

# *Compliance Update and Topics*

Presented to: MAMA Meeting

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Federal Aviation  
Administration



# Agenda

- **Compliance Update**
  - Residential Through the Fence (RTTF)
- **Compliance Topics**
  - Grant Assurance #4. Good Title
  - Grant Assurance #5. Preserving Rights and Powers
  - Grant Assurance #19. Operation and Maintenance
  - Grant Assurance #25. Airport Revenues
  - Grant Assurance # 29. Airport Layout Plan
  - Non-Aeronautical Leases



# Interim RTTF Policy – March 18, 2011

- Amended Grant Assurance 5 to prohibit future RTTF arrangements
- Required existing RTTF airports to mitigate with access plans
- Required existing RTTF airports to identify access points on ALP
- Proposals to extend existing RTTF access limited to 20 years
- Interim Policy - FAA to review issue again in 2014 calendar year



# FAA Modernization and Reform Act of 2012

- **Section 136 of Public Law 112-95 – February 14, 2012**
- **Policy Regarding Access to Airports from Residential Property Published in Federal Register – July 16, 2013**
- **Compliance Guidance Letter 2013-01 – July 16, 2013**
- **[http://www.faa.gov/airports/airport\\_compliance/residential\\_through\\_the\\_fence/](http://www.faa.gov/airports/airport_compliance/residential_through_the_fence/)**





# Residential Through-The-Fence Effect of the Reauthorization Section 136

- **Revised Grant Assurance 5g**
  - Prohibits new RTTF at Commercial Service Airports
  - Requires General Aviation Airports entering into RTTF meet Section 136 requirements
- **Revised Grant Assurance 29a(4)**
  - Sponsor will keep up to date at all times an airport layout plan of the airport showing... (4) all proposed and existing access points used to taxi aircraft across the airport's property boundary





# Residential Through-The-Fence Effect of the Reauthorization Section 136

**General Aviation Airports may have RTTF, if written agreement requires property owner to:**

- Pay an access charge comparable to similar uses on the airport
- Bear cost of building/maintaining infrastructure necessary for access to airfield
- Maintain property as residential/non-commercial
- Prohibit “piggy back” access
- Prohibit aircraft refueling on the property





# Residential Through-The-Fence Effect of the Reauthorization Section 136

- Requirement:
  - Maintain the property for residential, noncommercial use for the duration of the agreement

## FAA's Interpretation:

- Prohibition on commercial aeronautical services that might compete with on-airport aeronautical service providers





# Residential Through-The-Fence Effect of the Reauthorization Section 136

- Requirement:
  - Prohibit access to the airport from other properties through the property of the property owner

## FAA's Interpretation:

- Prohibition on unauthorized access to the airport. Airport sponsors are expected to establish their own policies, restrictions, and/or requirements to be imposed on fly-in guests who taxi from the airport property to visit off-airport residents





# Residential Through-The-Fence Effect of the Reauthorization Section 136

- Requirement:
  - Prohibit any aircraft refueling from occurring on the property

## FAA's Interpretation:

- Prohibition on the sale of fuel from residential property



# Existing RTTF IN ANM

- **Helena ADO**
  - ID – 3
  - MT – 4
- **Seattle ADO**
  - OR – 10
  - WA – 9 (1 Commercial Service)
- **DEN ADO**
  - CO – 4 (1 Commercial Service)
  - UT – 0
  - WY – 3





# Existing RTTF IMPORTANT DATES

- **August 30, 2013** – Notification Letters to Airports
- **October 1, 2014** – Airports must submit their Access Agreements/Access Agreement Review Sheets (Appendix C of the CGL)
- **Access Agreements must meet the terms and conditions contained in the law**





# RTTF vs. Residential Use of Airport Property

- RTTF and Residential Use of Airport Property are Separate issues
- FAA's Policy on Residential Use of Airport Property has not changed...it is generally not allowed.

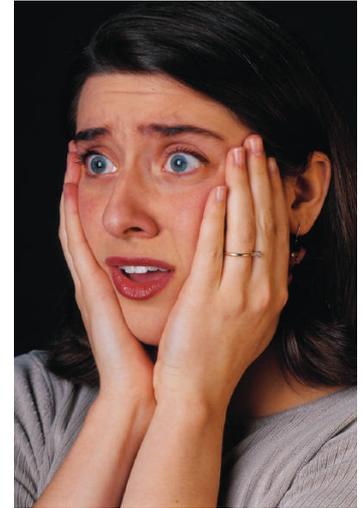


# ANY RTTF QUESTIONS?

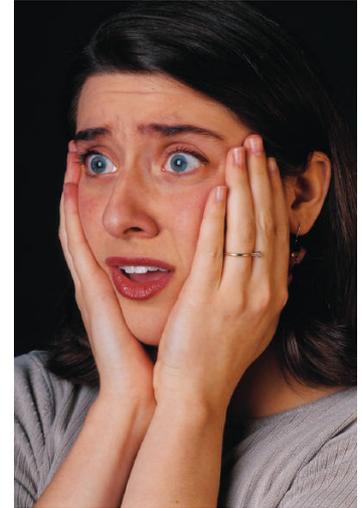


# Compliance Topics

- **Grant Assurance #4. *Good Title***
- **Grant Assurance #5. *Preserving Rights and Powers***

