

# Grant Assurances

Presented to: AAND and SDAMA Fall Conference

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Federal Aviation  
Administration



# What is a Grant?

- A legal document prepared and signed by the FAA and delivered to the sponsor for acceptance in which the FAA formally makes an offer to pay a portion of the allowable costs of an AIP project for which a project application has been determined eligible.



# Grant Acceptance

- **The signature of the sponsor accepting the grant offer constitutes a grant agreement which is a binding agreement obligating the sponsor and the United States in accordance with the terms and conditions of the grant document.**



# Grant Agreement

- Acceptance and execution of this offer shall comprise a Grant Agreement,...., constituting the contractual obligations and rights of the United States and the Sponsor.
  - **SPECIAL CONDITIONS**
    - See Attachment A
- The Sponsor agrees to accomplish the project in compliance with the terms and conditions contained herein, in the Project Application, and in the document “Terms and Conditions of Accepting Airport Improvement Program Grants” dated April 2012.
- Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

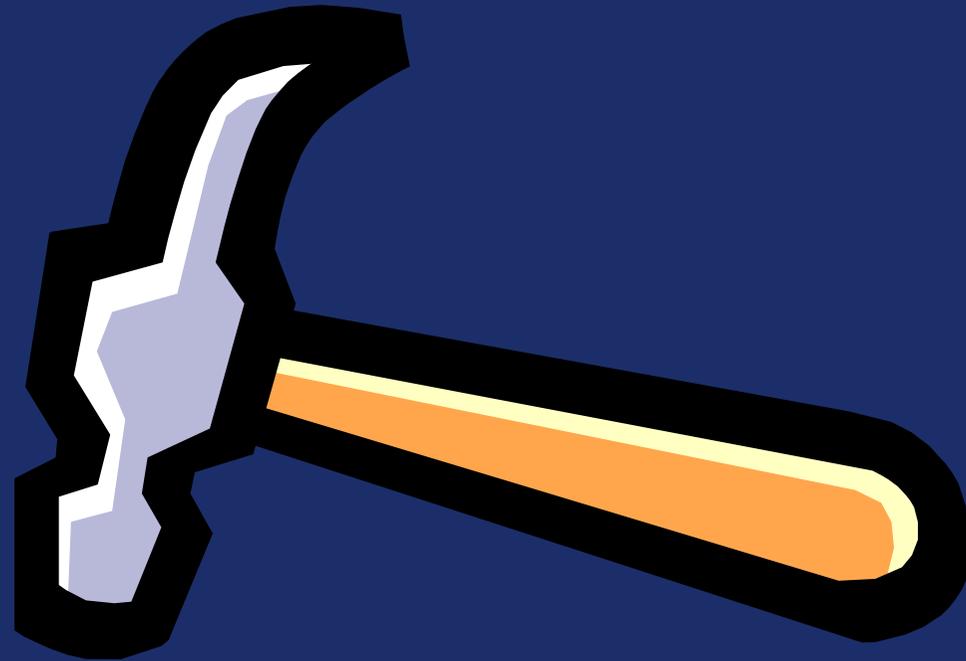


# Why do we have grant assurances?

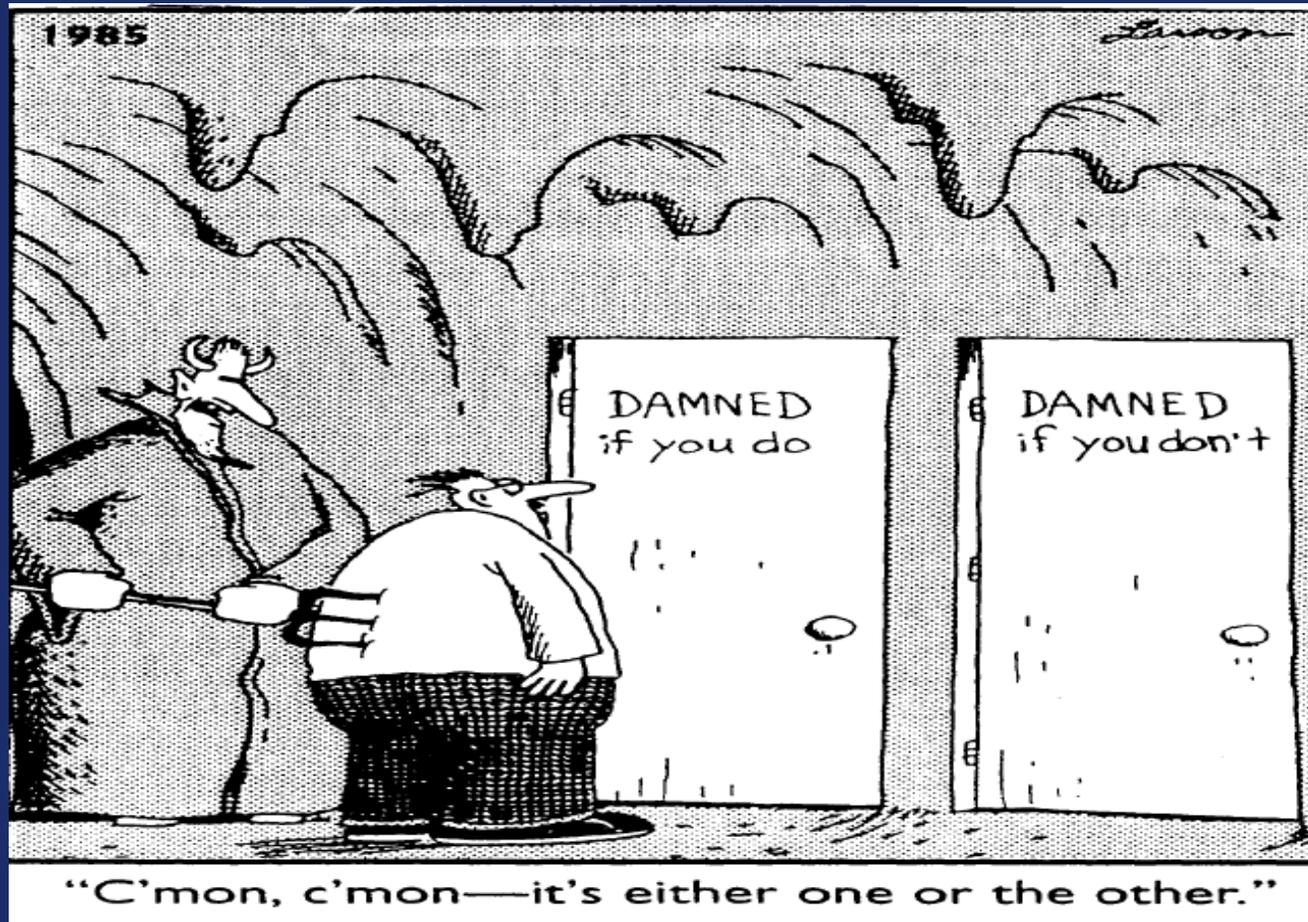
**“Grants and property conveyances are made in exchange for binding commitments (obligations) designed to assure that the public interest in civil aviation will be served.”**



