

Appendix C ► Advisory Circulars on Exclusive Rights and Minimum Standards for Commercial Aeronautical Activities



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

Advisory Circular

Subject: EXCLUSIVE RIGHTS AT
FEDERALLY OBLIGATED AIRPORTS

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Initiated by: AAS-400
(currently ACO-100)

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1. PURPOSE. This advisory circular (AC) provides basic information pertaining to the Federal Aviation Administration’s (FAA’s) prohibition on the granting of exclusive rights at federally obligated airports. The prohibition on the granting of exclusive rights is one of the obligations assumed by the airport sponsors of public airports that have accepted federal assistance, either in the form of grants or property conveyances. This AC provides guidance on how an airport sponsor can comply with the statutory prohibition on the granting of exclusive rights. Section 1 explains FAA’s policy on exclusive rights, the statutory basis for the policy, and exceptions to the policy. Section 2 provides an overview of how the FAA ensures compliance with applicable federal obligations.

2. CANCELLATION.

3. DEFINITIONS. Definitions for some of the terms used in this AC are found in Appendix 1.

4. BACKGROUND. In accordance with the Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47101, et seq., and the Airport Improvement Program (AIP) grant assurances, the owner or operator of any airport that has been developed or improved with federal grant assistance is required to operate the airport for the use and benefit of the public and to make it available for all types, kinds, and classes of aeronautical activity and without granting an exclusive right.⁵³ The Surplus Property Act of 1944 (as amended by 49 U.S.C., §§ 47151-47153) contains parallel obligations under its terms for the conveyance of federal property for airport purposes.

Similar obligations exist for airports that have received nonsurplus government property under 49 U.S.C. § 47125 and previous corresponding statutes. Airports that have received real

⁵³ The legislative background for the exclusive rights provisions discussed in this AC began as early as 1938 and evolved under the Federal Aid to Airports Program (FAAP), Airport Development Aid Program (ADAP), and Airport Improvement Program (AIP) and was also adopted in land conveyances.

property under AP-4 agreements remain obligated by the exclusive rights prohibition even though all other obligations are considered expired by the FAA.

It is FAA policy that the sponsor of a federally obligated airport will not grant an exclusive right for the use of the airport to any person providing, or intending to provide, aeronautical services or commodities to the public and will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct aeronautical activities. The exclusive rights prohibition applies to both commercial entities engaging in providing aeronautical services and individual aeronautical users of the airport. The intent of the prohibition on exclusive rights is to promote fair competition at federally obligated, public use airports for the benefit of aeronautical users. The exclusive rights prohibition remains in effect as long as the airport is operated as an airport, even if the original period for which an airport sponsor was obligated has expired.

The granting of an exclusive right for the conduct of any aeronautical activity on a federally obligated airport is generally regarded as contrary to the requirements of the applicable federal obligations, whether such exclusive right results from an express agreement, from the imposition of unreasonable standards or requirements, or by any other means. Existence of an exclusive right at an airport limits the usefulness of the airport and deprives the public of the benefits that flow from competition.

5. RELATED READING MATERIALS.

Federal Aviation Agency Policy Statement, Exclusive Rights at Airports, Order 5190.1A, as published in the Federal Register (30 Fed. Reg. 13661), October 27, 1965.

Rules of Practice for Federally Assisted Airport Enforcement Proceedings, as published in the Federal Register (61 Fed. Reg. 53998), October 16, 1996.

FAA Airport Compliance Requirements, Order 5190.6A, 10/1/89.

Further information can be obtained at the airports district office (ADO) in your area. A listing of ADOs can be found online.

DAVID L. BENNETT
Director, Office of Airport Safety
and Standards

SECTION 1 - EXCLUSIVE RIGHTS

1.1. OBLIGATION AGAINST GRANTING EXCLUSIVE RIGHTS. Most exclusive rights agreements violate the grant assurances contained in FAA grant agreements or similar obligations in surplus property conveyances. With few exceptions, an airport sponsor is prohibited from granting an exclusive right to a single operator for the provision of an aeronautical activity to the exclusion of others. See definition of exclusive right in Appendix 1. Accordingly, FAA policy prohibits the creation or continuance of exclusive rights agreements at obligated airports where the airport sponsor has received federal airport development assistance for the airport's improvement or development. This prohibition applies regardless of how the exclusive right was created, whether by express agreement or the imposition of unreasonable minimum standards and/or requirements (inadvertent or otherwise).

1.2. AGENCY POLICY. The existence of an exclusive right to conduct any aeronautical activity at an airport limits the usefulness of the airport and deprives the public of the benefits that flow from a competitive enterprise. The purpose of the exclusive rights provision as applied to civil aeronautics is to prevent monopolies and combinations in restraint of trade and to promote competition at federally obligated airports. In effect, the FAA considers it inappropriate to grant federal funds or convey real property to airports where the benefits will not be fully realized due to the inherent restrictions of a local monopoly on aeronautical activities at the airport. An exclusive rights violation occurs when the airport sponsor excludes others, either intentionally or unintentionally, from participating in an on-airport aeronautical activity. A prohibited exclusive right can be manifested by an express agreement, unreasonable minimum standards, or by any other means. Significant to an understanding of the exclusive rights policy, is the recognition that it is the impact of the activity, and not the airport sponsor's intent, that constitutes an exclusive rights violation.

1.3. EXCLUSIVE RIGHT VIOLATIONS AND EXCEPTIONS TO THE GENERAL RULE. The following paragraphs address exclusive rights violations and certain exceptions to the exclusive rights policy due to circumstances that make such an exception necessary.

a. Aeronautical Activities Provided by the Airport Sponsor (Proprietary Exclusive Right). The owner of a public-use airport (public or private owner) may elect to provide any or all of the aeronautical services needed by the public at the airport. The airport sponsor may exercise, but not grant, an exclusive right to provide aeronautical services to the public. If the airport sponsor opts to provide an aeronautical service exclusively, it must use its own employees and resources. Thus, an airport owner or sponsor cannot exercise a proprietary exclusive right if it does not itself provide the aeronautical services.

