

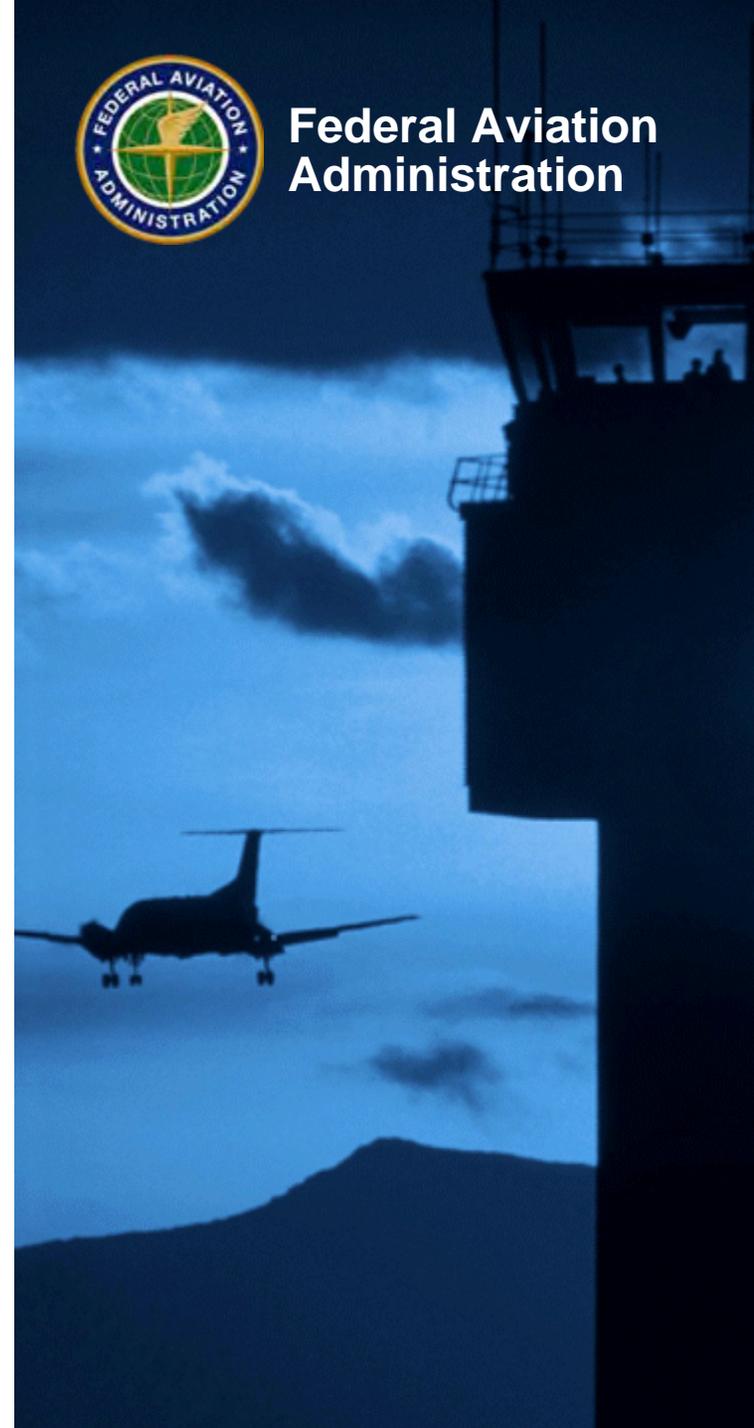


**Federal Aviation
Administration**

Land Acquisition for Airport Projects

**24th Annual Airports Conference
FAA Great Lakes Region
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Chicago, IL**

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Land Acquisition for Airport Projects

- ➔ Uniform Relocation Assistance and Real Property Acquisition Policies Act (49 CFR Part 24)
- ➔ Land Project Overview – FAA AC 150/5100-17
 - Land Project Scoping
 - 49 CFR Part 24 Requirements
 - Appraisal / Just Compensation / Relocation / Appeals / Possession*
 - Compliance Documentation & Certification
 - Grant Offer / Payment / Closeout for Land Projects
 - Waivers of 49 CFR Part 24 Requirements
- ➔ Guidance / Technical Assistance / Other Sources of Help

Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act)