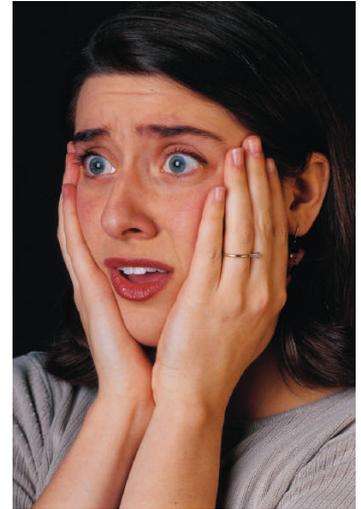


# Compliance Topics



- **Grant Assurance #4. Good Title**
  - Section 47106(b)(1) of Title 49 U.S.C.
  - Requires the sponsor, a public agency, or the Federal Government to hold good title to the airfield or gives assurance to the Secretary that good title will be acquired.
  - Good title is a pre-condition for award of an AIP grant.

# Compliance Topics



- **Grant Assurance #5. *Preserving Rights and Powers***
  - Sponsor actions will not deprive the airport of its rights and powers to direct and control airport development and comply with the grant assurances
  - It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property, upon which federal funds have been expended, as shown on Exhibit A

# Compliance Topics

- **Grant Assurance #25, *Airport Revenues***
  - Money generated on the airport must stay on the airport



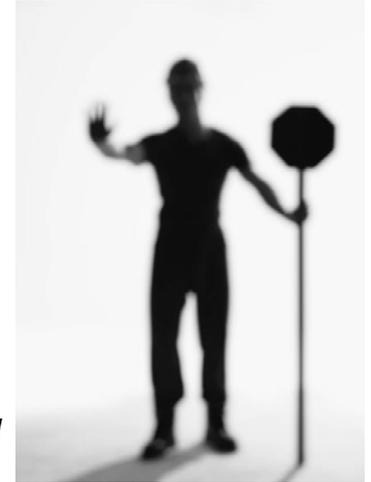
# Compliance Topics

- **Grant Assurance #25, *Airport Revenues***

- Airline subsidy
- Sponsor charges airport more than the service is reasonably worth
- Sponsor gives away use of airport property for charitable purposes
- **Sponsor does not pay fair market value rents or uses property without paying for it**
  - **Maintenance or storage facility, jails, animal shelters, race tracks, etc.**



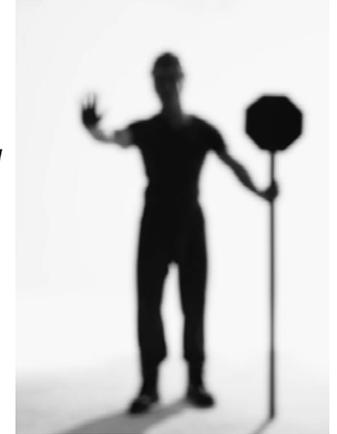
# Compliance Topics



- **Grant Assurance #19, *Operation and Maintenance***
- **Grant Assurance #29, *Airport Layout Plan***

# Compliance Topics

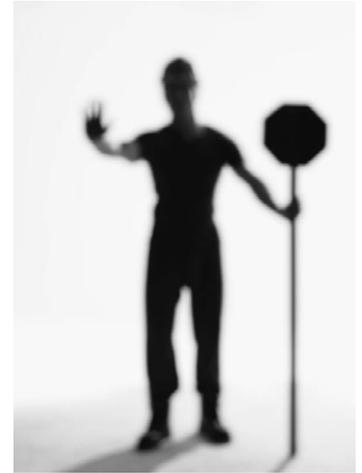
- **Grant Assurance #19, *Operation and Maintenance***



- Requires the sponsor to operate and maintain the airport's aeronautical facilities, including pavement, in a safe and serviceable condition.
- This grant assurance applies to all airport facilities shown on the Airport Layout Plan (ALP), and related facilities such as lighting systems, navigational aids, etc.

