

Chapter 6. Rights and Powers and Good Title

6.1. Introduction. This chapter discusses the sponsor's federal obligation to preserve its rights and powers and to maintain good title to the airport property. This chapter also discusses related issues such as transfers to other recipients, delegation of federal obligations, subordination of title, airport management agreements, and airport privatization.

It is the responsibility of the airports district offices (ADOs) and regional airports divisions to ensure the sponsor can fulfill its federal responsibilities at all times. Accordingly, these offices will advise sponsors when the terms of any proposed lease agreements have the effect of limiting the sponsor's ability to fulfill its federal obligations. The FAA headquarters Airport Compliance Division (ACO-100) advises sponsors on the pilot program for airport privatization and approves or denies applications.

6.2. Airport Governance Structures. The sponsor determines the management and organizational structure of an airport. The type of structure employed can vary depending on whether the sponsor is a private entity or public agency, or whether the sponsor delegates all or some of its management responsibilities to a third party.

6.3. Controlling Grant Assurances.

a. Grant Assurance 4, *Good Title*. This grant assurance requires a sponsor to hold good title to the airport satisfactory to the FAA or to give satisfactory assurance to the FAA that good title will be acquired. In some cases, based on information available, the FAA may be unable to determine how the airport property was acquired or if a sponsor has title to all airport property. Adding to the confusion sometimes is an Exhibit "A" property map that may not be current or show all property interests.

Therefore, to determine a sponsor's compliance with Grant Assurance 4, *Good Title*, FAA should request that the sponsor provide the FAA with a complete Title Search Report of all airport property depicted on the current Airport Layout Plan (ALP) and Exhibit "A" maps. This should identify the actual parcels comprising the entire airport property.

When determining initial eligibility, the FAA should require a Title Search Report to ensure that the sponsor has good title to the parcels necessary to achieve the purpose of the grant and the role of the airport. When a sponsor acquires land for a project funded under an Airport Improvement Project (AIP) grant, the FAA and the sponsor must follow the FAA Advisory Circular for land acquisition to ensure the sponsor has acquired sufficient land rights. The FAA may also request a Title Search Report when the FAA has concerns about the documentation of land holdings on an Exhibit "A." Finally, when transferring sponsorship or reviewing an application to the Airport Privatization Pilot Program, the FAA may request a Title Search Report.

A lack of good title can prevent the processing of a grant – even without a finding of noncompliance – because such a sponsor would not be eligible as a threshold requirement. If a sponsor gives away good title, such action might be a violation of Grant Assurance 5, *Preserving*

Rights and Powers. However, the determination of good title does not necessarily require fee simple ownership. Long-term leases may be sufficient rights to allow an AIP improvement grant.

b. Grant Assurance 5, *Preserving Rights and Powers.* A sponsor cannot take any action that may deprive it of its rights and powers to direct and control airport development and comply with the grant assurances. Grant Assurance 5, *Preserving Rights and Powers*, requires a sponsor not to sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit “A” without the prior written approval of the FAA.

Of particular concern to the FAA is granting a property interest to tenants on the airport. These property interests may restrict the sponsor’s ability to preserve its rights and powers to operate the airport in compliance with its federal obligations. Providing developers with an option to acquire a fee interest in federally obligated airport property is not acceptable to the FAA under Grant Assurance 5, *Preserving Rights and Powers*. An option to acquire a fee interest in airport property should be considered a sale of airport property for purposes of requiring an FAA release, since the result is potentially the same.

6.4. Interrelationship of Issues. When analyzing lease agreements, FAA personnel must be aware of the interrelationship of material covered in other federal obligations, such as Grant Assurance 22, *Economic Nondiscrimination*, Grant Assurance 23, *Exclusive Rights*, Grant Assurance 24, *Fee and Rental Structure*, and Grant Assurance 25, *Airport Revenues*.

6.5. Assignment of Federal Obligations. The sponsor’s federal obligations discussed in this chapter apply to both public and private airport sponsors who are obligated under agreements with the federal government. Chapter 22 of this Order, *Releases from Federal Obligations*, discusses the release of federally obligated property.