As a practical matter, most airport sponsors recognize that aeronautical services are best provided by profit-motivated, private enterprises. However, it is recognized that there may be situations, valid reasons that would support the airport providing aeronautical services. Examples include situations where the revenue potential is insufficient to attract private enterprises and it is necessary for the airport sponsor to provide the aeronautical service or situations where the revenue potential is so significant that the airport sponsor chooses to perform the aeronautical activity itself in order to become more financially self-sustaining. An example of an airport

sponsor choosing to provide an aeronautical service would be aircraft fueling. While the airport sponsor may exercise its proprietary exclusive to provide fueling services, aircraft owners may assert the right to obtain their own fuel and bring it onto the airport to service their own aircraft, but only with their own employees and equipment and in conformance with reasonable airport rules, regulations and standards.

b. Single Activity. The fact that a single business or enterprise may provide most or all of the on-airport aeronautical services is not, in itself, evidence of an exclusive rights violation. What is an exclusive rights violation is the denial by the airport sponsor to afford other qualified parties an opportunity to be an on-airport aeronautical service provider. The airport sponsor may issue a competitive offering for all qualified parties to compete for the right to be an on-airport service provider. The airport sponsor is not required to accept all qualified service providers without limitation. The fact that only one qualified party pursued an opportunity in a competitive offering would not subject the airport sponsor to an exclusive rights violation.

(1) **Statutory Requirement Relating to Single Activities.** Since 1938, there has been a statutory prohibition on exclusive rights, 49 U.S.C. § 40103(e), independent of the parallel grant assurance requirement at 49 U.S.C. § 47107(a)(4). This statutory prohibition currently states, “A person does not have an exclusive right to use an air navigation facility on which government money has been expended.” (An “air navigation facility” includes, among other things, an airport. See “Definitions” at 49 U.S.C. § 40102.) The statutory prohibition, however, contains an exception relating to single activities. Specifically, providing services at an airport by only one fixed-base operator (FBO) is not an exclusive right if it is unreasonably costly, burdensome, or impractical for more than one FBO to provide the services, and allowing more than one FBO to provide the services requires a reduction in space leased under an existing agreement between one FBO and the airport sponsor. Both conditions must be met.

(2) The grant assurance relating to exclusive rights contains similar language.

c. Space Limitation. A single enterprise may expand as needed, even if its growth ultimately results in the occupancy of all available space. However, an exclusive rights violation occurs when an airport sponsor unreasonably excludes a qualified applicant from engaging in an on-airport aeronautical activity without just cause or fails to provide an opportunity for qualified applicants to be an aeronautical service provider. An exclusive rights violation can occur through the use of leases where, for example, all the available airport land or facilities suitable for aeronautical activities are leased to a single aeronautical service provider who cannot put it into productive use within a reasonable period of time, thereby denying other qualified parties the opportunity to compete to be an aeronautical service provider at the airport. An airport sponsor’s refusal to permit a single FBO to expand based on the sponsor’s desire to open the airport to competition is not an exclusive rights violation. Additionally, an airport sponsor may exclude an incumbent FBO from participating under a competitive solicitation in order to bring a second FBO onto the airport to create a more competitive environment.

A lease that confers an exclusive right will be construed as having the intent to do so and, therefore, be an exclusive rights violation. Airport sponsors are better served by requiring that leases to a single aeronautical service provider be limited to the amount of land the service

provider can demonstrate it actually needs and can be put to immediate productive use. In the event that additional space is required later, the airport sponsor may require the incumbent service provider to compete along with all other qualified service providers for the available airport land. The grant of options or preferences on future airport lease sites to a single service provider is likely to be construed as intent to grant an exclusive right. The use of leases with options or future preferences, such as rights-of-first refusal, is highly discouraged.

d. Restrictions Based on Safety and Efficiency.⁵⁴ An airport sponsor can deny a prospective aeronautical service provider the right to engage in an on-airport aeronautical activity for reasons of safety and efficiency. A denial based on safety must be based on firm evidence demonstrating that airport safety will be compromised if the applicant is allowed to engage in the proposed aeronautical activity. Airport sponsors should carefully scrutinize the safety reasons for denying an aeronautical service provider the opportunity to engage in an aeronautical activity if the denial has the possible effect of limiting competition.

The FAA is the final authority in determining what, in fact, constitutes a compromise of safety. As such, an airport sponsor that is contemplating the denial of a proposed on-airport aeronautical activity is encouraged to contact the local airports district office (ADO) or the regional airports division. Those offices will then seek assistance from FAA Flight Standards (FS) and Air Traffic (AT) to assess the reasonableness and the unjustly discriminatory aspects of proposed restrictions on aeronautical activities because of safety and efficiency.

e. Restrictions on Self-Service. An aircraft owner or operator,⁵⁵ who is entitled to use the landing area of an airport, may tie down, adjust, repair, refuel, clean, and otherwise service his/her own aircraft, provided the service is performed by the aircraft owner/operator or his/her employees with resources supplied by the aircraft owner or operator. Moreover, the service must be conducted in accordance with reasonable rules, regulations or standards established by the airport sponsor. Any unreasonable restriction imposed on the owners or operators of aircraft regarding the servicing of their own aircraft may be construed as an exclusive rights violation. In accordance with the FAA grant assurances:

(1) An airport sponsor may not prevent an owner or operator of an aircraft from performing services on his/her own aircraft with his/her own employees and equipment. Restrictions imposed by an airport sponsor that have the effect of channeling self-service activities to a commercial aeronautical service provider may be an exclusive rights violation.

⁵⁴ The word efficiency refers to the efficient use of navigable airspace, an inherent FAA Air Traffic Control function. It is not meant to be an interpretation that could be construed as protecting the "efficient" operation of an existing aeronautical service provider for example.

⁵⁵ The FAA has for a long time and under certain circumstances, interpreted an aircraft owner's right to self-service to include operators. For example, a significant number of aircraft operated by airlines are not owned but leased under terms that give the operator airline owner-like powers. This includes operational control, exclusive use and long-term lease terms. The same is true for other aeronautical operators such as charter companies, flight schools and flying clubs, all of which may very well lease aircraft under terms that result in owner-like powers. If on a particular case, a doubt exists on whether a particular "operator" can be considered as the owner for the purpose of this guidance, please contact the Airports District Office (ADO) in your area. A listing of ADOs can be found online.

(2) An airport sponsor must reasonably provide for self-servicing activity but is not obligated to lease airport facilities and land for such activity. That is, the airport sponsor is not required to encumber the airport with leases and facilities for self-servicing activity, and

(3) An airport sponsor is under no obligation to permit aircraft owners or operators to introduce equipment, personnel, or practices on the airport that would be unsafe, unsightly, or detrimental to the public welfare or that would affect the efficient use of airport facilities by the public.

NOTE: Fueling from a pull up commercial fuel pump is not considered self-fueling under the FAA grant assurances since it involves fueling from a self-service pump made available by the airport or a commercial aeronautical service provider. See definition of commercial self-fueling in Appendix 1.

