



U.S. Department
of Transportation
**Federal Aviation
Administration**

Memorandum

Subject: Program Guidance Letter 90-5

Date

28 SEP 1990

From: Manager, Grants-in-Aid Division, APP-500

Reply to
Attn of.

To: PGL Distribution List

90-5.1 Implementation of Public Law 101-236 - Ellis Ohnstad
(724-0390).

Background

Section 4 of PL 101-236 amended Section 511(a)(14) of the AAIA, in part, to relax the requirement that an airport sponsor must dispose of land which was originally acquired with Federal grant funds for airport development purposes but is no longer needed for such purposes.

Under the new amendment, sponsors may now retain such land if it may be needed for aeronautical purposes (including runway protection zone) or serves as noise buffer land, and any revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Land purchased with a grant received before December 31, 1987, which does not serve as noise buffer land, will be considered to be needed for airport purposes if the FAA was notified of the use of the land, the FAA did not object to this use, and the land continues to be used for that purpose.

The criteria described under A, below, shall be used to formulate determinations as to whether land is needed for airport purposes pursuant to Section 511(a)(14), as amended. (These guidelines do not replace or alter existing criteria for evaluating the eligibility of **proposed** land acquisition for airport development.) Note that an affirmative determination is needed under both A and B below.

A. NEEDED FOR AIRPORT PURPOSES

1. Needed for Aeronautical Purposes.

Land may be considered to be needed for airport purposes if the land is shown on the most recent FAA-approved airport

layout plan (ALP) as needed for aeronautical use, including runway protection zone, within a 20-year planning horizon.

2. Serves as Noise Buffer Land.

Land may be considered to be needed for airport purposes if it serves as noise buffer land. Land which meets the criteria under (a) or (b) below may be determined to serve as noise buffer.

(a) Land which is located within the 65 Ldn noise exposure contour resulting from the existing or forecast (up to 20 years) level of aircraft activity at the airport.

(b) Land outside the 65 Ldn noise exposure contour may be determined to serve as noise buffer if it meets one or more of the following criteria:

- it serves to provide a transitional buffer between on-airport uses and sensitive off-airport development,
- it lies between the airport and a major transportation arterial, a natural boundary, or a locally established planning boundary,
- it would prevent the introduction of noncompatible land uses adjacent to the airport,
- it is an uneconomic remnant of property acquired for airport purposes, the preponderant portion of which was developed for such purposes,
- it was a portion of a private airport depicted as such on local property records and acquired by a public sponsor for use as a public use airport before December 31, 1987, or
- the appropriate local planning agency documents the beneficial use of such land to mitigate the aesthetic, noise, or other impacts of aeronautical activity on existing or imminent development off the airport.

In all cases under (a) and (b), the sponsor should be urged to consult with the appropriate local planning agency to obtain its views on whether the use of such land as noise buffer is consistent with local planning policies and objectives. Views of local planning officials expressed in any documents resulting from such consultation should be considered prior to reaching a determination, and such documents shall be retained in the files of the cognizant FAA office.

Note that, by law, the provision for the use of land as noise buffer is associated only with land originally purchased with Federal grant funds for airport development. This guidance, therefore, is not applicable to determinations on the eligibility of land to be acquired for noise compatibility purposes, or to determinations on whether such land is no longer needed for such purposes.

3. Purchased with a Grant Received Before December 31, 1987.

Land purchased with a grant, or the purchase cost of which was reimbursed with a grant, issued before December 31, 1987, will be considered to be needed for airport purposes if -

- the FAA was notified by the owner or operator (sponsor) of the use of such land (acceptable forms of such notification may include submission by the sponsor of an airport layout plan (ALP) depicting such uses, an exchange of correspondence between the sponsor and the FAA discussing such use, a recorded observation by an FAA inspector during a certification or other formal inspection, a depiction of such use by an FAA inspector on an airport master record (FAA Form 5010-1), or other written evidence that the FAA official having the authority to approve the ALP was aware of such use);
- the FAA person having the authority to approve the ALP did not object to such use (such objection having been expressed in writing to the sponsor or documented as a record of a meeting or telephone discussion between the sponsor and the FAA) and there is evidence that sponsor was so notified; and
- the land continues to be used for that purpose, such use having commenced not later than December 15, 1989.

B. REVENUE FROM INTERIM USES OF THE LAND IS USED ON THE AIRPORT

In all cases identified in A above, the sponsor must demonstrate -

- that any revenue from any use (whether interim or long term) of such land contributes to the financial self-sufficiency of the airport; and
- that the sponsor has made a good faith effort to derive optimum revenue from such use.

The guidance on allowable costs related to demolition and removal of structures and extinguishing leases provided in paragraph 595

of Order 5100.38A is also applicable to land covered by this provision, should the land again be needed for airport development.

Assurance number 31, Disposal of Land, has been rewritten to incorporate the provisions of Public Law 101-236. You should reproduce the attached assurance locally as needed for new grants issued after October 1, 1990. We will reprint the Assurances package incorporating this change as soon as possible.

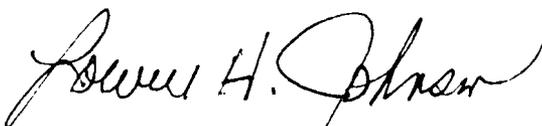
FAA Order 5190.6A, Airport Compliance Requirements, will be revised accordingly.

90-5.2 Update on Letter of Credit (LOC) - Dick Angle (724-0389).
As mentioned in PGL 90-4.12 the TFCS-LOC is being discontinued by the Treasury Department in December of 1990. We have been unofficially assured by Treasury that the system will not be discontinued while we are implementing a replacement system.

The Office of Accounting (AAA-400) has the lead on implementing a replacement system and expects to have it in place by the end of December. AAA-400 has tentatively selected the system operated by the Department of Health and Human Services (HHS) and shortly expects to send a letter to FAA Accounting field offices requesting that certain actions be taken, including coordination with Airports divisions. (These actions would be required even if a different replacement system were to be selected.) The HHS system is designed to accommodate the transactions of other agencies.

The replacement system will use a computer with a modem as the front end contact to request funds through HHS and Treasury's Automated Clearing House (ACH) as the payment method. (The ACH is currently used by the FAA Direct Deposit system to credit an employee's paycheck into a specified bank account.) The time frame in which a sponsor receives a check under the new system should be similar to that experienced under the TFCS-LOC.

Sponsors may be advised of the above information to the extent you believe beneficial, including reassurance that, even though the changeover occurs while a grant is open, we expect no adverse effect on timely Federal payments.


Lowell H. Johnson

Attachment

ASSURANCE

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, it will, when the land is no longer needed for such purposes, dispose of such land at fair market value at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary.
- b. (1) For land purchased under a grant for airport development (other than noise compatibility) purposes, it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will, (a) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (b) be paid to the Secretary for deposit in the Trust Fund if no such eligible project exists.
- (2) Land shall be considered to be needed for airport purposes under this assurance if (a) it may be needed for aeronautical purposes (including runway protection zone) or serves as noise buffer land, and (b) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or the Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the use of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced not later than December 15, 1989.
- (c) Disposition of such land under (a) or (b) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.