6.6. Rights and Powers. Grant Assurance 5, *Preserving Rights and Powers*, requires the airport sponsor to preserve its rights and powers to control and operate the airport. The following addresses the six parts of this grant assurance:

a. Sponsor Actions. The sponsor must obtain the Secretary’s written approval before taking any action that would deprive it of the rights and powers necessary to perform any terms, conditions, and assurances in the grant agreement. In addition, the sponsor must take the actions necessary to regain its rights and powers, including extinguishing rights of other parties that prevent the sponsor from complying with its federal obligations. A method a sponsor may use in this regard is to place a “subordination clause” in all of its tenant leases and agreements that subordinates the terms of the lease or agreement to the federal grant assurances and surplus property obligations. A subordination clause may assist the sponsor in amending a tenant lease or agreement that otherwise deprives the sponsor of its rights and powers. A typical subordination clause will state that if there is a conflict between the terms of a lease and the federal grant assurances, the grant assurances will take precedence and govern.

b. Disposals. The sponsor must obtain the FAA's written approval before it sells, leases, encumbers, transfers, destroys, or disposes of any of its interest in airport or noise compatibility property. (See chapter 22 of this Order, *Releases from Federal Obligations*, for additional information on releases and disposal of property.)

c. Noise Compatibility Program Projects. For noise compatibility projects where the local government grantee is not the airport sponsor itself, the airport sponsor must enter into an agreement that applies the grant assurance obligations to that other local government entity.

d. Noise Compatibility Program Projects on Privately Owned Land. For noise compatibility projects on private property, the airport sponsor will enter into an agreement with the property owner that contains conditions specified by the FAA.

e. Private Airport Sponsors. If the sponsor is a private sponsor, it will assure the FAA that the airport will continue to function as a public use airport.



During its review, the FAA will look to identify any terms and conditions of the agreement that could prevent the realization of the full benefits for which the airport was constructed or conveyed. For example, as in the case illustrated above at Gillespie Airport in San Diego, a racetrack exists inside the airport without FAA approval. The situation was later corrected. In all cases, the sponsor may not enter into leases permitting nonaeronautical use without FAA concurrence. (Photo: FAA)

If the sponsor arranges for another entity to manage the airport, it must retain sufficient rights and authority to assure that the third-party manager operates and maintains the airport in accordance with the federal obligations and the sponsor's grant agreement.

f. Contracting Out Airport Management. If the sponsor arranges for another entity to manage the airport, it must retain sufficient rights and authority to assure that the third-party manager operates and maintains the airport in accordance with the federal obligations and the sponsor's

grant agreement. As discussed below, the sponsor is not relieved of its responsibility under the grant assurances by such an arrangement.

6.7. Transfer to another Eligible Recipient.

a. Rights and Powers. Grant Assurance 5, *Preserving Rights and Powers*, prohibits the airport sponsor from entering into an agreement that would deprive it of any of its rights and powers that are necessary to perform all of the conditions in the grant agreement or other federal obligations unless another sponsor/operator assumes the obligation to perform all such federal requirements. When an airport sponsor transfers authority to another sponsor, whether public or private, the FAA will review the transfer document to ensure there is no ambiguity regarding responsibility for the federal obligations. Before a transfer to another entity can take place, the FAA must specifically determine the recipient is eligible and willing to perform all the conditions of the grant agreements. Otherwise, the FAA will not permit the transfer to occur. As a condition of release, the FAA will require the new operator to assume all existing grant obligations, and the FAA will review the transfer document to ensure there is no ambiguity regarding responsibility for the federal obligations. In some cases, it may be appropriate to continue the existing sponsor's obligations in effect, in full or in part, especially where the existing sponsor is the only local government entity that could assure compliance. For example, a local municipality with zoning authority may transfer the airport to an airport authority with no off-airport zoning power. In that case it would be appropriate not to release the municipality from its existing obligations to protect the airport environs from incompatible uses and obstructions.

b. Surplus Property Transfers. Although surplus property instruments permit the conveyance to a third party, the sponsor must obtain FAA approval prior to its transfer, and the transferee must assume the federal obligations of the original grantee. In addition, a release deed will also be required. Eligibility to assume these federal obligations is contingent upon the type of sponsor and certain legal and financial requirements.⁹ For example:

(1). General. Sponsors must be legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants and other federal obligations required of sponsors and contained in the obligating documents.

(2). Authority to Act as a Sponsor. FAA will require an opinion of the sponsor's attorney as to its legal authority to act as a sponsor and to carry out its responsibilities under the applicable agreements when deemed necessary or desirable.

