



1300 - Airport Land Acquisition

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General

Sponsors acquiring land necessary for Airport Improvement Program- (AIP-) assisted airport development or noise projects must accomplish the acquisition in accordance with Title 49, Code of Federal Regulations (CFR), Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. Title 49 CFR Part 24 represents the implementing regulation for the Uniform Relocation Assistance and Real Property Acquisition Policies Act, also known as the Uniform Act.

Limitations of Use

Users of this guide shall note the obligation for any required action addressed within this guidance originates within applicable Federal directives such as United States Code (USC), Public Law (PL), Code of Federal Regulations (CFR) and official FAA policies. The supplemental information provided within this guidance does not establish additional requirements for participation in the Airport Improvement Program. In the event there is a discrepancy between this guidance and current AIP policy, current AIP policy will always take precedence.



1310 - Land Acquisition Requirements

Uniform Act

The Uniform Act is the Federal law that provides minimum real property acquisition policies and requires the uniform and equitable treatment of persons displaced as a result of a federally assisted project. These rules provide uniform policy and procedures for the acquisition of real property by all Federal, State, and local government agencies (and certain private sponsors) that receive financial assistance for any program or project from the United States Government.

The Uniform Act can apply even if the acquisition itself did not use federal funds. If the sponsor uses Federal funds in **any** phase of the associated project, the rules of the Uniform Act apply. For example, if a sponsor desires to extend their runway and require additional land for the AIP funded development, the sponsor must adhere to the Uniform Act regardless of whether or not AIP participated in the land acquisition.

An AIP-assisted airport project cannot proceed or receive FAA approval until the airport sponsor provides assurance of conformance to the Uniform Act.

Advisory Circular 150/5100-17

FAA Advisory Circular Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects ([AC 150/5100-17](#)) provides procedural guidance to airport sponsors to help them carry out their acquisition and relocation programs in conformance to the Uniform Act and the implementing regulations (49 CFR part 24). This Advisory Circular provides detailed information and guidance on regulatory requirements that pertain to each phase of a land acquisition process.

Acquisition Process Timeframe

The time required to complete a property acquisition can significantly vary per parcel. The acquisition process begins with thorough planning for the project. The process continues with obtaining an environmental site assessment and appraisals; acquiring the property through negotiations or through condemnation if negotiations fail; and providing relocation assistance to displaced occupants and businesses.

It is important that airport sponsors maintain an awareness of the time necessary to accomplish the land acquisition activities. For AIP eligible land acquisitions, the FAA will not make a grant offer until the sponsor executes a purchase agreement or obtains a court award.

Checklist for Property Acquisition

Please contact Central Region for a Land Project Checklist that provides a basic outline of steps required for a typical land acquisition project. As each project may present unique situations, users should not construe this checklist as being inclusive of all steps required for proper administration of an AIP funded project. Likewise, certain steps may not be necessarily for all types of project.

For Central Region locations, we ask sponsors to also submit the following items during Step No. 18

- Sponsor Certification of Real Property Acquisition
- Sponsor Certification of Selection of Consultants (if applicable)
- Sponsor Certification of Drug Free Workplace
- Sponsor Certification of Conflict of Interest

The complexity associated with each acquisition project will impact the required timeframe for each individual project.

Use of this checklist is not mandatory; however, adherence to the indicated steps will assist the sponsor in carrying out their acquisition in a successful manner.



Advisory Circulars

- [AC 150/5100-17](#) Land Acquisition and Relocation Assistance for Airport Improvement Program

Regulations/Policy

- [49 CFR Part 24](#): Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs

Forms & Templates

- [Land Acquisition and Relocation Assistance Forms](#)
- [Subordination Agreement Sample](#)
- [Title Opinion - Sample](#)

Guidance

- [Airport Land Acquisition Under the Airport Improvement Program](#) – FAA Website

Non-FAA Sites

- [Federal Highway Administration \(FHWA\) - Planning, Environment, and Realty](#) – As the lead Federal agency for application of the Uniform Act on Federally assisted land acquisition programs; FHWA offers guidance materials, training opportunities, and assistance.
- [International Right of Way Association \(IRWA\)](#) - Training courses and national conferences that provide state-of-the-art training and professional development opportunities for public real estate professionals

RESOURCES – LAND ACQUISITION



1320 - Environmental Site Assessment (ESA)

CERCLA

ESA's are a direct response to the liability provisions of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA).