# Why do we have grant assurances?



# Another view of Grant Assurances



# Grant Assurances

- **Are required by public law.**
  - Contractual obligations.
  - Extension/implementation of federal law.
- **Are not a means to allow the FAA to control or direct the operation of sponsor's airport.**
- **Are intended to protect the US taxpayers' investment in an airport**
- **Provide a basis for operating rules to meet sponsor's Federal obligations.**



# Grant Assurances Today

- **Terms and Conditions**
  - 32 pages
  - Certifications
    - “In accepting a grant, the sponsor certifies that each of the following items will be complied with in the performance of grant agreements.”
    - General conditions
  - 39 assurances
- **Special conditions**
  - Unique to each grant



# 1. General Federal Requirements

- It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project.



## 2. Responsibility and Authority of the Sponsor

- **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.



### 3. Sponsor Fund Available

- **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.



## 4. Good Title

A. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

B. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.



# 5. Preserving Rights and Powers

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.



# Definitions of Assurance #5

- **Part a.**
  - Obtain FAA approval before taking any action that would impact your ability to comply with your obligations: terms, conditions, and grant assurances.
  - Put an end to any claims that others have which could interfere with the airport.
- **Examples**
  - Easements
  - Through-the-fence operations
  - Use agreements
  - Drag racing



# 5. Preserving Rights and Powers

b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.



# Definitions of Assurance #5

- **Part b.**
  - Relates to airport land and Exhibit A
  - Obtain FAA approval before taking any action that affects your interest in airport property.
- **Examples**
  - Leases
  - Disposal (selling, transferring land)
  - Encumbrance (mortgage, lien, use agreement)
  - Transferring airport to another sponsor (e.g., from city to county)



# 5. Preserving Rights and Powers

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial noncompliance with the terms of the agreement.



# 5. Preserving Rights and Powers

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.



# 5. Preserving Rights and Powers

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.



# 5. Preserving Rights and Powers

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall insure that such arrangement also requires compliance therewith.



# Definitions of Assurance #5

- **Part f.**
  - Relates to arrangements for airport management by someone other than sponsor.
  - Fundamental requirement:
    - Sponsor is still responsible for Federal obligations.
    - Agreements must include sufficient rights to ensure sponsor can fulfill obligations.
- **Examples**
  - Management contract with FBO.
  - Management contract with other commercial party.
  - Arrangements with Cities Public Works Department.



# 5. Preserving Rights and Powers

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.



# What can go wrong?

- **Leases**

- Term length
- Lease provisions
- Leasing entire airport



- **Contracts or agreements**

- Allowing someone to acquire property rights on airport.
- Non-aeronautical activity

# What can go wrong?

- **Easements**

- Roads
- Utilities
- Mineral rights
- Irrigation



- **Through-the-fence operations**

- Access
- Fee structure
- Airport operations
- Future development

# 5. Preserving Rights and Powers

- **Basic requirement**
  - Preserve the airport.
  - Don't give away any rights.
- **Interrelationships to other assurances**
  - #22 Economic nondiscrimination
  - #23 Exclusive rights
  - #24 Fees and rental structure
  - #25 Airport revenue



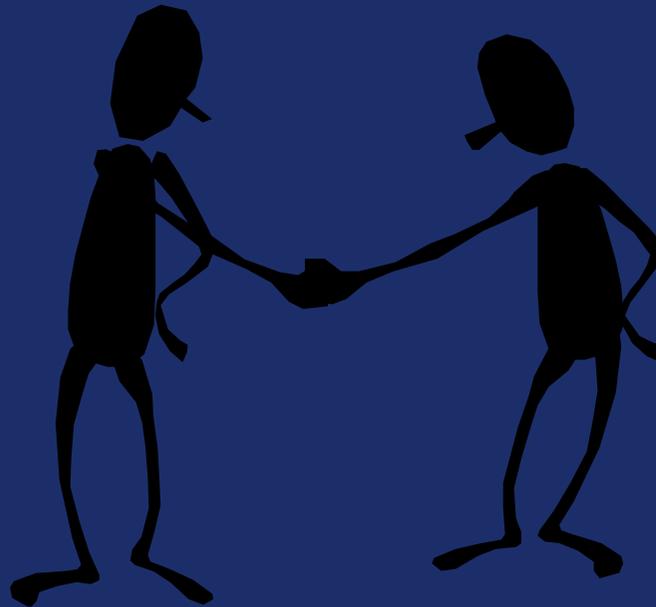
## 6. Consistency with Local Plans

- The project is reasonably consistent with plans of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport .



# 7. Consideration of Local Interest

- It has given fair consideration to the interest of communities in or near where the project may be located.



## 8. Consultation with Users

- In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which the project is proposed.



# What is “fair consideration”?

## What is “reasonable consultation”?

- **These depend on the size and scope of the development project.**
- **Examples of how consideration and consultation may be accomplished:**
  - Formal Letter of intent
  - Public Meeting
  - Airport Authority Meeting
  - Airport Users & Airport Advisory Group Forums
  - City & County Meetings



# 9. Public Hearings

- In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.



# In projects involving:

- location of an airport
- an airport runway
- a major runway extension



# 10. Air and Water Quality Standards

- In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.



# 11. Pavement Preventive Maintenance

- With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.



## 12. Terminal Development Prerequisites

- For projects which include terminal Development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.



# 13. Accounting System, Audit, and Record Keeping Requirements

A. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.



# 13. Accounting System, Audit, and Record Keeping Requirements (cont.)

B. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made..



# The airport Sponsor shall keep all project accounts and records which fully disclose:

- the amount and disposition by the recipient of the proceeds of the grant,
- the total cost of the project in connection with which the grant is given or used,
- and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project.



# The airport sponsor shall

- Make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant.
- The Secretary may require that an appropriate audit be conducted by a recipient.



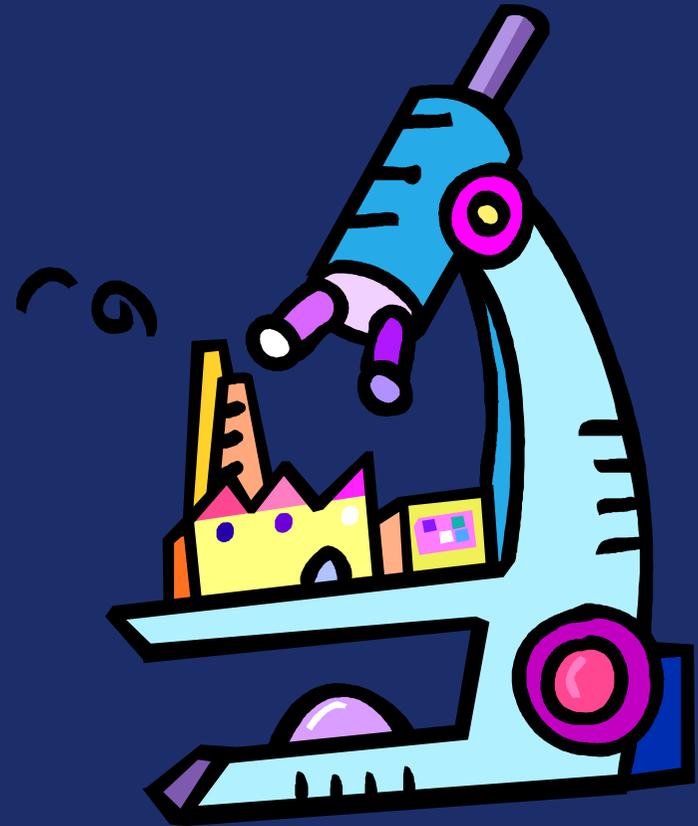
# Independent Audit Required if Total Federal Grants are \$500,000 or More.

In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.



# Single Audit Act of 1984

Accounts and records shall be in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.



Who establishes the Principles & Standards for determining allowable costs for Federal awards?

## **The Office of Management & Budget**

**OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments."**

[http://www.whitehouse.gov/omb/circulars/circulars\\_a087\\_2004/](http://www.whitehouse.gov/omb/circulars/circulars_a087_2004/)

**OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations"**

[http://www.whitehouse.gov/omb/circulars\\_a133-lead/](http://www.whitehouse.gov/omb/circulars_a133-lead/)



# 14. Minimum Wage Rates

- It shall include, in all contracts in excess of \$2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.



# 15. Veteran's Preference

- It shall include in all contracts for work on any project Funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.



# 16. Conformity to Plans and Specifications

- It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.



# 17. Construction Inspection and Approval

- It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.



# 18. Planning Projects

- In carrying out planning projects:
  - a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
  - b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
  - c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
  - d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.



# 18. Planning Projects (continued)

e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.



# Grant Assurances #19-29 in Review



Presented to: AAND and SDAMA Fall Conference

Mark J. Holzer, FAA Airports District Office

Date: October 10 & 11, 2012



Federal Aviation  
Administration



# 19. Operation & Maintenance

- The airport shall be operated at all times in a safe and serviceable condition with minimum standards or as required by Federal, state and local agencies for maintenance and operations
- The airport will not permit any activity or action which would interfere with its use for airport purposes.
- **AND there is more..**



# Operation & Maintenance

- **It will operate and maintain all facilities with due regard to climatic and flood conditions**
- **Any proposal to temporarily close the airport for non-aeronautical purposes must be first reviewed by the FAA**



# Operation & Maintenance

- **Keeping the airport in a safe and serviceable condition includes;**
  - Mowing the airport
  - Inspect the airport regularly
  - Timely Snow Removal
  - Protecting Airport Approaches
  - Marking and Lighting Hazards
  - NOTAMs is a must!