(3). Reassignment. The federal government grants deeds of conveyance only to public agencies, but it does not specifically restrict reassignments or transfers of the property conveyed. The donating federal agency may reassign or transfer the property to another public agency for continued airport use. When this occurs, the FAA should assume the lead in the coordination between the affected parties.

⁹ For additional information, see FAA Order 5100.38, *Airport Improvement Program (AIP) Handbook*, which is available online.

6.8. Transfer to the United States Government.

a. Conveyance to a Federal Agency. The FAA cannot prohibit a sponsor from conveying to a federal agency any airport property that was transferred under the Surplus Property Act of 1944, as amended. Such a conveyance, whether voluntary or otherwise, does not place the conveying sponsor in default of any obligation to the United States. Such a conveyance has the effect of a complete release of the conveying owner.

b. FAA Objections. When a sponsor proposes such a conveyance or has accomplished the conveyance without prior notice, the ADO or regional airports division will determine if the transfer adversely impacts civil aviation. If so, it must make any objection immediately known to both the sponsor and the federal agency involved. If the ADO or regional airports division cannot obtain a satisfactory solution, it should submit a full and complete report to the Airport Compliance Division (ACO-100) without delay. ACO-100 will then continue to work with the sponsor and the federal agency to reach a satisfactory solution.

6.9. Delegation of Federal Obligations. Sponsors may enter into arrangements that delegate certain federal obligations to other parties. For example, an airport authority may arrange with the public works department of a local municipality to meet certain maintenance commitments, or a sponsor may contract with a utility company to maintain airfield lighting equipment. More prevalent at small airports are arrangements in which the sponsor relies upon a commercial tenant or franchised operator to cover a broad range of airport operating, maintenance, and management responsibilities.

None of these contractual delegations of responsibility absolves or relieves the sponsor of its primary obligations to the federal government. The sponsor should pay particular attention that delegations to other parties do not result in a conflict of interest or a violation of the federal grant assurances. The sponsor shall not delegate or transfer its authority to negotiate and enter into aeronautical



Airport Management and Operating Agreements. Although the sponsor may delegate or contract with an agent of its choice for maintenance or supervision of operations, such arrangements do not relieve the sponsor of its federal obligations. Such arrangements also have the potential for a conflict of interest. Consequently, any agreement conferring such responsibilities on a tenant must contain adequate safeguards to preserve the sponsor's control over the actions of its agent and ensure the sponsor's ability to meet its federal obligations. The review of such agreements by the FAA ensures that the sponsor will make the airport facilities available to the public on fair and reasonable terms without unjust discrimination consistent with Grant Assurance, 22, Economic Nondiscrimination. (Photo: FAA)

and nonaeronautical leases and agreements (unless released by the FAA in connection with a formal transfer of operating responsibility).

6.10. Subordination of Title.

a. Subordination. The FAA will normally consider subordination of the sponsor's fee interest in airport property by mortgage, easement, or other encumbrance as a transaction that would deprive the sponsor of the rights and powers necessary to fulfill its federal obligations.

However, the sponsor may subordinate its interest in a tenant lease to facilitate tenant financing for development on airport property. In this case, the sponsor agrees only that the mortgage or financing is serviced ahead of the payment to the sponsor for the lease of airport property.

b. Review. If the FAA determines that an encumbrance may deprive a sponsor of its ability to fulfill its federal obligations, the Secretary may withhold approval of grant applications from the sponsor. (See chapter 2 of this Order, *Compliance Program*, paragraph 2.7c.) The ADO or regional airports division should review such encumbrance documents and make a determination on a case-by-case basis. Determinations should be in accordance with Grant Assurance 4, *Good Title*, and Grant Assurance 5, *Preserving Rights and Powers*. It may be appropriate to consult with the Office of Chief Counsel (AGC-610).



Title with respect to lands to be used for the airfield or building area purposes can be either fee simple title (free and clear of any and all encumbrances) or title with certain rights excepted or reserved, such as a long-term lease of 20 or more years. Any encumbered title must not deprive the sponsor of possession or control necessary to carry out all federal obligations. This includes ensuring that approaches and departure areas are clear of obstacles and incompatible land uses to ensure safe and efficient flight operations as shown in the above photograph during a landing in rapidly worsening weather. (Photo: FAA)

c. FAA Determination. The FAA should predicate its concurrence with any lien, mortgage, or other encumbrance to federally obligated property on a factually based and thoroughly documented determination. Ideally, the FAA office working the issue should ask the sponsor to execute a declaration recognizing that the federal grant obligations survive a foreclosure or bankruptcy. The possibility of foreclosure or other action adverse to the airport should be so remote that it reasonably precludes the possibility that such a lien, mortgage, or other encumbrance will prevent the sponsor from fulfilling its federal obligations.