Safety concerns are not limited to aeronautical activities but may include Occupational Safety and Health Administration (OSHA) standards, fire safety standards, building codes, or sanitation considerations. Restrictions by airport sponsors for safety must be reasonable. Examples of reasonable restrictions include restrictions placed on the handling of aviation fuel and other flammable products, including aircraft paint and thinners; requirements to keep fire lanes open; weight limitations placed on vehicles and aircraft to protect pavement from damage; and other similar safety based restrictions.

f. Monopolies Beyond the Airport Sponsor's Control. Certain exclusive franchises exist on public airports that are sanctioned by local or federal law and do not contravene the FAA's policy against exclusive rights agreements. One such franchise that exists at most public airports is UNICOM, which provides frequencies for air-to-ground communications at airports. The Federal Communications Commission (FCC), which regulates and authorizes the use of UNICOM frequencies, will not issue more than one ground station license at the same airport. Thus, an exclusive franchise is created. A legally supported franchise, such as UNICOM, grants the recipient licensee an advantage over competitors, but does not result in a violation of the agency's prohibition against exclusive rights. In cases such as this, the FAA recommends that the airport sponsor obtain the subject license in its own name. Using droplines, the airport sponsor can then make the facility available to all fixed-base operations on an as needed basis. Regardless of which method the airport sponsor uses, control over the facility must be held by the individual or entity that holds the license.

1.5. THROUGH 1.8. RESERVED.

SECTION 2. THE ENFORCEMENT PROCESS

2.1. AIRPORT COMPLIANCE PROGRAM. The FAA ensures airport sponsor compliance with federal grant obligations through its Airport Compliance Program. The Airport Compliance Program arises from requirements in the Airport and Airway Improvement Act of 1982, as amended, 49 U.S.C. § 47101, *et seq.*, and the airport sponsor's agreement to comply with the assurances contained in the grant agreement in exchange for federal airport development assistance. The Airport Compliance Program is designed to maintain a system of safe and

properly maintained airports that are operated in a manner that protects the public's interest and investment in a national airport system.

a. Under the Airport Compliance Program, any person who believes that an airport sponsor may be in noncompliance with a grant assurance may register their concerns with the local FAA Airport District Office (ADO). ADO personnel may investigate the allegations of noncompliance and, in the event that the allegations are confirmed, attempt to persuade the airport sponsor to come back into compliance. Should this measure prove unsatisfactory, the concerned party may file a formal complaint under 14 CFR Part 16, Rules of Practice for Federally Assisted Airport Enforcement Proceedings. In addition, described in §16.29(b), the FAA may initiate its own investigation.

b. Complaints filed with the FAA under 14 CFR Part 16 are subject to an administrative review, which entails consideration of the complainant's allegations and the airport sponsor's response to the allegations. The FAA will make a formal written determination on the complaint. A determination against the airport sponsor can result in an FAA action to withhold current and future grant funding for the airport. The FAA's final determination under 14 CFR Part 16 may be appealed to the U.S. Court of Appeals.

2.2. THROUGH 2.5. RESERVED.

APPENDIX 1. DEFINITIONS

1.1. The following are definitions for the specific purpose of this AC.

a. Aeronautical Activity. Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to, the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities. Other activities, such as model aircraft or model rocket operations, are not aeronautical activities.

b. Airport District Office (ADO). These FAA offices are outlying units or extensions of regional airport divisions. They advise and assist airport sponsors with funding requests to improve and develop public airports. They also provide advisory services to the owners and operators of both public and private airports in the operation and maintenance of airports. See the FAA Web site for a complete listing of all ADO offices.

c. Airport Sponsor. The airport sponsor is the entity that is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required of sponsors, which are contained in the AIP grant agreement and property conveyances.

d. Commercial Self-Service Fueling. A fueling concept that enables a pilot to fuel an aircraft from a commercial fuel pump installed for that purpose by an FBO or the airport sponsor. The fueling facility may or may not be attended.

e. Exclusive Right. A power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An exclusive right can be conferred either by express agreement, by the imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties, but excluding others from enjoying or exercising a similar right or rights, would be an exclusive right.

f. Federal Airport Obligations. All references to a federal grant program, federal airport development assistance, or federal aid contained in this AC are intended to address obligations arising from the conveyance of land or from grant agreements entered under one of the following acts:

(1) Surplus Property Act of 1944 (SPA), as amended, 49 U.S.C. §§ 47151-47153. Surplus property instruments of transfer were issued by the War Assets Administration (WAA) and are now issued by its successor, the General Services Administration (GSA). However, Public Law 81-311 specifically imposes upon the FAA the sole responsibility for determining and enforcing compliance with the terms and conditions of all instruments of transfer by which surplus airport property is or has been conveyed to non-federal public agencies pursuant to the SPA. Under 50 U.S.C § 4715, *et seq.*, property can be conferred for airport purposes if the FAA determines that the property is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport. Recipients of surplus property grants are subject to the FAA prohibition against the granting of exclusive rights.

(2) Federal Aid to Airports Program (FAAP). This grant-in-aid program administered by the agency under the authority of the Federal Airport Act of 1946, as amended, assisted public agencies in the development of a nationwide system of public airports. The Federal Airport Act of 1946 was repealed and superseded by the Airport Development Aid Program (ADAP) of 1970.

(3) Airport Development Aid Program (ADAP). This grant-in-aid program administered by the FAA under the authority of the Airport and Airway Development Act of 1970, as amended, assisted public agencies in the expansion and substantial improvement of the Nation's airport system. The 1970 act was repealed and superseded by the Airport and Airway Improvement Act of 1982 (AAIA).

(4) Airport Improvement Program (AIP). This grant-in-aid program administered by the FAA under the authority of the Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47101, *et seq.*, assists in maintaining a safe and efficient nationwide system of public-use airports that meet the present and future needs of civil aeronautics.

g. Federal Grant Assurance. A federal grant assurance is a provision within a federal grant agreement to which the recipient of federal airport development assistance has agreed to comply in consideration of the assistance provided.

h. Fixed-Base Operator (FBO). A business granted the right by the airport sponsor to operate on an airport and provide aeronautical services such as fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, flight instruction, etc.

i. Grant Agreement. A federal grant agreement represents any agreement made between the FAA (on behalf of the United States) and an airport sponsor, whether it be for the grant of federal funding or a conveyance of land, each of which the airport sponsor agrees to use for aeronautical purposes.