# Mowing Around Nav aids



# Regularly Inspect the Airport



# Snow Removal



- **Advisory Circular 150/5220-20 “Airport Snow and Ice Control Equipment”**
- **Advisory Circular 1505200-30A “Airport Winter Safety and Operations”**
- **[http://www.faa.gov/airports/great\\_lakes/about\\_airports/bis\\_ado/bis\\_ado\\_web/](http://www.faa.gov/airports/great_lakes/about_airports/bis_ado/bis_ado_web/)**

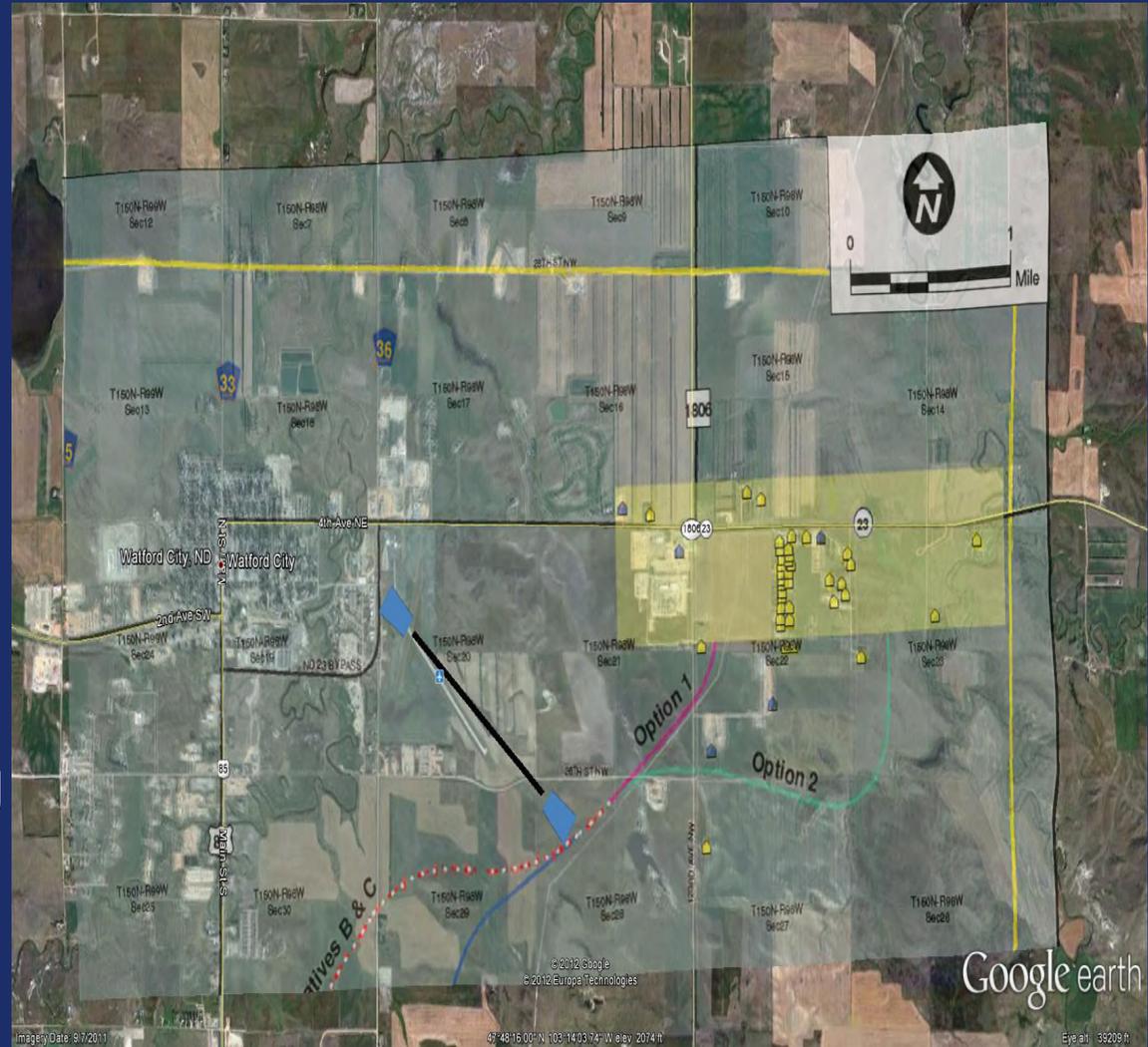
# Snow Removal



- All airports should have sufficient equipment to clear 1 inch of snow weighing up to 25 lb/ft<sup>3</sup> from critical areas within time allotted for the type of airport
- Times for snow removal vary from ½ hour to 6 hours, depending on the class of airport

# Protecting the Airport

- Protecting the airport can be accomplished through:
  - Obstruction Evaluations
  - Land Acquisition
  - Zoning Airspace
  - Land Use Planning
  - Public Meetings



# Obstruction Evaluations

- For “on/off airport” proposals use OE/AAA
- Sponsor uploads an FAA Form 7460/sketch
- Forms can be submitted electronically at [www.oeaaa.faa.gov](http://www.oeaaa.faa.gov)



# Mark and Light Hazards

- Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions
- Advisory Circular 70/7460-Obstruction Marking and Lighting
- Advisory Circular 150/5370-Operational Safety on Airports During Construction



# NOTAMs To Inform Pilots

- <https://pilotweb.nas.faa.gov/PilotWeb/>
- Promptly notifying airmen of any unsafe condition affecting aeronautical use of the airport.
- The NOTAM system is not intended to be used to report data published in AFD or charted.
- [aeronav.faa.gov/index.asp?xml=aeronav/applications/d\\_afd](http://aeronav.faa.gov/index.asp?xml=aeronav/applications/d_afd) (AFD web site)



# Non-Aeronautical Activity

- **It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes**
- **Any proposal to temporarily close the airport for non-aeronautical uses must first be reviewed by the FAA.**



# Airport Special Events

- Common special events that are non-aeronautical uses:
  - Remote control aircraft
  - Drag races
  - Driving courses
  - Car or Motor Cycle Shows