→ **Uniform Act Purpose** *(PL 91-646, 42 USC 4601 et seq)*

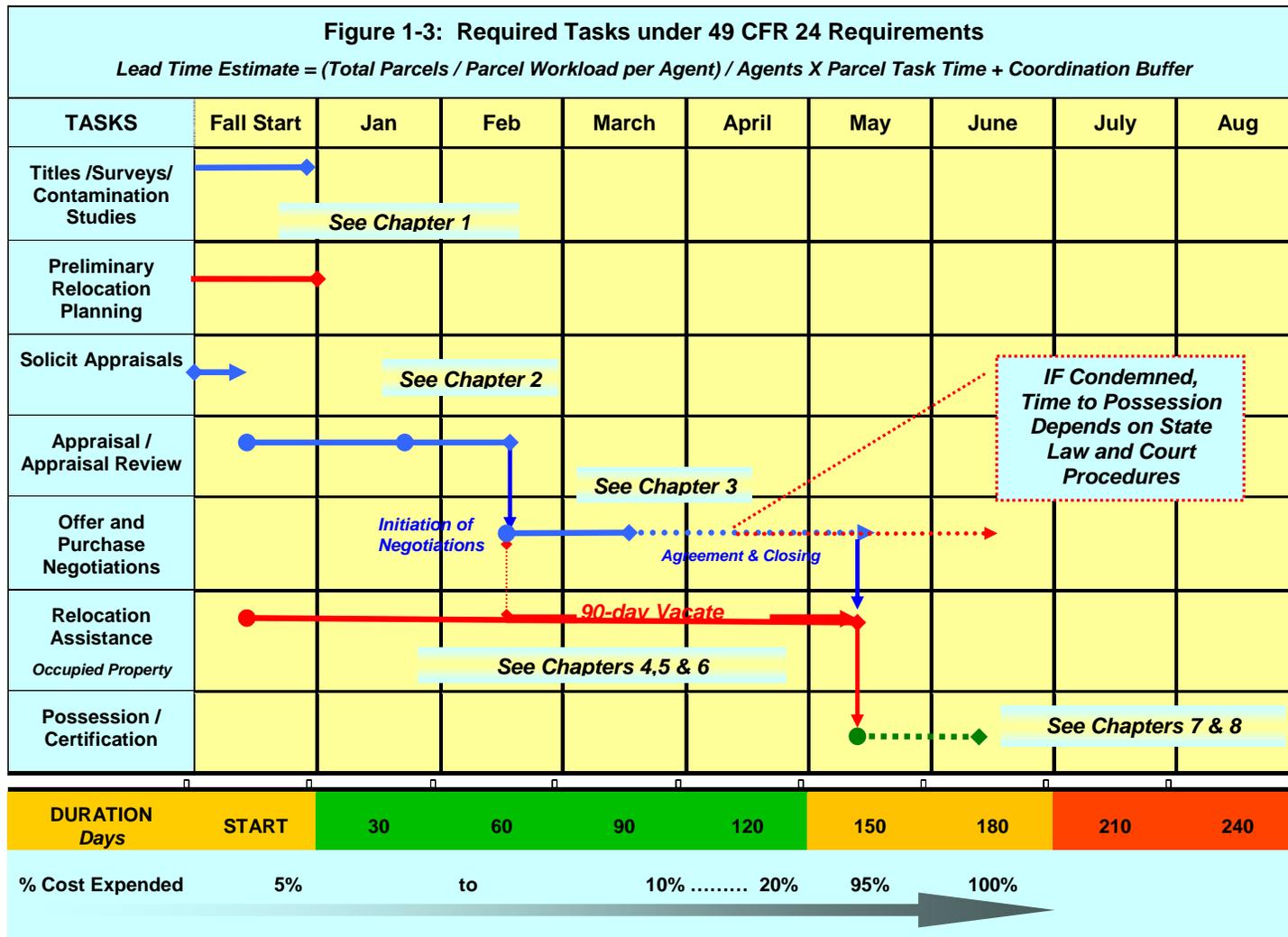
- Treat property owners fairly and consistently.
- Treat persons displaced from their homes and businesses fairly, equitably, consistently.
- Minimize litigation.
- Act efficiently and in a cost-effective manner.
- 49 CFR Part 24 is the Federal Implementing Regulation