Under CERCLA liability provisions;

- A responsible party can be accountable for recovery of clean-up costs regardless of the level of negligence
- Any one of the responsible parties may be liable for the entire clean-up cost regardless of their degree of involvement.

CERCLA further states that owners of property or those who acquire property may be accountable for contamination located on their property whether they created it or not. It is prudent that any entity that buys, sells, or leases real estate pay particular attention to the condition of the property **before** entering into a real estate transfer.

The ESA process establishes reasonable assurance that no hazardous wastes, other wastes, or unacceptable hazards exist, or that existing hazardous wastes are manageable. Of equal importance, the ESA process constitutes appropriate inquiry into previous ownership and uses of the property thus satisfying the conditions that qualify for the "innocent landowner defense" to CERCLA liability.

LAND ACQUISITION and the AIP

The Airport Improvement Program (AIP) funds acquisition of land around airports for aeronautical use. Many acquisitions are sizable in acreage and costs, and are usually adjacent to existing airport property. For some locations, this may be unimproved agricultural acreage, a residential area, or an old industrial site.

The FAA does not become a co-owner of this property, as the property remains titled to the sponsor. However, subsequent discovery of contamination by a hazardous material could compromise the desired aeronautical use of the acquired site.

To protect FAA's investment in airport property reimbursed under the AIP, the FAA Central Region Airports Division **strongly encourages** sponsors to

conduct an ESA prior to acquisition of property intended for reimbursement under the AIP. For acquisition involving residential areas, it may be acceptable for the sponsor to make a qualified determination that an area has such low risk factors that an ESA is determined unnecessary. In all cases, the sponsor must consult with the FAA Project Manager to discuss to what extent they should perform an ESA as well as establish what standards they should apply.

Do ESA's replace the Environmental Assessments (EA's) and Environmental Impact Statements (EIS's) we perform under FAA Order 1050.1?

No, they are two completely separate actions. The ESA evaluates and proposes mitigation efforts for existing conditions at a specific site (think past actions). The EA/EIS process evaluates the potential impact of a proposed project on the environment and proposes mitigation efforts to minimize that potential impact (think future impacts).

What can happen if I don't perform an ESA?

You may ultimately discover that you have purchased real estate that is contaminated.

Subsequently, you may learn that the contamination falls within the scope of CERCLA and you are now liable for the clean-up costs and possible fines. Such clean-up costs and fines are not eligible for AIP funding and may prohibit AIP participation in the proposed airport development project.

THE ESA PROCESSES:

We recommend using an environmental professional and the Phase I ESA process on all AIP land acquisition projects to meet the requirements set forth in the revised ASTM.

Phase I Environmental Site Assessment:

Consists of a written report that is signed by an "environmental professional". The report must include:

1. Interviews with past and present owners, operators and occupants



2. Searches for environmental cleanup liens
3. Federal, tribal, State and local government records reviews
4. Visual inspection of the subject property and in some cases adjoining property
5. A declaration by the "environmental professional" regarding any "data gaps" (missing information) that could affect the discovery of hazardous conditions or contamination on a site.

If at any time during the process there is an indication of a finding, the individual performing the ESA must immediately pass the relevant information to the sponsor and the appraiser/review appraiser. Upon request by the FAA project manager, the sponsor shall submit the complete ESA document to the FAA.

Phase II Environmental Oversight

This phase confirms whether property under consideration for acquisition, disposal, or construction has contamination as indicated by the Phase I ESA. ***Only a qualified environmental specialist should perform a Phase II environmental review.*** This review includes but is not limited to soil sampling, ground water sampling, indoor air quality testing, drums and waste materials testing, asbestos testing, underground tank testing.

The Phase II ESA has the following elements:

- Sample and Analysis Plan Review
- Field Sampling and Analytical Results Review
- Phase II Report review

The result should include results of the investigation, a cost benefit analysis; identify need for further investigation; and recommendations for future actions. Phase II is not intended to determine the extent of contamination.

Phase III ESA Oversight

The intent of the Phase III analysis is to quantify and characterize the extent of contamination at the site. This phase consists of a full site/remedial investigation and selection of an appropriate/feasibility remedy.

We caution sponsors that the conduct of an ESA as an environmental practice is complex and may lead to significant penalties for noncompliance. Only persons with the requisite specialized training and

experience should carry out the work described above. This will provide a measure of safety for the investigators conducting the audit as well as assure compliance with all applicable Federal and State statutes. Sponsors should consult with a specialist in this area prior to beginning any environmental auditing.