# Drag Races on Airport?



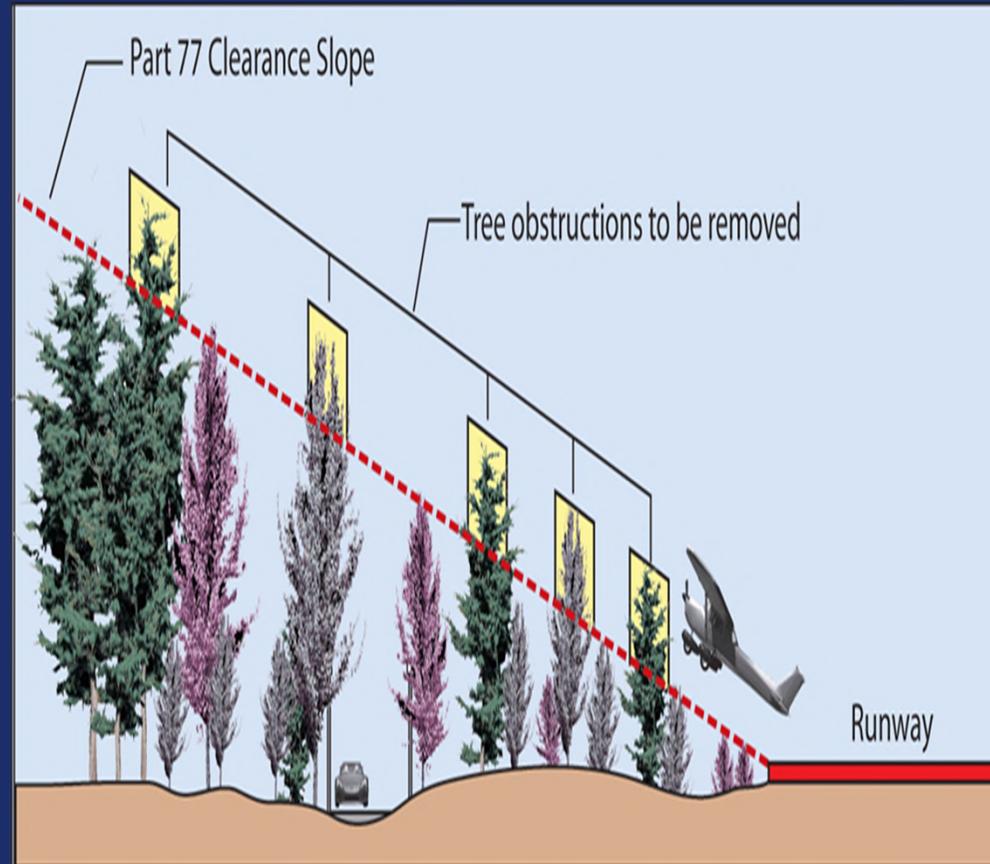
# Emergency Situations

- Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance.



# 20. Hazard Removal and Mitigation

**The airport sponsor will take appropriate action to assure terminal airspace is cleared and protected by removing existing hazards and preventing future hazards.**



# Key elements

- The airport sponsor will take appropriate action to assure terminal airspace...
- ... is cleared and protected by removing existing hazards and preventing future hazards. **REQUIRES ON GOING EFFORTS!**
- Safety is # 1 priority - Sponsor, State Aeronautics, Consultants and FAA must work together to assure safe airports.



## 21. Compatible Land Use

**The airport sponsor will take appropriate action, to the extent reasonable to restrict the use of land in the vicinity of the airport to activities compatible with normal airport activities.**

**In addition, it will not permit change in land use, within its jurisdiction, to reduce compatibility with any noise compatibility program measures upon which Federal funds have been expended.**

# Key Elements

- The airport sponsor will take appropriate action, to the extent reasonable to restrict the use of land .....
- ... to restrict the use of land in the vicinity of the airport to activities compatible with normal airport activities.



# Defining “Extent Reasonable”?

- **Favorite answer** – “Can’t define it, but I will know it when I see it.” (former FAA manager)
- **Next best answer** - Take action on those items that are within your span of control:
  - Zoning and Land use ability?
  - Possible funding to own RPZ?
  - Monitoring community developments?
  - Keep ALP current to know what to protect?



# What is Compatible?

- Is the airport environment impacted?

Assess these impacts as part of the EA or Master Plan/ALP or Annual CIP Development Validations



# What is compatible?

- **New FAA Interim Guidance-RPZ Land Use**
  - FAA recommends clearing all objects from RPZ.
  - FAA prohibits the following in the RPZ:
    - RESIDENCES
    - PLACES OF PUBLIC ASSEMBLY (Churches, schools, hospitals, office buildings, shopping centers, or other uses with similar concentrations of persons)
    - FUEL STORAGE
    - ADDRESSES ROAD LOCATION in RPZ (new)
    - OTHERS