6.11. New Sponsor Document Review. Generally the ADO or regional airports division will determine whether a potential sponsor is capable of assuming federal responsibilities. This review requires that the sponsor be legally, financially, and otherwise able to assume and carry out the certifications, representations, warranties, assurances, covenants, and other federal obligations required of the sponsor and contained in the Airport Improvement Program (AIP) project application and grant agreement forms.

The sponsor must also show that it has the authority to act as a sponsor. The FAA must also obtain an opinion from the sponsor's attorney as to the sponsor's legal authority to act as a sponsor and whether that authority extends to fulfilling its grant assurance responsibilities.

a. Purpose. The review is intended to ensure that the new sponsor has and will maintain the necessary control of the airport needed to carry out its commitments to the federal government. During its review, the ADO or regional airports division will identify any terms and conditions of a lease, contract, or agreement that could prevent the realization of the full benefits for which the airport was constructed or that could render the sponsor noncompliant with its federal obligations. The sponsor may place a standard clause in all its agreements that the terms and conditions of the agreement shall be subordinate to the federal grant assurances and any surplus property federal obligations.

b. Aeronautical Access to Facilities. The review ensures that the sponsor will make the airport facilities available to the public on reasonable terms without unjust discrimination, as required by Grant Assurance, 22, *Economic Nondiscrimination*. Any lease, contract, or agreement granting a tenant the right to serve the public on the premises of a federally obligated airport should not interfere with the sponsor's ability to maintain sufficient control over the operation of the airport to guarantee that aeronautical users will be given fair access to the airport.

c. Self-sustaining. The review looks to ensure that the sponsor maintains a fee and rental structure for facilities and services that will make the airport as self-sustaining as possible, as required by Grant Assurance 24, *Fee and Rental Structure*.

d. Good Title. The review will ensure that the sponsor has, or will have, good title to the airfield, as required by Grant Assurance 4, *Good Title*.

e. No Granting of Exclusive Rights. The review will ensure that the sponsor has not granted an exclusive right for aeronautical use of the airport, as required by Grant Assurance 23, *Exclusive Rights*.

f. Revenue Use. The review will ensure that the sponsor makes proper use of its airport revenues, per Grant Assurance 25, *Airport Revenues*, and FAA's *Policy and Procedures Concerning the Use of Airport Revenue*, 64 Fed. Reg. 7696, February 16, 1999, (*Revenue Use Policy*), found in Appendix E of this Order.

g. Examination of Documents. During the review, the ADO or regional airports division must examine the following documents:

- (1). The public agency's enabling legislation or act that gives it the authority to operate and own the airport(s).
- (2). The lease, operations, management, or transfer agreements for the specific airport.
- (3). The Exhibit "A" map, ALP, and land inventory map identifying grant obligated land.
- (4). The assumption agreement for existing grants, federal grant obligations, and disposition and status of transferred grants.
- (5). Any other agreements between the parties relating to the terms of the transfer and the new sponsor's operation of the airport.

h. Sponsor Eligibility.

Eligibility to receive funds under the AIP is contingent upon the type of sponsor and the type of activity for which the funds are sought.

6.12. Title and Property Interest.

a. Title Requirement (Grant Assurance 4, *Good Title*).

Section 47106(b)(1) of Title 49 U.S.C. requires that no project grant application for airport development may be approved by the Secretary unless the sponsor, a public agency, or the United States holds good title (satisfactory to the Secretary) to the airfield, or gives assurance to the Secretary that good title will be



The sponsor must maintain the rights and powers to develop or improve the airfield as it sees fit, regardless of the desire and views of its agent or tenants, and without interference or hindrance of same. For example, the airport may choose to install gates to control pedestrian or general public access to ramp areas as shown here at the Lunken Airport in Cincinnati, Ohio. The fact that a tenant sees no reason for the action does not prevent the airport from doing so. (Photo: FAA)

acquired. Good title is a pre-condition for award of an AIP grant, and is usually reviewed in connection with grant applications rather than as a compliance issue for a grant already awarded. The Airports Financial Assistance Division, APP-500, should be advised of any issue regarding good title.

b. Airport Property Interest.