j. Proprietary Exclusive. The owner of a public-use airport (public or private owner) may elect to provide any or all of the aeronautical services needed by the public at the airport. In fact, the statutory prohibition against exclusive rights does not apply to these owners. However, while they may exercise the exclusive right to provide aeronautical services, they may not grant or convey this exclusive right to another party. The airport sponsor that elects to engage in a proprietary exclusive must use its own employees and resources to carry out its venture. An independent commercial enterprise that has been designated as an agent of the airport sponsor may not exercise nor be granted such an exclusive right.

k. Public Airport. Means an airport open for public use and that is publicly owned and controlled by a public agency.

l. Public-Use Airport. Means either a public airport or a privately owned airport opened for public use.

n. Specialized Aviation Service Operations (SASO). SASOs are sometimes known as single-service providers or special FBOs. These types of companies differ from a full service FBO in that they typically offer only a specialized aeronautical service such as aircraft sales, flight training, aircraft maintenance and avionics services for example.

o. Self-Fueling and Self-Service. Self-fueling means the fueling or servicing of an aircraft by the owner of the aircraft with his or her own employees and using his or her own equipment. Self-fueling cannot be contracted out to another party. Self-fueling implies using fuel obtained by the aircraft owner from the source of his/her preference. Self-fueling is differs from using a self-service fueling pump made available by the airport, an FBO or an aeronautical service provider. The use of a self-service fueling pump is a commercial activity and is not considered self-fueling as defined herein. Self-service includes activities such as adjusting, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner. Title 14 CFR Part 43 of the Federal Aviation Regulations permits the holder of a pilot certificate to perform specific types of preventative maintenance on any aircraft owned or operated by the pilot.

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U.S. Department
of Transportation
Federal Aviation
Administration

Advisory Circular

Subject: MINIMUM STANDARDS FOR
COMMERCIAL AERONAUTICAL ACTIVITIES

Date: January 3, 2006

Initiated by: AAS-400
(currently ACO-100)

AC No: 150/5190-7

1. PURPOSE. This advisory circular (AC) provides basic information pertaining to the Federal Aviation Administration's (FAA's) recommendations on commercial minimum standards and related policies. Although minimum standards are optional, the FAA highly recommends their use and implementation as a means to minimize the potential for violations of federal obligations at federally obligated airports.

2. CANCELLATION. AC 150/5190-5, *Exclusive Rights and Minimum Standards for Commercial Aeronautical Activities* (Change 1), dated June 10, 2002, AC 150/5190-2, *Exclusive Rights at Airports*, dated April 4, 1972, and AC 150/5190-1A, *Minimum Standards for Commercial Aeronautical Activities on Public Airports*, dated December 16, 1985, are cancelled.

3. BACKGROUND. In accordance with the Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47101, *et seq.*, and the Airport Improvement Program Sponsor Assurances, the owner or operator of any airport (airport sponsor) that has been developed or improved with federal grant assistance or conveyances of federal property assistance is required to operate the airport for the use and benefit of the public and to make it available for all types, kinds, and classes of aeronautical activity.⁵⁶ The Surplus Property Act of 1944 (as amended by 49 U.S.C., §§ 47151-47153) contains a parallel obligation under its terms for the conveyance of federal property for airport purposes. Similar obligations exist for airports that have received nonsurplus government property under 49 U.S.C. § 47125 and previous corresponding statutes.

These federal obligations involve several distinct requirements. Most important is that the airport and its facilities must be available for public use as an airport. The terms imposed on those who use the airport and its services must be reasonable and applied without unjust discrimination, whether by the airport sponsor or by a contractor or licensee who has been

⁵⁶ The legislative background for the provisions discussed in this AC began as early as 1938 and evolved under the Federal Aid to Airports Program (FAAP), Airport Development Aid Program (ADAP), and Airport Improvement Program (AIP).

granted a right by the airport sponsor to offer services or commodities normally required to serve aeronautical users of the airport.

Federal law requires that recipients of federal grants (administered by the FAA) sign a grant agreement or covenant in a conveyance of property that sets out the obligations that an airport sponsor assumes in exchange for federal assistance and that establishes the FAA's enforcement authority. The FAA's policy of recommending the development of minimum standards stem from the airport sponsor's grant assurances and similar property conveyance obligations to make the airport available for public use on reasonable conditions and without unjust discrimination.

4. USE OF THIS AC. This AC addresses FAA's policy on minimum standards and provides guidance on developing effective minimum standards. This AC describes the sponsor's prerogative to establish minimum standards for commercial aeronautical service providers at federally obligated airports. Additionally, this AC provides guidelines for self-service operations and self-service rules and regulation of other aeronautical activities. It does not address requirements imposed on nonaeronautical entities, which are usually addressed as part of the airport's contracts, leases, rules and regulations, and/or local laws. While the FAA does not approve minimum standards, it is the responsibility of the airports district and regional offices, if requested by an airport sponsor, to review proposed minimum standards. The FAA regional and district offices may advise airport sponsors on the appropriateness of proposed standards to ensure that the standards do not place the airport in a position inconsistent with its federal obligations.

5. RELATED READING MATERIALS.

FAA Airport Compliance Requirements, Order 5190.6A, dated October 16, 1989.

Further information can be obtained at the airports district office (ADO) in your area. A listing of ADOs can be found online.

DAVID L. BENNETT
Director, Office of Airport
Safety and Standards

SECTION 1. MINIMUM STANDARDS

1.1. POLICY. The airport sponsor of a federally obligated airport agrees to make available the opportunity to engage in commercial aeronautical activities by persons, firms, or corporations that meet reasonable minimum standards established by the airport sponsor. The airport sponsor's purpose in imposing standards is to ensure a safe, efficient and adequate level of operation and services is offered to the public. Such standards must be reasonable and not unjustly discriminatory. In exchange for the opportunity to engage in a commercial aeronautical activity, an aeronautical service provider engaged in an aeronautical activity agrees to comply with the minimum standards developed by the airport sponsor. Compliance with the airport's minimum standards should be made part of an aeronautical service provider's lease agreement with the airport sponsor.

The FAA suggests that airport sponsors establish reasonable minimum standards that are relevant to the proposed aeronautical activity with the goal of protecting the level and quality of services offered to the public. Once the airport sponsor has established minimum standards, it should apply them objectively and uniformly to all similarly situated on-airport aeronautical service providers. The failure to do so may result in a violation of the prohibition against exclusive right and/or a finding of unjust economic discrimination or imposing unreasonable terms and conditions for airport use.