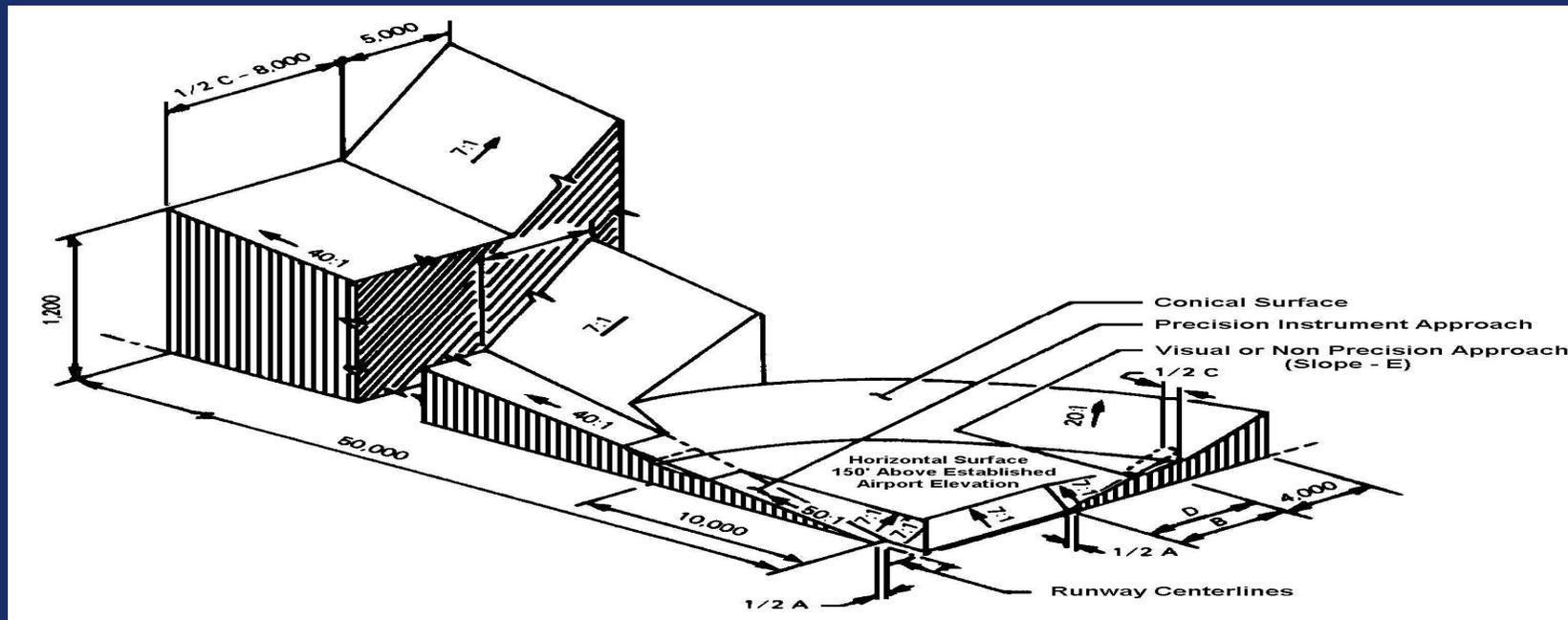


# Compatibility Actions

- **Consider Wildlife Hazard Assessment to study airport wetlands, bird, deer impacts**
- **Acquire land in fee simple.**
  - Recommend acquisition for OFA, TOFA, and RPZs, approach/transitional/departure surfaces
- **Consider a land use and height easement.**
  - Review of existing easements to assure land use is compatible (farmers growing corn-sunflowers?)
  - Caution that easements may cost as much as fee acquisitions

# Assurance Comparison #20 vs. #21

- #20 Hazards - MUST mitigate immediately!
- #21 Incompatible – Take REASONABLE steps to resolve and document your actions.



## 22a. Economic Nondiscrimination

It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.



# Key Elements

- The airport will be available on reasonable terms.
- The airport will not unjustly discriminate.
- The airport will be available for aeronautical activities.



# Reasonable Terms?

- **Reasonable is a matter of judgment and ultimately the FAA makes the final determination if unresolved locally.**
- **Guidelines**
  - When establishing a fee structure, compare fees to comparable airports in the area. Also, consider supply and demand on your airport.
  - Requirements of the tenants should be pertinent to the airport's existence and desired level of service.



# Your are allowed to DISCRIMINATE!

- Discrimination is permitted based on items such as;
  - Volume discounts.
  - Valuing properties differently based on airport location and/or other considerations.



## 22b. Economic Nondiscrimination

- In any type of agreement in which the airport enters into with an entity to furnish aeronautical services to the public, the sponsor will insert and enforce the following provisions:
  - Furnish said services on a reasonable and not unjustly discriminatory.
  - Charge reasonable and not unjustly discriminatory prices allowing for price reductions to volume purchasers.



## 22c. Economic Nondiscrimination

**Each FBO at the airport shall be subject to the same rates, fees, rentals and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.**



## 22d. Economic Nondiscrimination

Each air carrier using such airport shall have the right to service itself or to use any FBO that is authorized or permitted by the airport to serve any air carrier at such airport.



## 22e. Economic Nondiscrimination

Each air carrier shall be subject to such non-discriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities related to providing air transportation.



