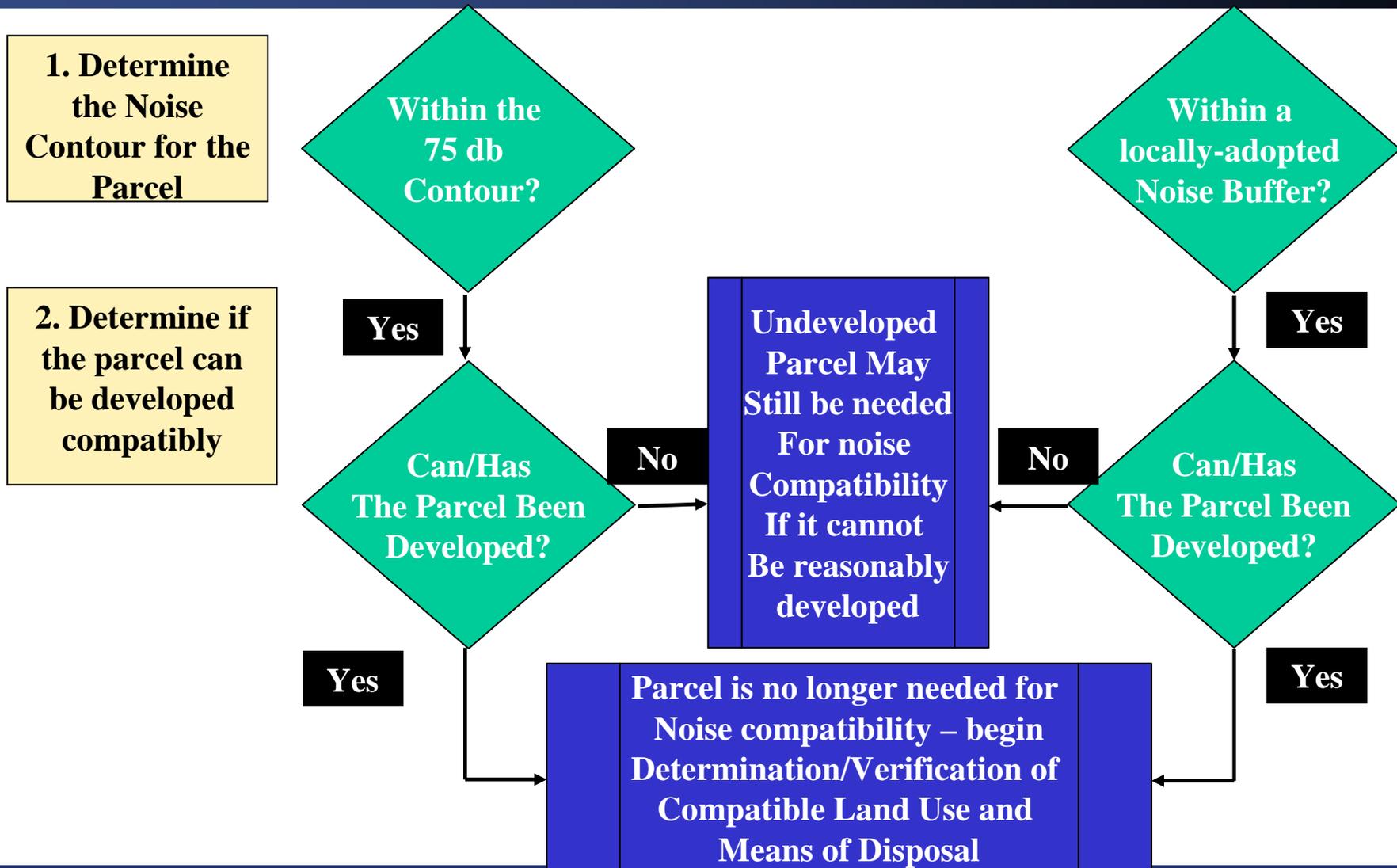
Frequently Misunderstood Items

Giving the Money Back

- FAA doesn't really want the proceeds from the Disposal *back*
- The intent is to reuse the disposal proceeds on other noise projects at the airport
- To do this, the airport will establish an escrow account with a local bank. FAA, the airport and the bank will execute the agreement.
- When the airport uses the proceeds for a noise project, instead of using grant funds, it will use the disposal proceeds for the federal share.
- The grant will be tracked using FAA's grant management system, SOAR