1.2. DEVELOPING MINIMUM STANDARDS.

a. Objective. The FAA objective in recommending the development of minimum standards serves to promote safety in all airport activities, protect airport users from unlicensed and unauthorized products and services, maintain and enhance the availability of adequate services for all airport users, promote the orderly development of airport land, and efficiency of operations. Therefore, airport sponsors should strive to develop minimum standards that are fair and reasonable to all on-airport aeronautical service providers and relevant to the aeronautical activity to which it is applied. Any use of minimum standards to protect the interests of an exclusive business operation may be interpreted as the grant of an exclusive right and a potential violation of the airport sponsor's grant assurances and the FAA's policy on exclusive rights.

b. Authority Vested in Airport Sponsors. Grant Assurance 22, *Economic Nondiscrimination*, Sections (h) and (i) (see 49 U.S.C. § 47107) provides that the 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 the airport. The sponsor may prohibit or limit any given type, kind or class of 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.

Under certain circumstances, an airport sponsor could deny airport users from conducting aeronautical activities at the airport for reasons of safety and efficiency.⁵⁷ A denial based on safety must be based on firm evidence demonstrating that safety will be compromised if the applicant is allowed to engage in the proposed aeronautical activity. Airport sponsors should carefully scrutinize the safety reasons for denying an aeronautical service provider the opportunity to engage in an aeronautical activity if the denial has the possible effect of limiting competition.

The FAA is the final authority in determining what, in fact, constitutes a compromise of safety. As such, an airport sponsor that is contemplating the denial of a proposed on-airport aeronautical activity is encouraged to contact the local airports district office (ADO) or the regional airports division. Those offices will then seek assistance from FAA Flight Standards (FS) and Air Traffic (AT) to assess the reasonableness and the unjustly discriminatory aspects of proposed restrictions on aeronautical activities because of safety and efficiency. When dealing with proposed restrictions, assistance can be obtained from FAA personnel in either the local ADO or the regional airports division in determining the reasonableness of proposed restrictions.

c. Developing Minimum Standards. When developing minimum standards, the most critical consideration is the particular nature of the aeronautical activity and operating environment at the airport. Minimum standards should be tailored to the specific aeronautical activity and the airport to which they are to be applied. For example, it would be unreasonable to apply the minimum standards for an FBO at a medium or large hub airport to a general aviation airport serving primarily piston-powered aircraft. The imposition of unreasonable requirements illustrates why “fill-in-the-blank” minimum standards and the blanket adoption of standards of other airports may not be effective. Instead, the FAA has provided guidance in the form of questions and examples to illustrate an approach to the development and implementation of minimum standards. It is important that the reader understand that what follows does not constitute a complete model for minimum standards, but rather a source of ideas to which the airport sponsor can turn when developing minimum standards.

d. Sponsor Prerogative to Establish Minimum Standards. When the airport sponsor imposes reasonable and not unjustly discriminatory minimum standards for airport operations, and the airport sponsor restricts access or services based on those standards, the FAA will not find the airport sponsor in violation of the federal obligations provided the minimum standards:

- (1) Apply to all providers of aeronautical services, from full service FBOs to single service providers.

⁵⁷ The word efficiency refers to the efficient use of navigable airspace, an Air Traffic Control function. It is not meant to be an interpretation that could be construed as protecting the “efficient” operation of an existing aeronautical service provider for example.

- (2) Impose conditions that ensure safe and efficient operation of the airport in accordance with FAA rules, regulations and guidance.
- (3) Are reasonable, not unjustly discriminatory, attainable, uniformly applied and reasonably protect the investment by providers of aeronautical services to meet minimum standards from competition not making a similar investment.
- (4) Are relevant to the activity to which they apply.
- (5) Provide the opportunity for newcomers who meet the minimum standards to offer their aeronautical services within the market demand for such services.

Note: There is no requirement for inclusion of nonaeronautical activities in minimum standards since those activities, such as a restaurant, parking or car rental concession are not covered under the grant assurances or covenants in conveyance of federal property.

e. Practical Considerations. Many airport sponsors include minimum standards in their lease agreements with aeronautical service providers. While minimum standards implemented in this manner can be effective, they also render the airport sponsor vulnerable to the challenges of prospective aeronautical service providers on the grounds that the minimum standards are not objective. The FAA encourages airport sponsors to periodically publish their minimum standards. Minimum standards can be amended periodically over time, however, a constant juggling of minimum standards is not encouraged. Demonstrating to aeronautical service providers that the changes to minimum standards are to improve the quality of the aeronautical service offered to the public can most easily facilitate acceptance of changes. An airport sponsor can provide for periodic reviews of the minimum standards to ensure that the standards continue to be reasonable.

f. Factors to Consider. Numerous factors can and should be considered when developing minimum standards. Airport sponsors may avoid unreasonable standards by selecting factors that accurately reflect the nature of the aeronautical activity under consideration. It is impossible for the FAA to present every possible factor necessary for a task, mostly because of the vast differences that exist between individual airports. Obvious factors one should consider are:

- (1) What type of airport is at issue? Is it a large airport or a small rural airport? Will the airport provide service to only small general aviation aircraft or will it serve high performance aircraft and air taxi operators as well?
- (2) What types of aeronautical activities will be conducted on the airport?
- (3) How much space will be required for each type of aeronautical activity that may prospectively operate at the airport?
- (4) What type of documentation will business applicants be required to present as evidence of financial stability and good credit?

(5) To what extent will each type of aeronautical activity be required to demonstrate compliance with sanitation, health, and safety codes?

(6) What requirements will be imposed regarding minimum insurance coverage and indemnity provisions?

(7) Is each minimum standard relevant to the aeronautical activity for which it is to be applied?

g. New Versus Existing Aeronautical Service Providers. Airport sponsors are encouraged to develop minimum standards for new aeronautical business ventures it desires to attract to the airport. Minimum standards may be part of a competitive solicitation to encourage prospective service providers to be more responsive in their proposals. Minimum standards can be modified to reflect the airport's experience and to be watchful for new opportunities (i.e., SASOs). Minimum standards should be updated so as to reflect current conditions that exist at the airport and not those that existed in the past. In any case, once an airport sponsor receives a proposal for a new aeronautical business, it must ascertain whether the existing minimum standards can be used for the new business or new minimum standards developed to better fit the new business venture. However, in all cases, the airport sponsor must ensure that in changing minimum standards for whatever reason, it is not applying unreasonable standards or creating a situation that will unjustly discriminate against other similarly situated aeronautical service providers. The FAA stands by the principle that once minimum standards have been established, airport sponsors must uniformly apply them to all similarly situated aeronautical service providers. Some points of consideration are as follows:

(1) Can new minimum standards be designed to address the needs of both existing and future aeronautical business? If not, can a tiered set of minimum standards be developed to address the same type of aeronautical activity but differ significantly in scale and investment (i.e., an FBO building large hangars and serving high performance aircraft and a second FBO building and only T-hangars, and serving only smaller general aviation aircraft)?