## 22f. Economic Nondiscrimination

**It will not exercise or grant any right of privilege which to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.**



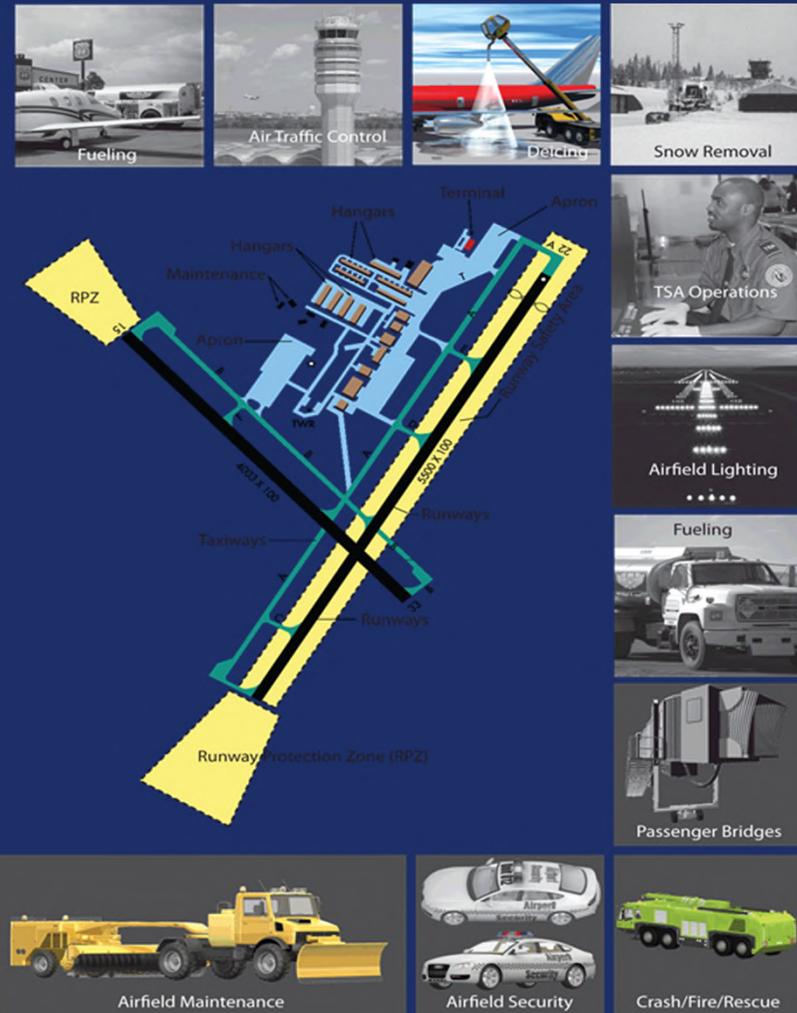
## 22g. Economic Nondiscrimination

**If a sponsor itself exercises any of the rights and privileges referred to in this assurance, the sponsor will have to provide such services under the same conditions as would apply to other FBO providing such services.**



# 22h. Economic Nondiscrimination

The airport sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of airport.



## 22i. Economic Nondiscrimination

The sponsor may prohibit or limit any aeronautical use of the airport, if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.



# Key Elements

- **May prohibit if unsafe - FAA'S CALL – usually Flight Standards Office.**
- **May prohibit if necessary to serve civil aviation needs of the public. FAA'S CALL – usually Airports District Office (ADO).**
- **If you feel you have the need to prohibit activities we STRONGLY recommend coordinating with the ADO.**



## 23. Exclusive Rights

It will not permit exclusive right for use of the airport to anyone providing aeronautical services to the public.

If a single FBO provides services on an airport, it shall not be considered an exclusive right provided both of the following:

- a. It would be unreasonably costly, burdensome, or impractical for more than one FBO
- b. If allowing more than one FBO would require the reduction in space leased pursuant to an existing agreement with a FBO.

# Control Your Airport's Destiny!

**The establishment of “Minimum Standards” and “Rules and Regulations” should be done prior to a controversial event so that the airport will avoid making a hasty decision.**

**This allows a thorough review and discussion on what rules and regulations are best for the AIRPORT to meet federal grant assurances.**



# 24. Fee and Rental Structure

- **Make the airport as self-sustaining as possible.**
- **Set fees to recover as much of the operating costs as possible.**
- **Related to other assurances**
  - Economic nondiscrimination
  - Exclusive rights
  - Airport revenue



# The rest of the story...

- **Further clarified by Congress in 1994 FAA reauthorization.**
- **FAA does not set rates and fees.**
  - We get involved when we receive complaints.
  - We get involved when audits indicate a problem.
- **Only applies to aeronautical users.**
  - Important distinction.
  - Can cause confusion.



# Aeronautical vs. Nonaeronautical

- **Aeronautical use**
  - Must be on the airport to accomplish the activity.
  - Subject to “fair and reasonable” charges.
- **Nonaeronautical use**
  - Does not have to be on the airport to accomplish the activity.
  - Must charge “fair market value” for use of the airport.



# Fee and Rental Rate Solutions

- Have a sound current basis for all fees.
- Consider regional market conditions.
- Ensure there's a benefit to the airport and aviation.
- Be aware of revenue diversion rules.
- Good minimum standards are very useful!
- Communicate changes with airfield tenants



# 25. Airport Revenue

- **Part A:** all revenue generated by the airport and any local taxes on aviation fuel will be spent for the capital and operating costs of the airport.
- **Part B:** as part of the annual audit required under the Single Audit Act, the audit must review and provide an opinion on the use of airport revenue.
- **Part C:** civil penalties may be imposed for violations of this assurance.



# What is airport revenue?

- **FAA policy published in 1999 Federal Register.**
- **Applies to revenue generated by the airport.**
- **Includes:**
  - Fees, rents, charges, and payments from aeronautical users, tenants, and businesses on the airport.
  - Revenue from sponsor-owned property off airport.
  - All revenue from non-aeronautical activities.
  - Revenue from the sale of mineral rights and agricultural leases.
  - Proceeds from the disposal of airport property.
  - State or local taxes on aviation fuel.



## 26a. Reports and Inspections

It will submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public.



## 26b. Reports and Inspections

For airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection.



## 26c. Reports and Inspections

For noise compatibility program projects, make records and documents relating to the project and continued compliance.



## 26d. Reports and Inspections

In a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report .



