

Land Releases / Concurrent Use

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Federal Aviation
Administration



Intro to Land Releases & Concurrent Use

- Airports that have received Airport Improvement Program (AIP) funds are considered “obligated” and must adhere to certain terms and conditions in exchange for receiving federal funds.
- The AIP grant terms and conditions are included with each grant and contain the “Grant Assurances”.
- There are 39 total Grant Assurances, but our subject today will only deal with 6.
- In addition to the Grant Assurances, there is also an FAA Order and a Policy & Procedures Memo (PPM) that provide additional guidance in this area.



Intro to Land Releases & Concurrent Use

- **The following Grant Assurances apply:**
 - #4: Good Title
 - #5: Preserving Rights and Powers
 - #21: Compatible Land Use
 - #25: Airport Revenues
 - #29: Airport Layout Plan/Exhibit “A”
 - #31: Disposal of Land



Intro to Land Releases & Concurrent Use

FAA Policy & Procedures Memo (PPM) 5190.6

FAA Order 5190.6B, “Airport Compliance Manual” Chapters 22 & 23



http://www.faa.gov/airports/great_lakes/airports_resources/ppms/media/5190-6.pdf

http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/



Intro to Land Releases & Concurrent Use

- Any property, when described in a grant or defined by an Airport Layout Plan (ALP) or listed in the Exhibit “A” property map, is considered to be “dedicated” or obligated property for airport purposes. If any of the dedicated property is not needed for present or future airport purposes, a land release or concurrent use approval from the FAA is required.



Intro to Land Releases & Concurrent Use

- A “land release” is defined as the formal, written authorization discharging and relinquishing the FAA’s right to enforce an airport’s contractual obligations. In some cases, the release is limited to releasing the sponsor from a particular assurance or federal obligation (i.e. release from aeronautical use). In other cases, a release may permit disposal (sale) of certain airport property.



Intro to Land Releases & Concurrent Use

- **The FAA is not required to grant a land release or approve concurrent use.**
- **Factors to consider:**
 - Is it reasonable and practical?
 - How will this affect needed aeronautical facilities?
 - Will this benefit civil aviation?
 - Is this compatible with the needs of civil aviation?



Intro to Land Releases & Concurrent Use

- **There are two basic types of land releases:**
 - Release from aeronautical use: Airport retains ownership of land, but land is no longer required to be used for aeronautical purposes.
 - Release and removal of dedicated property: Airport sells land and is no longer responsible to maintain it as dedicated airport property.



AERONAUTICAL VS. NON-AERONAUTICAL

→ Definition

Aeronautical use of property: All property comprising the land, airspace, improvements and facilities used or intended to be used for any operational purpose related to, in support of, or complementary to the flight of aircraft to or from the landing area. It is not confined to land areas or improvements eligible for development with Federal aid (AIP) or to property acquired from Federal sources.



Intro to Land Releases & Concurrent Use

- Any funds received by the airport (rent) for a release from aeronautical use should be based on fair market rent and are considered airport revenue.
- Any funds received by the airport for the sale and release of dedicated airport property should be based on fair market value and are considered airport revenue. In some cases, the FAA may require reimbursement if the land was acquired with federal funds.



Intro to Land Releases & Concurrent Use

- Concurrent use can be considered if aeronautical land is to remain in use for its primary aeronautical purpose but may also be used for a compatible revenue producing non-aeronautical purpose.
- Concurrent use requires FAA approval, but no formal release is necessary.
- Any funds received by the airport (rent) for a concurrent use should be based on fair market rent and are considered airport revenue.



COMMON AIRPORT PROPERTY USES

- Agricultural use
(Policy and Procedures
Memorandum 5190.6)



- Industrial park (Advisory Circular 150/5070-3,
“Planning the Airport Industrial Park”)

General Process

- **Airport sponsor coordinates Land Use changes with State and/or Federal agency**
- **If required, submit all associated documents to DOT for review and submittal to FAA**
- **FAA**
 - Review
 - Publication (Release)
 - Approval



What is needed in a Land Release Package?

- Answers to PPM 5190.6, Appendix 2 questions
- Plat of Survey
- Current Property Appraisal that determines Fair Market Value
- National Environmental Policy Act (NEPA) Clearance
- Environmental Site Assessment
- Deed Restriction
 - PPM 5190.6 Appendix 3
- Updated Airport Layout Plan and Exhibit “A”



What is needed in a Concurrent Use Request ?

- Cover Letter from Sponsor explaining
 - Why the land was originally purchased (such as protection) and that the proposed use will not interfere with the original “use” of the property.
 - Explain the benefits of the proposed concurrent use
- Plat of lease with boundary description
- Summary Appraisal that includes a statement of fair market rent
 - The appraiser can consider in his appraisal any services (fire protection, snow removal, etc.) that may be provided to the Airport that would allow the Sponsor to charge less than fair market rent
- Draft copy of the lease agreement
- Copy of letter approving airspace study
- National Environmental Policy Act (NEPA) Clearance



Disposal of Land

- a. Land purchased under grant for airport noise compatibility will be disposed of when no longer needed
- b. (1) For land purchased under a grant for airport development purposes will be disposed of when no longer needed
(2) Land will be considered needed if it serves for aeronautical purposes or noise buffer and is interim revenue producing
- c. Disposition of land will be subject to retention of interest necessary to ensure land will be used for compatible uses.



Disposal of Land

- Advisory Circular 150/5100-17 “Land Acquisition and Relocation Assistance for Airport Improvement program assisted projects”
- Policy and Procedures Memorandum 5190.6 “Guidance for Leases, Use Agreements and Land Releases”



Disposal of Land

- **When does an airport dispose of land?**
 - Closing/Relocating Airport
 - A portion is no longer needed
- **Land acquired with a grant obligates all airport land until released by the FAA**



Closing the Airport

- Obligated airports need prior approval from the FAA to close the airport.
- Land must sold at fair market value



Closing the Airport

- Federal portion of the proceeds deposited in the Trust Fund
- Assurance obligation does not expire for airport development land



Relocating the airport

- Existing grant obligations would be transferred
- The existing airport could not be released for sale until the new airport is placed into operation
- All money received from the sale of the existing land must be used for the new airport development



Relocating the airport

- Federal share of the sale of the old airport must be applied toward AIP eligible projects and be used instead of new federal participation, which is currently at 90% of the project costs
- Local share could be used for AIP eligible or non-AIP eligible projects such as hangar relocation.



Portion no Longer Needed

- **Land may be released if it is no longer needed for:**
 - Aviation related use
 - Encroachment or approach protection
 - Noise compatibility
- **Revenue from interim use is required for the above**

Portion no Longer Needed

- **Funds must be used for airport development purposes in the following priority:**
 - For eligible projects
 - Ineligible projects
 - Retire airport bonds
 - Improvements on revenue production capabilities



Property Interest

- **Property sold by the airport should include property interest to:**
 - Reserve the right for flight over
 - Prohibit structures that would constitute a hazard
 - Prohibit any non-compatible land use



Release Requirements

- An environmental determination must be approved
- Proposed release must be published in the Federal Register





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