(2) Was the minimum standard created under a lease agreement (with a specific aeronautical service provider) so the subject standard may not be reasonable if applied to other aeronautical service providers?

(3) Has conformance to the minimum standards been made a part of the contract between the aeronautical service provider and the airport sponsor?

(4) Has the financial performance of the airport improved or declined since the time the minimum standards were implemented?

1.3. MINIMUM STANDARDS APPLY BY ACTIVITY.

Difficulties can arise if the airport sponsor requires that all business comply with all provisions of the published minimum standards. An airport sponsor should develop reasonable, relevant, and applicable standards for each type and class of service.

a. Specialized Aviation Service Operations. When specialized aviation service operations (SASOs), sometimes known as single-service providers or special FBOs, apply to do business on an airport, “all” provisions of the published minimum standards may not apply. This is not to say that all SASOs providing the same or similar services should not equally comply with all applicable minimum standards. However, an airport should not, without adequate justification, require that a service provider desiring to provide a single service also meet the criteria for a full-service FBO. Examples of these specialized services may include aircraft flying clubs, flight training, aircraft airframe and powerplant repair/maintenance, aircraft charter, air taxi or air ambulance, aircraft sales, avionics, instrument or propeller services, or other specialized commercial flight support businesses.

b. Independent Operators. If individual operators are to be allowed to perform a single-service aeronautical activity on the airport (aircraft washing, maintenance, etc.), the airport sponsor should have a licensing or permitting process in place that provides a level of regulation and compensation satisfactory to the airport. Frequently, a yearly fee or percentage of the gross receipts fee is a satisfactory way of monitoring this type of operation.

c. Self-Fueling and Other Self-Service Activities. Minimum standards do not apply to self-service operations. Self-fueling means the fueling or servicing of an aircraft by the owner of the aircraft with his or her own employees and using his or her own equipment. Self-fueling cannot be contracted out to another party. Self-fueling implies using fuel obtained by the aircraft owner from the source of his/her preference. Self-fueling differs from using a self-service fueling pump made available by the airport, an FBO or an aeronautical service provider. The use of a self-service fueling pump is a commercial activity and is not considered self-fueling as defined herein.

In addition to self-fueling, other self-service activities that can be performed by the aircraft owner with his or her own employees includes activities such as maintaining, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner. Title 14 CFR Part 43 permits the holder of a pilot certificate to perform specific types of preventative maintenance on any aircraft owned or operated by the pilot.

1.4. “THROUGH-THE-FENCE” OPERATOR. The owner of an airport may, at times, enter into an agreement (i.e., access agreement or lease agreement) that permits access to the public landing area to independent operators offering an aeronautical activity or to owners of aircraft based on land adjacent to, but not a part of the airport property.

a. No Obligation to Permit Through-the-Fence. The obligation to make an airport available for the use and benefit of the public does not impose any requirement for the airport sponsor to permit access by aircraft from adjacent property. The existence of such an arrangement could place an encumbrance upon the airport property unless the airport sponsor retains the legal right to, and in fact does, require the off-site property owner or party granted access to the airport to conform in all respects to the requirements of any existing or proposed grant agreement or federal property conveyance obligation.

As a general principal, the FAA recommends that airport sponsors refrain from entering into any agreement that grants access to the public landing area by aircraft stored and serviced off-site on adjacent property. Exceptions can be granted on a case-by-case basis where operating restrictions ensure safety and equitable compensation for use of the airport. The existence of agreements granting access to a public landing area from off-site locations may complicate the control of vehicular and aircraft traffic and security of the airfield operations area.

Special safety and operational requirements may need to be incorporated into any access agreement. The existence of agreements granting access to a public landing area from off-site locations shall be reported to regional airports divisions with a full statement of the circumstances. If the regional airports division determines that the access granted to an off-site party is in violation of an airport sponsor's grant assurance and/or federal property conveyance obligation, it will pursue necessary corrective action to return the airport sponsor to compliance.

b. Access Agreement. Any through-the-fence access should be subject to a written agreement between the airport sponsor and the party granted access. The access agreement should specify what specific rights of access are granted; payment provisions that provide, at minimum, parity with similarly situated on-airport tenants and equitable compensation for the use of the airport; expiration date; default and termination provisions; insurance and indemnity provisions; and a clear statement that the access agreement is subordinate to the grant assurances and/or federal property conveyance obligations and that the sponsor shall have the express right to amend or terminate the access agreement to ensure continued compliance with all grant assurances and federal property conveyance obligations.

The access agreement should have a fixed contract period and the airport sponsor is under no obligation to accept a proposed assignment or sale of the access agreement by one party to another. It is encouraged that airport sponsors expressly prohibit the sale or assignment of its access agreement.

1.4. THROUGH 1.5. RESERVED.

SECTION 2. GUIDANCE ON DEVELOPING MINIMUM STANDARDS

2.1. SAMPLE QUESTIONS. As a guide for the airport sponsor, the following series of questions are provided to address some of the various types of specific services or activities frequently offered to the public:

a. Fuel Sales. The on-airport sale of fuel and oil requires numerous considerations that include, but are not limited to, the physical requirements for a safe and environmentally sound operation. Some recommended considerations are listed below:

- (1) Where on the airport will the fuel tanks be installed? Who will control access to the fueling site? What parties will be granted access to the site to receive fueling services?
- (2) Will fuel tanks be installed above or below ground? Will fuel trucks be utilized to fuel remotely parked aircraft?
- (3) Will the fueling operator have sufficient fuel capacity and types of fuel to accommodate the mix of aircraft using the airport?
- (4) How many days supply of fuel will be available on airport and are provisions to resupply the on-airport fuel tanks sufficient to ensure a continuous fuel supply?
- (5) Will the fueling operator have suitable liability insurance and indemnify the airport sponsor for liability for its fueling operation, including fuel spills and environmental contamination?

b. Personnel Requirements. An aeronautical service provider's need for personnel will be dictated by the size of the airport and the public demand for aeronautical services. In all instances, an airport sponsor will be well advised to ensure that aeronautical service providers have sufficient personnel to run their operation safely and meet aeronautical demand for the services in question. Naturally, the personnel requirements will vary with the specific aeronautical service being offered.