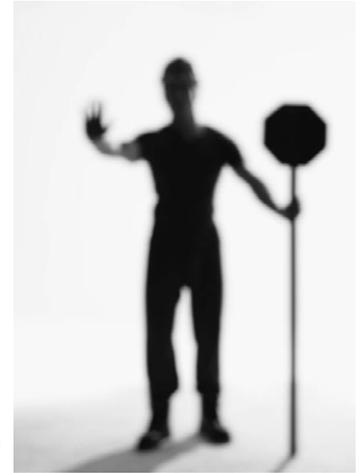
# Compliance Topics

- **Duration of Grant Assurances**
  - 20 Years or the useful life of the facilities developed or equipment purchased
  - Indefinite when real property was acquired under an AIP grant.
- **No Time Limit for**
  - Exclusive Rights
  - Airport Revenue
  - Civil Rights



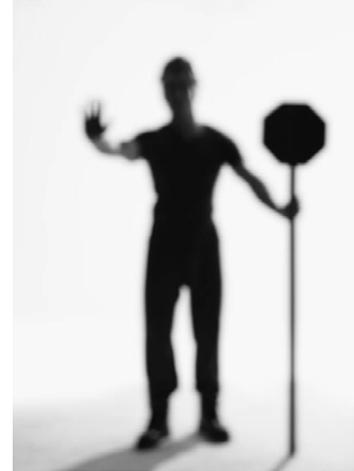
# Compliance Topics

- The useful life of a federally funded airport development project extends for the period of time during which it is serviceable and usable with ordinary day-to-day maintenance.
- Reconstruction, rehabilitation, or major repair of a federally funded airport project without additional federal aid does not automatically extend the duration of its useful life as it applies to grant agreements.



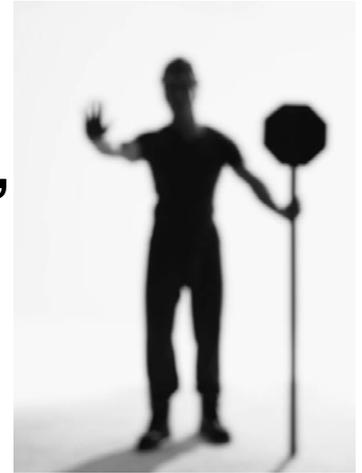
# Compliance Topics

- If new grants are issued for reconstruction, rehabilitation, or major repair, a new useful life period begins.
- **An airport sponsor cannot shorten its obligations by allowing projects to deteriorate.**
- FAA makes the determination of when the useful life has expired.



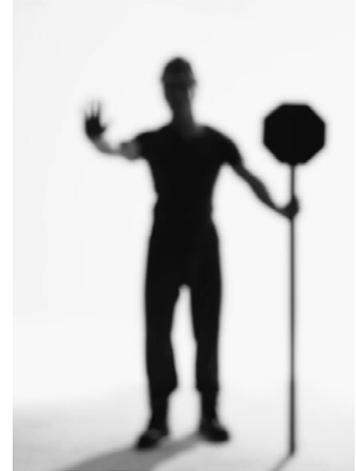
# Compliance Topics

- **Failure to comply with Grant Assurance 19, such as obvious neglect of routine maintenance, could result in the Sponsor having to fully fund major repairs and/or reconstruction of those neglected facilities.**



# Compliance Topics

- **The Sponsor is not obligated to do expensive rehabilitation or reconstruction of facilities which have reached the end of their useful life and are not used and not needed to meet aviation demands during the next 20 year planning period.**



# Compliance Topics

- **Grant Assurance #29,  
*Airport Layout Plan***



- Requires the sponsor to keep up to date at all times an airport layout plan showing...the location and nature of all existing and proposed airport facilities and structures.

# Non-Aeronautical Leases

- **Must be consistent with ALP**
- **Fair Market Value (FMV) rates generally required**
- **Non-Aeronautical use of AIP acquired land is not allowed**
  - Unless Concurrent or Interim Use Approved



# Concurrent & Interim Use

## Concurrent Use

Primary aeronautical purpose is still served while property is also used for a compatible revenue producing purpose

- Crops in the RPZ
- Use should not degrade or potentially degrade aeronautical utility
- FMV
- Consent can be in form of ALP amendment

## Interim Use

Temporary use of aeronautical land for nonaeronautical purposes.

- Aeronautical demand is not likely to exist during period of interim use
- Land is anticipated to be needed in the future for aeronautical use.
- Land can be recovered on short notice
- FMV





# Non-Aeronautical Use of Hangars

*Valley Aviation Services v. City of Glendale*  
(Directors Determination 16-09-06, May 29, 2011)

## **Violation of Grant Assurance 19, *Operation and Maintenance***

- Allowed Nonaeronautical use in hangars and operating non-aviation related industries in hangars
- RV caught fire; police vehicles, classic cars, carpet rolls, etc.

## **Violation of Grant Assurance 29, *Airport Layout Plan***

- Did not correctly reflect aeronautical/nonaeronautical uses of airport property



# Non-Aeronautical Use of Hangars

## Lessons Learned

- Hangars and Aeronautical property are to be used for aeronautical purposes
- Incidental non-aeronautical is okay
- Request Concurrent/Interim Use for Non-Aeronautical Uses
- Charge Fair Market Value
- Expect new guidance



# THERE IS A DIFFERENCE



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# ANY QUESTIONS?