Title with respect to the airport land can be either fee simple title (free and clear of any and all encumbrances) or title with certain rights excepted or reserved, such as a long-term lease of 20 or more years.

Any encumbered title must not deprive the sponsor of possession or control necessary to carry out all federal obligations.

Any encumbered title must not deprive the sponsor of possession or control necessary to carry out all federal obligations. A deed containing a reversionary clause, (e.g., “so long as the property is being used for airport purposes”) does not negate good title provided that the other federal conditions or requirements are satisfied.

Where rights exempted or reserved would prevent the sponsor from carrying out its federal obligations under the grant, such rights must be extinguished prior to approval of the project subject to an AIP grant.

c. Determination of Adequate Title.

A certification by a sponsor that it has acquired property interests required for a project may be accepted in lieu of any detailed title evidence. (See FAA Order 5100.37B, *Land Acquisition and Relocation Assistance*, available online.) Without such certification, the sponsor’s submission of title evidence must be reviewed to determine adequacy of title. The adequacy of such title is an administrative determination made by FAA Office of Airports personnel and need not be submitted to regional counsel for review unless there is any question about the adequacy of the title.

d. Title Requirement Prior to Notice to Proceed.

Authorization for the sponsor to issue a notice to proceed with grant funded work on property to be acquired by the sponsor should not be given until it has been determined that all property interests on which construction is to be performed have been, or will be, acquired in conformance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act). (See Advisory Circular (AC) 150/5100-17, *Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects*, for additional information on this topic.)

6.13. Airport Management Agreements.

a. Responsibility Under Airport Management and Operations Agreements. Although the sponsor may delegate or contract with an agent of its choice for maintenance or supervision of operations, such arrangements do not relieve the sponsor of its federal obligations. Such arrangements also have a high potential for a conflict of interest where the tenant provides aeronautical services itself and at the same time can exercise some control over access and competition at the airport. Consequently, any agreement conferring such responsibilities on a tenant must contain adequate safeguards to preserve the sponsor's control over the actions of its agent. In addition, to avoid conflicts with a sponsor's federal obligations, the FAA strongly encourages a management contract to be a separate agreement from leases or airfield use agreements held by the agent of the sponsor. This makes the respective responsibilities for each activity clear, and also enables the sponsor to deal with a possible default in one activity (i.e., management agreement) without terminating a second, separate activity not subject to a default, such as an unrelated land lease.

b. Total Delegation of Airport Administration. In certain cases a sponsor may consider contracting with a private company for the general administration of a publicly owned airport. Whether this is done by lease, concession agreement, or management contract, it has the effect of placing a private entity in a position of substantial control over airport decisions that may affect the public sponsor's grant compliance. This kind of agreement should include provisions adequately protecting and preserving the owner's rights and powers to assure grant compliance.

c. Lease of Entire Airport. If the sponsor grants a lease for the entire airport, the lease will generally include the right to sublease airport property to third-party tenants for aeronautical services and development. In such cases, the lessee may have the right to conduct a commercial business on the airport directly and also to control the granting of such commercial rights to others. This situation creates a high potential for violating Grant Assurance 23, *Exclusive Rights*, unless mitigated, and the lease should provide for the sponsor to retain sufficient rights to prevent and reverse the granting of any exclusive rights on the airport.

d. Lease Terms that Protect the Sponsor's Rights and Powers. In cases where a management contract or general lease provides a private operator with the ability to make decisions on access by other aeronautical tenants, the inclusion of contract provisions similar to the following can assure that the public sponsor retains the ability to prevent a violation of the grant assurances:

(1). The lessee (second party, manager, etc.) agrees to operate the airport in accordance with the obligations of the lessor (public sponsor) to the federal government under applicable grant agreements or deeds. The lessee agrees to operate the airport for the use and benefit of the public; to make available all airport facilities and services to the public on fair and reasonable terms and without unjust discrimination; to provide space on the airport, to the extent available; and to grant rights and privileges for use of aeronautical facilities of the airport to all qualified persons and companies desiring to conduct aeronautical operations on the airport.

(2). The lessee/management firm specifically understands and agrees that nothing contained in the lease shall be construed as granting or authorizing the granting of an exclusive right within the meaning of 49 U.S.C. § 40103(e) and § 47107(a)(4).