# Grant Assurance 26 – Annual Financial Reports

- **If requested, GA airport must prepare and release a report for public inspection**



# **Financial Government Payment Report FAA Form 5100-126**

**Airports with commercial service ( with  
annual enplanements > 2,500 ) report  
payments made  
and services provided to governmental  
entities as well as facilities they  
make available to such entities.**



# Operating and Financial Summary FAA Form 5100-127

**Commercial  
airports will  
identify  
revenues,  
expenses,  
and other  
financial  
information**



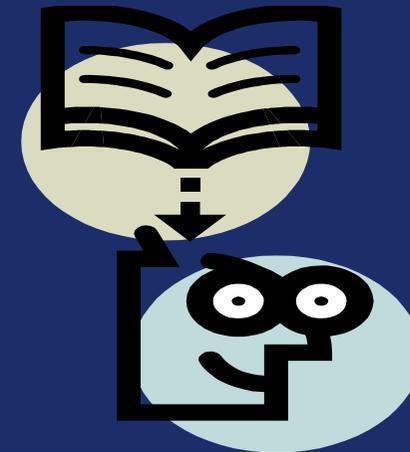
# Annual Financial Report

- Go to the financial reporting web site at <http://cats.airports.faa.gov>
- Register to open an account
- You will receive an e-mail confirmation
- Prepare and submit your report online
- Amend and review your completed report



# References:

- **FAA AC 150/5100-19C, Guide for Airport Financial Reports Filed by Airport Sponsors**
- **Websites for Financial Reports & Forms**
  - [http://www.faa.gov/airports/airport\\_compliance/airport\\_financial\\_reporting\\_program/](http://www.faa.gov/airports/airport_compliance/airport_financial_reporting_program/)
- **Help desk: (202) 267-3085**



# 27. Use by Government Aircraft

- **Sponsor shall make available all facilities of the airport developed with federal funds and usable for landing and takeoff of aircraft of the United States for use by Government aircraft**



# 28. Land for Federal Facilities

- It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities or weather-reporting and communication activities related to air traffic control.



## **29. Airport Layout Plan (ALP)**

**“The airport sponsor will keep the ALP up-to-date at all times”**

**A current FAA approved ALP is a prerequisite for issuance of airport development grants.**







# Who does the ALP belong to?

## The Airport Sponsor



# Who else relies on the ALP?

- Airport District Office
- Flight Standards
- Flight Procedures
- Airway Facilities
- NAS Implementation
- Air Traffic
- Airport Board
- City or County Council
- City Planning/Zoning
- State Aeronautics
- Environmental Review
- Transportation Security Administration
- Airport Consultants
- Others



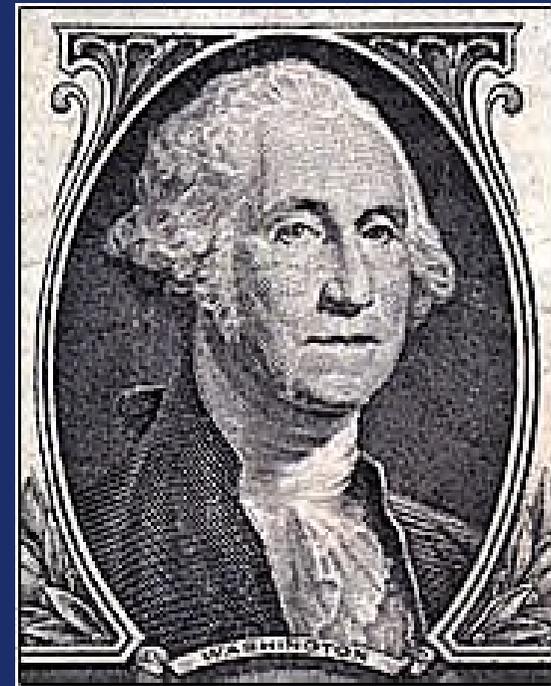
# FAA Approval required:

- ALP's and each amendment, revision, or modification, shall be subject to the approval of the FAA.
- The sponsor will not make or permit any changes or alterations of the airport or any of its facilities which are not in conformity with the approved ALP.



# What doesn't FAA Approval mean?

- Approval is not a commitment to provide federal funds.
- Approval does not mean the FAA finds the proposed development eligible.
- Approval does not mean environmental review was done.



# Reference FAA Advisory Circulars:

- **AC 150/5070-6B, Airport Master Plans**
- **AC 150/5300-13A, Airport Design, was published on September 28, 2012. FAA published the draft AC for public review in May 2012.**
- **AC 150/5325-4B, Runway Length Requirements**



# 19 – 29 Grant Assurance Review



# 30. Civil Rights

- It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant.



# 31. Disposal of Land

**For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time.**



## 32. Engineering and Design Services

- **It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.**



## 32. Engineering and Design Services

**A sponsor must perform some form of fee analysis for every A/E contract (49 CFR § 18.36). The method and degree of analysis is dependent on the facts surrounding the contract. Sponsors have an obligation to obtain a fair and reasonable fee in all cases, and the FAA retains the right to disallow negotiated fees that are determined to be unreasonable.**



## 32. Engineering and Design Services

**Prior to initiating further discussions with the first-ranked consultant, the sponsor must sign and date the independent cost estimate and retain it for their records.**

**If a mutually satisfactory contract cannot be negotiated with the first-ranked consultant, the negotiations must be terminated and the consultant notified. Negotiations must then be initiated with the consultant given second preference by the selection board.**

# 32. Engineering and Design Services

**Advisory Circular 150/5100-14 Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.**



# 33. Foreign Market Restrictions

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.



## 34. Policies, Standards, and Specifications

- It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the most current version, at the time the grant is signed, of the advisory circulars listed under the following table titled “Current FAA Advisory Circulars Required for Use in AIP Terms and Conditions of Accepting Airport Improvement Program Grants (April 2012) Page 26 of 32, Funded and PFC Approved Projects”, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
- **CURRENT FAA ADVISORY CIRCULARS REQUIRED FOR USE IN AIP FUNDED**



## 35. Relocation and Real Property Acquisition

(1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.



# 36. Access By Intercity Buses

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.



## 37. Disadvantaged Business Enterprises

The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31U.S.C. 3801).



## 37. Disadvantaged Business Enterprises

**If an airport has determined that they are going to have a project and the estimated cost of all contracts is over \$250,000.00, then they need to submit a DBE goal for approval.**



# 38. Hangar Construction

- If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft's owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.



# 39. Competitive Access

If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that ...



# Questions?