Frequently Misunderstood Items – No Longer Needed for Noise Compatibility



Frequently Misunderstood Items

Protecting Future Options

- If land is needed for future airport projects (not necessarily needed for AIP-eligible development though) and the land is not needed for noise land, making the airport dispose of the land might just mean that the land has to be bought again in the future ...
- True, but FAA does not require an airport to sell off land that isn't needed for noise compatibility. Airports can “buy” the land for non-eligible development, can short-term lease the land, or use other means of disposal that protects their future options. (Remember, we have to get the land off the “noise books” if it is not needed for noise compatibility)



Attachment B - Inventory Guidance

The Inventory of Acquired Noise Land is maintained by the Airport Sponsor and needs to include the following for FAA acceptance and monitoring:

- Schedule of AIP Grant and Parcel ID (should be the same as the Exhibit A) Show:
 - Current Status per approved Reuse Plan; e.g. Sold, leased, retained for noise compatibility, converted to AIP eligible use, converted to aeronautical related (revenue producing)
 - APN other Recordation Data on Sold Redevelopment Parcels
- Aerial photo / map showing acquired land, Show:
 - Noise Contour shown (latest approved NEM)
 - Airport Development / Aeronautical Use Parcels Outlined
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Attachment C – Re-Use Plan Guidance

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 - ALP changes required to incorporate land. Applicable Environmental documentation completed.

FAA will accept and monitor Sponsor compliance with the Grant Assurance.



Attachment D – Sample Appraisal Scope of Work

Fair Market Value Appraisal Required on Redevelopment Parcels

i.e. Unneeded land, not to be retained for Airport/Aeronautical use

- Land is Assembled and Appraised at its Highest and Best Use
- Land may be valued as Raw Land, prior to any infrastructure or zoning changes, BUT Appraiser MUST Anticipate a Zoning Change and Market Demand for the Redevelopment of the Land.
- If zoning and redevelopment approvals are in place, land may be valued as entitled buildable lots (sponsor “Eligible Expenses” per AIP Handbook to develop land may offset sales prices to determine net sales proceeds).
- Land is Appraised Subject To Retained Property Rights
(avigation easement or deed covenants to prevent incompatible development)
- USPAP and FAA Requirements Stated for Scope of Work



Attachment E – Sample Escrow Agreement

Escrow Account to Hold Net Sales Proceeds pending reinvestment.

To be used where reinvestment of Funds is not immediately available.

Sample agreement provides acceptable terms and costs for the FAA and the Sponsor to initiate and maintain an escrow agreement with a regulated bank or other financial institution.

Sales proceeds will be deposited and FAA authorized funds will be available for eligible project expenditures.



Presentation Summary

- Discussed the background into recent noise land disposal and reuse emphasis
- Gave an overview of the development and issuance of recent FAA guidance
- Described legal background – statutory requirements and reauthorization proposal
- Reviewed sponsor requirements
- Described FAA plan acceptance and oversight
- Outlined some common misconceptions about noise land disposal and reuse
- Pointed to guidance on required process and paperwork



✓ Where to Get More Information?

- Guidance Needs?
 - ✓ Procedural Guidance is on FAA Airports Website:
http://www.faa.gov/airports_airtraffic/airports/aip/guidance_letters/media/PGL_08_02.pdf
 - ✓ AIP Handbook Chapter 8, FAA Order 5100.38
 - ✓ Compliance Handbook, FAA Order 5190.7
- Specific Questions?
 - ✓ Discuss with your FAA project manager