➔ Uniform Act Regulation Applies to Any Real Property Acquired FOR an AIP Project or Program:

- With or Without AIP Reimbursement of the Land Cost
- Grant Assurance of 49 CFR Part 24 Compliance Required
- Sponsor's Real Estate Certification Required
 - Appraise FMV of the Needed Land
 - Offer in Writing @ No less than Approved Appraisal
 - Provide Relocation Assistance and Payments to Displaced Persons
 - Assure Comparable Replacement Housing is Available for Persons Displaced from their Homes

Process Overview – FAA AC 150/5100-17

FAA AC 150/5100-17



Process Overview – Typical TIME Frames

Uniform Act Process

- **Project Planning/Scoping:** *6 months plus (Qualified Consultant Onsite & Working)*
 - **Appraisal / Appraisal Review:** *Average 60 days (can be expedited for \$)*
 - **Written Offer / Initiation of Negotiations (ION):** *At least 30 days please, 90 days is enough*
 - **Relocation Assistance:** *Typical 180 days from Relocation Interview.*
 - *Someone's Home: at least 90 and typically 120 days following ION.*
 - *Someone's business: typically 120 days after ION (depending on advance planning).*
 - **Settlement / Closing:** *Per Option/Contract, typical 30 to 45 days*

Possession of Property at or within 30 days after Closing

- *(Unless Condemnation is Required!)*

**TOTAL – 12 to 20 months from Date of
FAA Coordination / Land Project Scoping**

Sponsor Project Eligibility / Pre-Qualification

- *Obstruction Analysis and AIP Eligibility*
- *Land Requirements (fee vs. easement), Relocation requirements, Hazardous Contamination identified*
- *Interagency Coordination (including demolition)*
- *Environmental Determination (depends on project need for land)*

Sponsor Project Eligibility / Pre-Qualification

→ **Sponsor Commitment** (*eminent domain / budget requirements / lead time*)

→ **Qualified Acquisition / Relocation Staff**

See AC paragraph 1-17 for RFP requirements:

- *Understanding of 49 CFR Part 24 and AC 150/5100-17*
- *Experience and expertise with acquisition and relocation procedures conforming to requirements.*
- *Staffing ability to complete compliant work within project schedule*
- *References current and completed projects*
- *Education and training, certifications*
- *Quality Control system to ensure Uniform Act compliance*

Sponsor Project Eligibility / Pre-Qualification

- **Sponsor must have an adequate record keeping system.** Should establish its operating procedures and documentation standards. The FAA AC is available to use as a guide for the sponsor's operating procedures and documentation formats. Most consultants have document management systems and quality control procedures to apply on the sponsors project.
- **Appeal Procedure.** If there is any relocation on the project the sponsor must establish an appeal procedure conforming to 49 CFR Part 24, see paragraph 1-19 of the AC. The FAA does not hear appeals.

Titles, Land Surveys and Studies

For AIP-assisted projects, the sponsor must acquire real property rights of a nature and extent adequate for the construction, operation, and maintenance of the grant-assisted project. The sponsor should consult the FAA project manager to ensure adequate interest is acquired.

- **Land Titles.** Order preliminary title reports (commitment letters). Can the owner convey clear fee title to the airport? Commitment letter will list encumbrances, mortgages, liens, other ownership interests, defects that must be cleared before the owner can convey a deed to the land. Sponsor will rely on title reports and curative action to provide FAA certification of title.
- **Surveys and plats.** As needed to acquire and record deeds.
- **Exhibit A, Airport Property Map.** The grant agreement with the FAA requires the airport sponsor to prepare and maintain a current Exhibit "A" property map of airport owned land.

Sponsor needs to do these before initiating negotiations:

→ **Hazardous Materials and Contamination.**

Phase I Environmental Audit. On commercial/industrial property (including agricultural) environmental audit (all appropriate inquiry) needs to be done before completing fair market value appraisal. On residential property, need to identify any asbestos in building materials, condition of fuel storage tanks, lead paint, other issues affecting valuation and demolition requirements. See AC paragraphs 1-9(b) and 2- 17.

Limit of eligible cost is typically the appraised “FMV As Clean”. Additional cost to clean-up owner’s liability is not eligible. Property is valued Fair Market Value (FMV), and project demolition are not deductions from FMV. Sales contract will need to specify any owner requirements to clean property to adequate enforcement standard before closing.