If any proposed acquisition requires a Phase II or Phase III ESA, the sponsor **MUST** coordinate with the FAA prior to initiating the next phase in the ESA process. Furthermore, the sponsor should avoid initiating the negotiation process without discussing the contamination issue with the FAA. Contact your FAA Project Manager for guidance for any Phase II/III ESA acquisitions.

We have based the guidance provided herein from one or more of the following documents listed below. The references listed below are not exhaustive. Other Industry-recognized methodologies may be used in conjunction with FAA consultation. Unless otherwise directed, in the event of a conflict between this handout and the listed references, the information provided in the reference documents shall supersede that given in this guidance handout.

1. "[Comprehensive Environmental Response, Compensation, and Liability Act](#)" (CERCLA), as amended by the "[Superfund Amendments and Reauthorization Act of 1986](#)" (SARA)
2. [ASTM E 1527](#) - "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process"
3. [ASTM E 1528-14e1](#) - "Standard Practice for Limited Environmental Due Diligence: Transaction Screen Process"
4. [DOT/FAA Order 1050.19B](#) - "Environmental Due Diligence Audits in the Conduct of Real Property Transactions" dated 10/03/2007 (The FAA EDDA process is generally for in-house (titled directly to the FAA) leasing and acquisition activities.)

OBTAINING PUBLICATIONS

The ASTM Standards can be ordered from:
American Society for Testing and Materials
100 Barr Harbor Dr.
West Conshohocken, PA 19428

or contact them through their website at:
<http://www.astm.org/>



1330 - Satisfactory Evidence of Good Title

Good Title

Federal statute requires that sponsors of airport development projects hold "good title, satisfactory to the Secretary" (of Transportation) to the airport being developed. To meet these requirements, a sponsor's title to airport property must be free and clear of any reversionary interest, lien, easement, lease, or other encumbrance that would create undue risk that might

- Deprive the sponsor of control or possession,
- Interfere with its use for public airport purposes
- Make it impossible for the sponsor to carry out their grant obligations and covenants

Under FAA procedures, satisfactory evidence of good title includes a current attorney's title opinion properly tied to an Exhibit "A" Airport Property Map.

Refer to Sponsor Guide Section AIP-1331 for regional information and guidance relative to title opinions and the treatment of encumbrances. This guidance will assist sponsors and attorneys in the preparation of title evidence that speaks to the above requirements.



1331 - Title Opinion

General

By accepting an AIP grant offer, a sponsor is providing assurance to the FAA that they hold good title, satisfactory to the Secretary of Transportation, to the landing area of the airport (Ref. Grant Assurance C.4).

The sponsor's Title must be free and clear of any reversionary interest, lien, easement, lease or other encumbrance that would interfere with the sponsor's ability to carry out the obligations and covenants of the grant agreement.

A critical element of the evidence of good title is a current title opinion that assures adequate interest as follows:

- a) **Land being acquired** - Sponsor shall investigate the title opinion and prepare a title evidence package and certificate of title for submission to the FAA.
- b) **Existing airport property**: As a minimum, the sponsor shall submit a certificate of title based on title opinion that is current and which addresses all held property interests. We encourage sponsors to obtain a new title opinion for the entire airport every 8-10 years and anytime property transactions occur. This action is beneficial towards identifying liens and other encumbrances that current airport officials may not be aware of.

Title Evidence Package

The sponsor's attorney shall prepare title evidence consisting of the following:

1. Written Title Opinion
 - a. Basis for the Opinion – e.g. Title search
 - b. Legal description
 - c. Statement of quality of title held
 - d. Statement concerning defects and encumbrances
2. Copies of:
 - a. Grant deed for fee owned land
 - b. Easement deed for less than fee title interest
 - c. Lease for a long term interest

- d. Final order or court decree when land obtained by condemnation
 - e. Subordination agreements if applicable
3. Property Inspection by sponsor's attorney

Certificate of Title

Within the Central Region, sponsors may submit a Certificate of Title in lieu of the specific title opinion prepared by the sponsor's attorney. Acceptance of the Certificate of Title does not relieve the sponsor of the requirement to obtain necessary title evidence documents. FAA may rescind acceptance of the certification if the we subsequently determine the sponsor did not comply with the requirements of the certification. The FAA may also request a copy of the most current title opinion to proper document land acquired with AIP funds.