- (1) How many fully trained and qualified personnel will be available each day and over what hours to provide aeronautical services? Will this reasonably meet the demand by aeronautical users?
- (2) Describe the training and qualifications of personnel engaged in the services provided to aeronautical users.

c. Airport and Passenger Services. This is a necessary consideration in those instances where the airport has aeronautical service providers engaged in handling services for air carrier and/or cargo carriers that do not provide their own support personnel on-site:

- (1) Provide a list of the equipment and services (both above and below wing) that will be provided by the aeronautical service provider, including ground power units, over night parking areas, towing equipment, starters, remote tie-down areas, jacks, oxygen, compressed air, tire repair, sanitary lavatory service, ticketing and passenger check-in services, office and baggage handling services and storage space.
- (2) What provisions have been made regarding passenger conveniences and services?
 - (a) Access to passenger loading bridges/steps, sanitary rest rooms, boarding hold rooms, telephones, food and beverage service, and other passenger concessions.
 - (b) Access to concession and ground transportation services for the benefit of passengers and/or crewmembers.

d. Flight Training Activities. On-airport flight training can be provided by the airport sponsor/owner or by a service provider. The minimum standards imposed on flight instruction operations should take the following information into consideration:

- (1) What type of flight training will the service provider offer?
- (2) What arrangements have been made for the office space the school is required to maintain under 14 CFR 141.25? What is the minimum amount of classroom space that the service provider must obtain?
- (3) Will flight training be provided on a full-time or part-time basis?
- (4) What type of aircraft and how many will be available for training at the on-airport location?
- (5) What provisions have been made for the storage and maintenance of the aircraft?
- (6) What provisions will be made for rest rooms, briefing rooms, and food service?
- (7) What coordination and contacts exist with the local Flight Standards District Office?

e. Aircraft Engine/Accessory Repair and Maintenance. The applicant for an on-airport repair station is subject to several regulatory requirements under 14 CFR Part 145

Repair Stations. Depending on the type and size of the proposed repair station, the following questions may provide helpful guidelines:

- (1) What qualifications will be required of the repair station employees? Typically, the holder of a domestic repair station certificate must provide adequate personnel who can perform, supervise, and inspect the work for which the station is rated.
- (2) What repair station ratings does the applicant hold?
- (3) What types of services will the repair station offer to the public? These services can vary from repair to maintenance of aircraft and include painting, upholstery, etc.
- (4) Can the applicant secure sufficient airport space to provide facilities so work being done is protected from weather elements, dust, and heat? The amount of space required will be directly related to the largest item or aircraft to be serviced under the operator's rating.
- (5) Will suitable shop space exist to provide a place for machine tools and equipment in sufficient proximity to where the work is performed?
- (6) What amount of space will be necessary for the storage of standard parts, spare parts, raw materials, etc.?
- (7) What type of lighting and ventilation will the work areas have? Will the ventilation be adequate to protect the health and efficiency of the workers?
- (8) If spray painting, cleaning, or machining is performed, has sufficient distance between the operations performed and the testing operations been provided so as to prevent adverse affects on testing equipment?

f. Skydiving. Skydiving is an aeronautical activity. Any restriction, limitation, or ban on skydiving on the airport must be based on the grant assurance that provides that the airport sponsor may prohibit or limit aeronautical use for the safe operation of the airport (subject to FAA approval). The following questions present reasonable factors the sponsor might contemplate when developing minimum standards that apply to skydiving:

- (1) Will this activity present or create a safety hazard to the normal operations of aircraft arriving or departing from the airport? If so, has the local airports district office (ADO) or the regional airports division been contacted and have those FAA offices sought the assistance from FAA Flight Standards (FS) and Air Traffic (AT) to assess allegations that safe airport operations would be jeopardized?
- (2) Can skydiving operations be safely accommodated at the airport? Can a drop zone be safely established within the boundaries of the airport? Is guidance in FAA AC-90-66A *Recommended Standards Traffic Patterns and Practices for*

Aeronautical Operations at Airports Without Operating Control Towers, 14 CFR Part 105 and United States Parachute Association's (USPA) *Basic Safety Requirements* being followed?

(3) What reasonable time periods can be designated for jumping in a manner consistent with Part 105? What experience requirements are needed for an on-airport drop zone?

(4) What is a reasonable fee that the jumpers and/or their organizations can pay for the privilege of using airport property?

(5) Has the relevant air traffic control facility been advised of the proposed parachute operation? Does air traffic have concerns about the efficiency and utility of the airport and its related instrument procedures?

(6) Will an FAA airspace study be necessary to determine the impact of the proposed activity on the efficiency and utility of the airport, related instrument approaches or nearby Instrument Flight Rules (IFR)? If so, has FAA Air Traffic reviewed the matter and issued a finding?

g. Ultralight Vehicles and Light Sport Aviation. The operation of ultralights and light sport aircraft are aeronautical activities and must, therefore, be generally accommodated on airports that have been developed with federal airport development assistance. Airport sponsors are encouraged to consider some of the following questions:

(1) Can ultralight aircraft be safely accommodated at the airport? Is guidance in FAA AC-90-66A *Recommended Standards Traffic Patterns and Practices for Aeronautical Operations at Airports Without Operating Control Towers* and 14 CFR Part 103 being followed?

(2) Can all types of Light Sport aircraft be safely accommodated at the airport?

(3) Will this activity present or create a safety hazard to the normal operations of aircraft arriving or departing from the airport? If so, has FAA Flight Standards reviewed the matter and issued a finding?

(4) Will an FAA airspace study be necessary to determine the efficiency and utility of the airport when considering the proposed activity? If so, has FAA Air Traffic reviewed the matter and issued a finding?

h. Fractional Aircraft Ownership. Fractional ownership programs are subject to an FAA oversight program similar to that provided to air carriers, with the exception of en route inspections. The FAA has for a long time and under certain circumstances, interpreted an aircraft owner's right to self-service to include operators. For example, a significant number of aircraft operated by airlines are not owned but leased under terms that give the operator airline owner-like powers. The same is true for other aeronautical operators such as charter companies, flight schools, and flying clubs, which may not hold

title to the aircraft, but through leasing arrangements for example, retain full and exclusive control of the aircraft for long periods of time. The same is true of Part 91K fractional ownership companies, which are subject to operational control responsibilities, maintenance and safety requirements not unlike Part 135 operators. Therefore, the FAA considers companies engaged in operations under 14 CFR Part 91K to be aircraft operators and therefore covered by the FAA's self-service provisions.⁵⁸

i. Other Requirements. When drafting minimum standards documents, airport sponsors may have to take into account other federal, state and local requirements. This include federal requirements and guidance by the Transportation Safety Administration (TSA) and the Environmental Protection Agency (EPA), state requirements such as aircraft registration (in some states) and local fire regulations. For guidance on matters such as these, please contact the FAA's airports district office (ADO) in your area and/or state aviation agency. A listing of ADOs can be found online. Information and contacts regarding state aviation agencies is also available online.