Sponsor needs to do these before initiating negotiations:

→ **Acquisition Stage Relocation Plan (Relocation Interviews, see [paragraph 4-14, Figure 4-1 and 4-2](#))**

Personal interview of the persons to be displaced by the project is required. Sample questionnaire provided in the AC. Interview needs to establish preferences, needs and relocation payment eligibility for the displaced persons. Initiate relocation assistance.

A “Displaced Person” is anyone required to move or move their personal property due to the acquisition of the occupied real property for an AIP assisted project. (except illegal aliens, persons not in lawful occupancy). See AC appendix 2, # 8.

Sponsor needs to do these before initiating negotiations:

- ➔ **Realty/Personalty Determination. (AC par 1-10c, needed for all business relocations).**

For displaced businesses, farms and non-profits, the sponsor will need to determine what is realty and being acquired and what is personalty and being relocated. On complex business relocations, a written agreement is reached with the property owner, tenants on the property and the airport sponsor. The realty/personalty needs to be completed prior to completing appraisals.

Sponsor needs to do these before initiating negotiations:

- ➔ **Qualified Appraiser and Review Appraiser Hired.** (see AC paragraph 2-3).

Required Appraisal Scope of Work (AC par 2-8)

- ✓ **Fee simple or easement**
- ✓ **Disregard Project Influence on Value**
- ✓ **Appraiser must offer owner opportunity to accompany the appraiser on the inspection of the property**
- ✓ **Definition of Fair Market Value (per state eminent domain code)**
- ✓ **5 year sales history**
- ✓ **Written report providing data and analysis**
- ✓ **Delivery Dates to meet scheduled initiation of negotiations**
- ✓ **Others as specified in appraisal solicitation**

→ Appraiser and Review Appraiser Selection

Adequate Scope of Work for the Needed Appraisal

Hire Best Qualified Appraiser(s) for the Project Real Property

Must be a State “Certified General” Appraiser for Complex/High value

At least 1 appraisal for each property. May want 2 appraisals on very high value and complex property.

→ Appraisal Requirements

- FAA Requirements – Chapter 2 of AC150/5100-17
- USPAP- Uniform Standards of Professional Appraisal Practice
- UASFLA – Uniform Appraisal Standards for Federal Land Acquisition

→ Review of the Appraisal

A qualified review appraiser must review each appraisal to ensure conformance to applicable standards and FAA requirements. Approves appraised Fair Market Value (FMV) and recommends the amount of just compensation to be offered property owner, i.e not less than the approved appraisal FMV.

- **The “Initiation of Negotiations” (ION).** The sponsor must make a written offer to acquire the property for the full amount of just compensation, I.e Not less than Approved Appraised FMV. General Notice of Acquisition Procedures and Relocation Assistance (if applicable) must be given the property owner no later than the ION
- **Must Allow the Property Owner to Consider the Offer.**
 - Explain the Basis of Just Compensation (the appraisal)
 - Provide Adequate time for the owner to consider and seek professional guidance (appraisal, attorney) – AT LEAST 30 DAYS
- **Negotiate in Good Faith - Best Current Offer to Purchase.** Property owner may offer valuation information and propose terms. Sponsor must consider owner’s information and either confirm the sponsor’s offer or if warranted, amend the offer of just compensation.
- **No Coercion to force agreement.**

- **Closing Agreed Purchase.** Once an agreement is reached, the airport must pay the agreed purchase price to the owner. Per title report (abstract) encumbrances and liens will be settled at closing (via escrow) and owner will convey Fee title to needed property (or easement if applicable for approaches, etc).
- **Administrative Settlement.** If agreement on the offered FMV is not reached, the sponsor may consider a cost effective administrative settlement shown to be in the public interest (e.g. less costly than terminating negotiations or condemnation, See Section 2 of Chapter 3, FAA AC 150/5100-17).
- **Condemnation.** The sponsor may use its eminent domain authority to take the needed property. Prior to taking possession the sponsor must pay just compensation (awarded or deposit of appraised FMV).