The Certificate of Title must address the following:

- Identify AIP project number
- Identify if certification is for new property acquisition or for existing property
- List all parcels and the quality of interest held
- Date of current title opinion for which Certification is based upon
- Name of sponsor's attorney who conducted the current title opinion
- Date and project number of corresponding Exhibit A Property Map
- Name and signature of sponsor authorized official.
- Date of Certification

Sample Title Opinion

To assist sponsors with obtaining a current title opinion, we have prepared a Sample Title Opinion that addresses suggested language unique to airport ownership. Please contact the Central Region for a copy. The sponsor may furnish this sample to their attorney who will prepare the title opinion.

Although we are aware that a competent attorney can prepare a title opinion without this sample, we have found that variations in state and local procedures can result in a title opinion for airport property that does not always adequately address the requirements that must be satisfied for AIP participation.



Encumbrances

When encumbrances on airport property exist, they must be set forth in the title opinion. Some encumbrances have no significant impact on the airport (i.e. a drainage easement in a non-critical area). Other encumbrances have the potential for serious adverse impact.

Corrective action is not required when there is a determination that a particular encumbrance will have no adverse effect. However, if the exercise of rights granted in an encumbrance could adversely affect the airport, the sponsor must extinguish, modify or subordinate the encumbrance.

For example, a utility easement granting the right to install power lines in an approach area could result in a hazardous obstruction. In such cases, the sponsor is obligated to take one of the following actions on the easement:

1. Extinguished the easement or;
2. Modify the easement so that the height and location of the power line is restricted to the extent necessary for safety (perhaps the line would be buried), or;
3. Modify the easement agreement to generally subordinate rights to airport use and development.

For the benefit of the sponsor, we have prepared a sample subordination agreement for the sponsor's use. We strongly encourage sponsors to coordinate in advance with the FAA prior to executing any subordination agreement. Sponsor must note the existence of all executed subordination agreement on the Certificate of Title.



1332 - Exhibit A Property Map

General

Sponsors must submit an Exhibit "A" property map as part of the project application for land acquisitions projects and development projects. For development projects for which land acquisition was not necessary, the sponsor may reference the previous Exhibit A they submitted only if it is still current. An Exhibit "A" property map is not required for equipment project and planning projects.

The Exhibit 'A' is a snapshot of the inventory of parcels that make up dedicated airport property. The Exhibit 'A' indicates how the owner acquired the land, the funding source for the land and whether the land was Federal surplus land or Government Property previously conveyed to the airport. The exhibit must also indicate other detached parcels owned by the Airport sponsor that are dedicated to airport purposes

The Exhibit 'A' must show all dedicated airport property regardless of the type of funds (AIP, state, local, etc.) used to acquire that property. All land described in a project application and shown on an Exhibit 'A' constitutes the airport property federally obligated for compliance under the terms and covenants of a grant agreement.

Minimum Requirements

The FAA will assess the adequacy of the Exhibit A map using the checklist within [SOP No. 3 SOP FAA Review of Exhibit A Airport Property Inventory](#). The airport property map, accompanying the project application, must identify the AIP project number and as a minimum, include the following information:

1. The Exhibit A must be drawn to scale (preferably the same scale as the ALP) and show the perimeter of the airport property boundary, aviation easements, and any offsite areas used for airport purposes. Size

"D" drawings are preferred. Size "B" drawings may be suitable for airports with few tracts.

2. The Exhibit A must indicate by appropriate designation (number or letter) each parcel, tract or area comprising the entire airport as well as tracts that were once airport property but that have subsequently been released.
3. List parcels/tracts in data table to show pertinent information applicable to property acquisitions.
 - Parcel/tract number
 - Type of Interest Held (Fee Simple, Easement, and etc.)
 - Year acquired
 - Acreage of parcel/tract
 - Reference to appropriate Public Land Records
 - Federal Project number if parcel/tract was reimbursed under a Grant-aid program. Include surplus property transfers.
4. Delineate the existing and future airport features (i.e. runways, taxiways, aprons, terminal buildings, hangars, runway protection zones, building restriction lines, and NAVAIDs) that indicates aeronautical need for airport property. Show numerical designation for each runway.
5. Show the location of any easements or other encumbrances that would affect title to the land with a brief descriptive note alongside, i.e. power line or pipeline easement, etc.
6. If the Exhibit A is submitted as part of a land acquisition project, the parcels being acquired or reimbursed under the AIP project must be clearly identified.
7. All Exhibit A's must state an effective date. Sponsors must amend the exhibit A whenever there is a change to any airport property.

RESOURCES

Forms & Templates

- [Exhibit A Checklist](#)