2.2. THROUGH 2.5. RESERVED.

⁵⁸ However, this interpretation does not mean that a fractional owner of numerous aircraft would be recognized as the "owner" entitled to self-service all of the aircraft under a particular Part 91K fractional ownership or that a fractional owner can self-service all his or hers aircraft regardless of who is operating the aircraft. In other words, a fractional owner may not self-service aircraft being used on behalf of another fractional owner. If on a particular case, a doubt exists on whether a particular "operator" can be considered as the owner for the purpose of this guidance, please contact the Airports District Office (ADO) in your area. A listing of ADOs can be found online.

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APPENDIX 1. DEFINITIONS

1.1. The following are definitions for the specific purpose of this AC.

a. Aeronautical Activity. Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to, the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities. Other activities, such as model aircraft or model rocket operations, are not aeronautical activities.

b. Airport District Office (ADO). These FAA offices are outlying units or extensions of regional airport divisions. They advise and assist airport sponsors with funding requests to improve and develop public airports. They also provide advisory services to the owners and operators of both public and private airports in the operation and maintenance of airports.

c. Airport Sponsor. The airport sponsor is the entity that is legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required of sponsors, which are contained in the AIP grant agreement and property conveyances.

d. Commercial Self-Service Fueling. A fueling concept that enables a pilot to fuel an aircraft from a commercial fuel pump installed for that purpose by an FBO or the airport sponsor. The fueling facility may or may not be attended.

e. Exclusive Right. A power, privilege, or other right excluding or debarring another from enjoying or exercising a like power, privilege, or right. An exclusive right can be conferred either by express agreement (i.e., lease agreement), by the imposition of unreasonable standards or requirements, or by any other means. Such a right conferred on one or more parties, but excluding others from enjoying or exercising a similar right or rights, would be an exclusive right.

f. Federal Airport Obligations. All references to a federal grant program, federal airport development assistance, or federal aid contained in this AC are intended to address obligations arising from the conveyance of land or from grant agreements entered under one of the following acts:

(1) **Surplus Property Act of 1944 (SPA), as amended, 49 U.S.C. §§ 47151-47153.** Surplus property instruments of transfer were issued by the War Assets Administration (WAA) and are now issued by its successor, the General Services Administration (GSA). However, Public Law 81-311 specifically imposes upon the FAA the sole responsibility for determining and enforcing compliance with the terms and conditions of all instruments of transfer by which surplus airport property is or has been conveyed to non-federal public agencies pursuant to the SPA. Under 50 U.S.C § 4715,

et seq., property can be conferred for airport purposes if the FAA determines that the property is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport. Recipients of surplus property grants are subject to the FAA prohibition against the granting of exclusive rights.

(2) Federal Aid to Airports Program (FAAP). This grant-in-aid program administered by the agency under the authority of the Federal Airport Act of 1946, as amended, assisted public agencies in the development of a nationwide system of public airports. The Federal Airport Act of 1946 was repealed and superseded by the Airport Development Aid Program (ADAP) of 1970.

(3) Airport Development Aid Program (ADAP). This grant-in-aid program administered by the FAA under the authority of the Airport and Airway Development Act of 1970, as amended, assisted public agencies in the expansion and substantial improvement of the Nation's airport system. The 1970 act was repealed and superseded by the Airport and Airway Improvement Act of 1982 (AAIA).

(4) Airport Improvement Program (AIP). This grant-in-aid program administered by the FAA under the authority of the Airport and Airway Improvement Act of 1982, 49 U.S.C. § 47101, *et seq.*, assists in maintaining a safe and efficient nationwide system of public-use airports that meet the present and future needs of civil aeronautics.

g. Federal Grant Assurance. A federal grant assurance is a provision within a federal grant agreement to which the recipient of federal airport development assistance has agreed to comply in consideration of the assistance provided.

h. Fixed-base Operator (FBO). A business granted the right by the airport sponsor to operate on an airport and provide aeronautical services such as fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, flight instruction, etc.

i. Fractional Ownership. Fractional ownership operations are aircraft operations that take place under the auspices of 14 CFR Part 91 Subpart K. This type of operations offers aircraft owners increased flexibility in the ownership and operation of aircraft including shared or joint aircraft ownership. They provides for the management of the aircraft by an aircraft management company. The aircraft owners participating in the program agreed not only to share their own aircraft with others having a shared interest in that aircraft, but also to lease their aircraft to other owners in the program (dry lease exchange program). The aircraft owners used the common management company to provide aviation management services including maintenance of the aircraft, pilot training and assignment, and administration of the leasing of the aircraft among the owners. Additional information is available online.

j. Grant Agreement. A federal grant agreement represents any agreement made between the FAA (on behalf of the United States) and an airport sponsor, whether it be for the grant of federal funding or a conveyance of land, each of which the airport sponsor agrees to use for aeronautical purposes.

l. Public Airport. Means an airport open for public use and that is publicly owned and controlled by a public agency.

m. Public-Use Airport. Means either a public airport or a privately owned airport opened for public use.

n. Specialized Aviation Service Operations (SASO). SASOs are sometimes known as single-service providers or special FBOs. These types of companies differ from a full service FBO in that they typically offer a specialized aeronautical service, aircraft sales, such as flight training, aircraft maintenance and avionics services.

o. Self-Fueling and Self-Service. Self-fueling means the fueling or servicing of an aircraft by the owner of the aircraft with his or her own employees and using his or her own equipment. Self-fueling cannot be contracted out to another party. Self-fueling implies using fuel obtained by the aircraft owner from the source of his/her preference. Self-fueling differs from using a self-service fueling pump made available by the airport, an FBO or an aeronautical service provider. The use of a self-service fueling pump is a commercial activity and is not considered self-fueling as defined herein. Self-service includes activities such as adjusting, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner. Title 14 CFR Part 43 of the Federal Aviation Regulations permits the holder of a pilot certificate to perform specific types of preventative maintenance on any aircraft owned or operated by the pilot.

p. Through-the-Fence Operations. Through-the-fence operations are those activities permitted by an airport sponsor through an agreement that permits access to the public landing area to independent entities or operators offering an aeronautical activity or to owners of aircraft based on land adjacent to, but not a part of the airport property. The obligation to make an airport available for the use and benefit of the public does not impose any requirement for the airport sponsor to permit access by aircraft from adjacent property.

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