→ Required Notices :

- General Notice – FAA Brochure [“Land Acquisition for Public Airports: How and Why Your Local Government Acquires Real Property for Public Airports”](#)
- *Notice of Relocation Eligibility*
 - Specific letter addressed to displaced person (Sample letter see AC Figure 4-1)
 - Delivered at initiation of negotiations (ION) or shortly thereafter
 - Establishes qualification for relocation assistance and may set amount
- Ninety Day Notice ([May be Incorporated in above Eligibility Notice](#))
 - Letter that is hand-delivered or sent by certified mail
 - Delivered at or subsequent to ION or subsequent to acquisition of property
 - Assures Agency meets legal requirement giving displaced person minimum of 90 days to move

→ ***Basic Assurance: The Sponsor Must make a Comparable Replacement Dwelling Available to a displaced Homeowner or Residential Tenant Before they May Issue a 90-day Notice To Vacate.***

Sponsor Must Show its Compliance

- Adequate records must be maintained to evidence compliance to the Uniform Act (49 CFR 24)
- FAA AC has documentation samples and requirements. [Documentation Checklist](#)
- FAA acceptance of Sponsor Certification will depend on adequate support of compliance.

Grant Offer Requirements:

- ✓ Exhibit A Property Map
- ✓ Executed Purchase and Sales Agreement or land acquired
- ✓ Project Application
- ✓ Current Exhibit “A” Property Map Reflecting Project Parcels
- ✓ Certifications

Payment Requirements:

- ✓ Final Title Opinion
- ✓ Recorded Deed or Easement
- ✓ Closing Statement (HUD-1 Form)
- ✓ Subordination Agreement (easements)
- ✓ Signed Relocation Claim Forms
- ✓ Legal Invoices (dates, times, hours & hourly rate)
- ✓ Demolition Invoices
- ✓ Consultant Invoices

Final Certifications Required:

- Sponsor Real Estate Certification
- Construction Certification for Demolition

Sample Sponsor Certification to FAA



Waivers & Exceptions: Uniform Act Not Applicable

Supporting Documentation: *The Uniform Act Was NOT Applicable to the Purchase of the Land that is NOW being used for a AIP Project.*

→ **Sponsor Must Show that at the Time of Purchase, the Land Was Bought for Another Purpose (Not FOR the Project being put under AIP Grant).**

- Why was the land acquired? Improve fence lines, prevent encroachment of non-compatible land use, open market purchase to improve current standards, just a good investment in the airport, etc.
- Did the purpose of the purchase have “Independent Utility”/”Stand Alone Justification” distinct from the AIP Project purpose and need?
- Any other land acquired for the AIP project? (Later or earlier?)
- Was the AIP project on the ALP or Master Plan at the time of acquisition? On the ACIP or NPAIS? Any public announcement of the project?
- Will FAA be able to accept your Grant Assurance and Certification if there is any conflicting documentation?
- Other things that bite? Can you explain to the selling owner why they did not receive relocation?



Corrective Action: Uniform Act Was Applicable, But Sponsor Didn't Comply

Corrective Action: *The Uniform Act Was Applicable But Was Not Followed on the Purchase of the Land that is NOW being used for a AIP Project.*

→ **Sponsor Must Take Corrective Action to Conform To Requirements (as is feasible to restore AIP project eligibility).**

- Appraise FMV of the Needed Land.
- Offer in Writing @ No less than Approved Appraisal.
- Provide Relocation Assistance and Payments to Displaced Persons.
- Assure Comparable Replacement Housing is Available for Persons Displaced from their Homes.
- Provide FAA Certification to Support Grant Assurance for Project.
- FAA May Assist to Determine What is Required.



Waivers & Exceptions: Voluntary Transaction Exemption

Voluntary Transaction Exemption - 49 CFR 24.101(b)(1) *Sponsors With Eminent Domain Authority*

The owner's sale is a "voluntary transaction" if:

- Possession of that specific property is not a necessity to complete the airport project (e.g. Airport purchase of a home under a Sales Assurance program or Purchase Assurance), AND;
- The owner's property is not part of an intended, planned, or within a designated project area where all or substantially all of the property within the areas is eligible and proposed for purchase within specific time limits. **(An owner's sale for an airport expansion or noise buy-out project does NOT meet this qualification criterion.)**

If a Voluntary Transaction, Both the Airport and the Property Owner can "Walk Away" without a loss. The Selling Owner is Not A Displaced Person and Is Not Entitled to Relocation Payments.