(3). The lease/management agreement is subordinate to the sponsor's obligations to the federal government under existing and future agreements for federal aid for the development and maintenance of the airport.

6.14. Airport Privatization Pilot Program.

a. Change of Sponsorship from Public to Private. Leases or sales under the airport privatization pilot program, 49 U.S.C. § 47134, transfer the federal obligation as well as the responsibility for operation, management, and development of an airport from a public sponsor to a private sponsor. These leases and sales also transfer the federal obligations to the private operator, although the FAA may require the public agency transferring the airport to retain concurrent responsibility for certain assurances if appropriate.

b. Exemption from Federal Obligations. As an incentive for public airport operators to consider privatization under the privatization pilot program, Congress authorized the FAA to exempt a sponsor from its federal obligations to repay federal grants, to return federally acquired property, and to use the proceeds from the sale or lease of the airport for airport purposes. At commercial airports, the use of proceeds for nonairport purposes is subject to the approval of 65 percent (65%) of the air carriers serving the airport. An agency record of decision identifies all the applicable exemptions. Exemptions under the privatization pilot program are issued by the Administrator. Public inquiries on the pilot program should be referred to the Airport Compliance Division, ACO-100.

6.15 Privatization Outside of the Airport Privatization Pilot Program.

a. General. Sale or lease of a public airport to a private airport operator is not prohibited by law, and the FAA may be requested to approve a transfer of ownership or operating responsibility of a public airport to a private operator without an application for participation in airport privatization pilot program. FAA review of a request for release of the public sponsor from its obligations and for approval of a private operator as the new sponsor is conducted in accordance with the general review procedures in paragraphs 6.7 and 6.11 of this chapter. This review is similar to the review of a transfer between public airport owners and does not involve the specific requirements and findings of 49 U.S.C. § 47134.

b. Private Operator as Airport Sponsor. A privatization of a public airport by sale or long-term lease is distinguished from a management contract by the fact that the private operator becomes the airport sponsor. The private operator is the applicant for grants and is directly responsible to the FAA for compliance with the conditions and assurances in those grants. As with transfers under the privatization pilot program, the FAA may require the public agency transferring the airport to retain concurrent responsibility for certain assurances if appropriate. For example, FAA may require a transferring public agency to maintain its ability to use its local zoning power to protect approaches to the airport.

c. Special Considerations. While reviewing a transfer of responsibility for airport operations to a private operator is in many respects similar to reviewing any transfer of ownership and operation (public or private), reviewing for privatization outside the Airport Privatization Pilot Program should consider the following:

(1). The transfer will not be approved unless the private operator agrees to assume all of the existing obligations of the public sponsor under grant agreements and surplus and nonsurplus property deeds. For future grants, the private operator will agree to the assurances applicable to a private operator, but initially will also be obligated to comply with the public operator's assurances as long as they would have remained in effect for the public operator.

(2). The FAA may not exempt the public sponsor from the requirements of Grant Assurance 25, *Airport Revenues*. Accordingly, the public sponsor may use the proceeds from the sale or lease of the airport only for purposes stated in 49 U.S.C. § 47107(b) and § 47133.

(3). It is not necessary for the public sponsor to return to the FAA the unamortized value of grant-funded projects or surplus or nonsurplus property received from the federal government, as long as the grant-funded facilities and donated property continue to be used for the original airport purposes. To assure this continued use, the private operator should be required to agree specifically to continue the airport uses of grant-funded facilities and federally donated property for the purposes described in FAA grant agreements and property deeds.

(4). The private operator will be subject to the general AIP criteria for grants to private operators, and will not be subject to or benefit from the special provisions of the airport privatization pilot program. Accordingly, the private operator should be advised that it will not be eligible for apportionment of entitlement funds under 49 U.S.C. § 47114(c) or for imposition of a passenger facility charge at the airport.

(5). As with any change of airport owner/operator, FAA certificates do not transfer. If the airport is certificated under 14 CFR Part 139, that certification will not transfer to the private operator and would need to be reissued. Also, if the airport has a security plan in effect in accordance with Transportation Security Administration (TSA) regulations, TSA should be advised of the request for approval of the transfer of airport management responsibility. TSA will advise the airport sponsor if additional amendments are necessary.

6.16. through 6.20. reserved.