Is the Owner's Sale to an Airport Project a Voluntary Transaction Exception?

See paragraph 1-3 FAA AC 150/5100-17 CHG 6

Property is Purchased For:	Is Owner's Sale a Voluntary Transaction?	Is Selling Owner Displaced?
Current or Planned Airport Expansion Project	No	Yes, and entitled to relocation payments.
<u>Airport Noise Compatibility Program</u> Buy-Out of Homes Change in Land Use	No	Yes, and entitled to relocation payments.
<u>Airport Noise Compatibility Program</u> Purchase /Sales Assurance No Change in Land Use	Yes, if owner advised in writing that failing amicable agreement the property would not be purchased.	No
Open Market Sale for AIP Eligible Airport Standards At the time of sale, property was not required for a current or planned FAA Assisted Expansion	Yes, if owner advised in writing that failing amicable agreement the property would not be purchased.	No



Voluntary Transaction Exemption - 49 CFR 24.101(b)(1)

Sponsors With Eminent Domain Authority

IF a Voluntary Transaction, the Sponsor Still Must:

- Inform the property owner in writing that should negotiations fail the airport will not purchase the owner's property.
- Inform the property owner in writing of the market value of the property.
- Provide any tenant occupants relocation assistance and eligible payments. Tenants who must relocate as a result of acquisition of their occupied property are entitled to relocation assistance and payments benefits regardless of the owner's voluntary participation.

NOTE: The "Initiation of Negotiations" is a different date for Voluntary Transactions. On a voluntary transaction, a tenant becomes eligible for relocation payments when the owner and the airport have a written sales agreement and not at the date of written offer.

Voluntary Transaction Exemption - 49 CFR 24.101(b)(2)

Sponsor does not have Eminent Domain Authority

Any Acquisition by a Sponsor that does not have Eminent Domain Authority, IF the Sponsor:

- Prior to making its purchase offer, informs the property owner in writing that should negotiations fail the airport will not purchase the owner's property.
- Informs the property owner in writing of the market value of the property.
- Provide any tenant occupants relocation assistance and eligible payments. Tenants who must relocate as a result of acquisition of their occupied property are entitled to relocation assistance and payments benefits regardless of the owner's voluntary participation.

Supporting Documentation: The Owner's Sale is a Voluntary Transaction under 49 CFR 24.101(b)(1).

→ The Property is being acquired for:

- Standards for Existing Operations / Configuration
- Not Staged Development – Open Market Sale
- Purchase /Sales Assurance Measure

*Level of
Documentation
will Depend on
Clarity of Issues*

→ The Sponsor Informed the Property Owner in Writing of the Fair Market Value (FMV) and That Failing Agreement the Airport Will Not Acquire the Property.

Bottom Line on Voluntary Transaction Exemption

If the Acquisition Meets the Exemption Criteria, then Appraisal Review not required and Selling owner Is not Displaced and is not Entitled to Relocation Payments.

BUT, If In doubt the Owner's Sale is a Voluntary Transaction,
Err on the side of the property owner.

Relocation is Eligible.

Waivers of 49 CFR Part 24 Requirements – Programmatic

→ Appraisal Waiver - 49 CFR 24.102(c)(2)

An appraisal is not required if:

- The owner is donating the property and releases the Sponsor from its obligation to appraise the property, or
- The Sponsor determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the market value is estimated at \$10,000 or less, based on a review of available data. When an appraisal is determined to be unnecessary, the sponsor shall prepare a waiver valuation of the proposed acquisition to document its determination.
- The FAA may approve a Sponsor exceeding the \$10,000 appraisal waiver threshold, up to a maximum of \$25,000.

Waivers of 49 CFR Part 24 Requirements – Programmatic Appraisal Waiver - 49 CFR 24.102(c)(2)

→ Acquisition Under \$10,000. Is it Uncomplicated?

- Approach Avigation Easement over Farmland?
- Approach Avigation Easement over Land Zoned for Industrial Development?
- Acquire 10 foot Strip along Frontage of 20 ac Farm field?
(Farmland value at \$1000/ac, taking of 60,000 sq.ft or ~ 1.4ac @\$1000 =\$1400)
- Acquire 3 acres from Georgia-Pacific Land Co., listed - sales @ \$5000/ac. Can FAA approve increase in waiver threshold?

Waivers of 49 CFR Part 24 Requirements – Programmatic Conflict of Interest - 49 CFR 24.102(n)

→ Conflict of Interest Prohibited

- 24.102(n)(1) - The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency. Compensation for making an appraisal or waiver valuation shall not be based on the amount of the valuation estimate. (*Standard for all acquisitions.*)

Waivers of 49 CFR Part 24 Requirements – Programmatic Conflict of Interest - 49 CFR 24.102(n)

→ Separation of Appraisal and Negotiation Tasks – FAA Application to Airport Land Projects

- 24.102(n)(2) - On complex and high value acquisitions and on large long term projects, persons functioning as the property negotiator may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for the project. On any real property acquisition for a FAA assisted project no person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation.

Waivers of 49 CFR Part 24 Requirements – Programmatic Conflict of Interest - 49 CFR 24.102(n)

→ Appraise and Negotiate Acquisition under \$10,000.

- 24.102(n)(3) An appraiser, review appraiser, or waiver valuation preparer making an appraisal, appraisal review or waiver valuation may be authorized by the Agency to act as a negotiator for real property for which that person has made an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is \$10,000, or less.

FAA Airport Land Projects- Uniform Act Guidance

- **FAA Order 5100.37B – FAA Work Acceptance Rules**
- **FAA AC 150/5100-17 CHG 6**
 - Procedural Guidance
 - Documentation Formats
 - Sponsor Certification / Quality Control
- **FAA Lesson's Learned**
 - Typical Problems and Solutions Encountered on Airport Projects
- **ARC Instructional CD – Acquisition, Relocation, Certification**
- **Airport Land Project Certification System (ALPCS)**
Developed 2009 / Released 2010

See: http://www.faa.gov/airports_airtraffic/airports/environmental/relocation_assistance/



FAA Airport Land Projects – Current Initiatives

- ***Airport Land Project Certification System (ALPCS) – FY 09/10***
 - ***Web Resident Document Management and Certification System***
 - ***Work flow models for airport projects (Thank you PHX, FHWA)***
 - ***Airport Sponsor Use to Manage their Land Projects***
 - ***Will be Hosted on FAA Server***
 - ***Property Owner and Displaced Person access to request assistance and submit claims***
 - ***Will provide Certification of Uniform Act Compliance to FAA***
 - ***FAA Project Manager Access for Reviews / Grant Actions***
 - ***Compatible with FAA electronic Airport Layout Plan (eALP) / GIS compatible***
 - ***Land Disposal Component***
- ***Update “Lessons Learned” FY 09 - Summary of Typical Problems and Solutions for Airport Land Projects***
- ***Participate in IRWA Federal Agency Update – Uniform Act Conference January 13-15, 2009 at Las Vegas***

Airport Cooperative Research Program (ACRP)

Recent and Soon to be Issued Research Reports Airport Compatible Land Use / Avigation Easements

ACRP 11-01, [Study Topic 2-01](#), Obstructions Affecting Navigable Airspace/ the Implications of not Declaring Structures to be Hazardous Obstructions Affecting Navigable Airspace/TERPS

ACRP 11-01, [Study Topic 2-02](#), Use and Success of Avigation Easements and Other Tools for Airport Compatible Land Use and Development of Model Language

ACRP 11-01, [Study Topic 2-03](#), Case Studies on Community Challenges to Airport Development

ACRP 11-01, [Study Topic 1-03](#), Compilation/List of Airport Law Resources

[ACRP 11-01, Study Topic 1-05](#), RESPONSIBILITIES FOR IMPLEMENTATION AND ENFORCEMENT OF AIRPORT LAND-USE ZONING RESTRICTIONS

More Information <http://www.trb.org/CRP/ACRP/LegalACRP.asp>

Other Sources of Help:

→ Uniform Act - FHWA Lead Agency Website

<http://www.fhwa.dot.gov/realestate/index.htm>

→ International Right-of-Way Association

- FAA Partnership – *Working Towards Excellence in Airport Land Programs*
- Education Offerings
- Conferences / Seminars

<http://www.irwaonline.org>



Presented by the Appraisal Institute and the International Right of Way Association

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