



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

# Memorandum

Subject: **ACTION:** Program Guidance Letter 13-04,  
Pilot Program for Redevelopment of Airport  
Properties (Acquired Noise Land)

Date: FEB 14 2013

  
From: Manager, Airports Financial Assistance  
Division, APP-500

Reply to Nancy Williams  
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To: PGL Distribution List

## 1. Background.

The FAA Modernization and Reform Act of 2012 (PL 112-95), requires, under section 822, that the FAA establish a pilot program by February 14, 2013, to fund activities related to the compatible redevelopment of airport properties purchased for airport noise compatibility with AIP and PFC funds. Under the pilot program up to 4 eligible public use airports that have an FAA approved noise compatibility program (NCP) developed under 14 CFR Part 150, Airport Noise Compatibility Funding, may apply to the FAA to receive grants from discretionary Airport Improvement Program (AIP) funds set aside by law for noise mitigation projects. Under the law, the FAA should seek to select airports for the pilot program from different geographic areas of the United States. Grant funding is limited to a total of \$5 million of allowable cost described in this PGL at a selected airport. Total authorized funding for the pilot program, at a maximum of 4 participating airports, is \$20 million. The pilot program authority to issue grants sunsets September 30, 2015.

In addition to grant funding an eligible airport may submit a PFC approval request to the FAA to fund allowable costs. The law envisions that the pilot program projects will encourage airport compatible land uses and generate economic benefits to the airport operator and adjacent community.

## 2. Pilot Program Project Eligibility

A requirement of a pilot program project grant is to enable the airport sponsor and local jurisdictions undertaking community redevelopment to expedite compatible redevelopment of airport property purchased for a NCP by the airport with Airport Improvement Program (AIP) or Passenger Facility Charge (PFC) funds. The airport sponsor may only use AIP grant or PFC funds to fund allowable costs under this pilot

program in partnership with neighboring jurisdictions. The local jurisdiction governing the property interests subject to redevelopment must have adopted and will continue in effect zoning regulations that permit airport compatible redevelopment. The sponsor and the local jurisdiction's governing authority must have an enforceable agreement (e.g. memorandum of agreement, joint resolution, etc.) to undertake the assemblage and airport compatible redevelopment of airport land conforming to applicable FAA requirements described in the PGL.

An eligible pilot program project could consist of the joint planning, engineering, design and environmental permitting cost needed to support the assembly and compatible redevelopment of airport noise compatibility property purchased with AIP or PFC funds with land owned by the neighboring jurisdictions and third party (non-public) owned land. The allowable grant funded project cost is limited to the prorata acreage share of AIP/PFC funded and local jurisdictions public owned land. The Federal share of allowable costs is set at 80% and the participating airport must provide the remaining 20% share of the allowable project costs.

Once the airport owned property is redeveloped to a compatible land use, the land may be sold or retained by the airport for long term lease. Upon a sale, the sales proceeds are subject to the requirements for reinvesting in other eligible airport noise compatibility or airport development projects, and must include the reinvestment of the grant amount awarded under this pilot. Long term lease proceeds are airport revenue and also must be invested in eligible airport uses and/or applied to eligible expenditures.

### **3. Pilot Program Project Grant or PFC Approval Application**

An interested airport sponsor must contact their local FAA Airports District Office for instructions on submitting a Pilot Program grant or PFC approval application. The attached checklist (Attachment 1) must be used by airport sponsors to support their grant or PFC approval application for a pilot program project. Sponsors must submit complete applications with all required supporting documentation no later than January 15, 2015, in order to enable FAA consideration before the September 30, 2015 expiration of authority under Section 822. Although certain costs (such as appraisals and other planning and feasibility analysis, subject to limitations) may become eligible for reimbursement if the FAA ultimately awards a grant, airport sponsors must recognize that there is **no guarantee of a grant and that any advance costs are solely at the sponsor's financial risk.**

The FAA will review applications and may accept those found to conform to the requirements of this PGL and applicable FAA grant and PFC approval requirements. The FAA may issue pilot program grants at up to 4 eligible airport sponsors as provided under the law.

Grants issued under the pilot program are subject to AIP grant application, FAA acceptance, and close-out requirements as described in FAA Order 5100.38, the AIP Handbook. For use of PFC funds the airport sponsor must submit a PFC application in



accordance with 14 CFR Part 158 and FAA Order 5500.1. For issuance of an AIP grant or PFC approval, the FAA and the airport sponsor must undertake adequate environmental evaluation of the proposed pilot program project as described in FAA Order 5050.4B, National Environmental Policy Act (NEPA) Implementing Instructions for Airport Projects.

#### 4. Requirements under Section 822 for Pilot Program Projects

The sponsor's grant application or PFC approval application shall conform to the following requirements. The attached check list (attachment 1) must be submitted with a sponsor's pilot program application and provide all necessary supporting documentation for FAA acceptance. Also attached (attachment 2) is a copy of law authorizing the pilot program, Section 822 of the FAA Modernization and Reform Act of 2012 (PL 112-95).

- a. Authorized AIP Grant Funding (*PL 112-95, Section 822(a), (b) & (h(1))*): AIP noise and environmental set-aside discretionary funding in 49 USC § 47117(e)(1)(A) is authorized for pilot programs at up to 4 public use airports that have an approved NCP. Total funding is limited to \$5 million in grant funds per selected location. Eligible pilot programs should be distributed to qualified and interested airports from different geographic areas of the United States, as possible.

The Federal share of allowable costs (*Sect. 822(h)*) is 80%. To issue a grant the FAA will need to make the required NEPA evaluation and determination in conformance to FAA Order 5050.4B.

- b. Eligible Project Work Description (*Sect. 822(b) (1) & (2)*):
  1. Joint planning, engineering, design and environmental planning and permitting of projects that include the assembly of AIP and PFC funded airport noise compatibility property with local jurisdiction and third party (non-public) land for redevelopment to airport compatible land use, and
  2. To encourage airport compatible land uses and generate economic benefits to the airport sponsor and adjacent community.
- c. Sponsor Eligibility: A sponsor may participate in a Pilot Program if:
  1. The sponsor has an approved NCP (*Sect 822(c)(1)*); and
  2. The sponsor demonstrates the following for FAA acceptance:
    - a. The sponsor must be ready, willing and able (e.g. time/ budget/ staff/local authority/etc.) to implement cooperative land use management and redevelopment plans with the neighboring local jurisdictions, (e.g. sponsor

input and approval of zoning, permitting, enforceability of airport requirements for compatible land use and development). (*Sect 822 (c) (2) (A)*).

- b. The local jurisdiction(s) must have existing zoning, land use and development controls in place that enable airport compatible development and prevent incompatible development. Rights and responsibilities for the joint development and compatible land use enforcement may be specified by local ordinance and deed restrictions ensuring airport compatible land use and development of the assembled land. (*Sect 822(f)(2)*).
3. Developed and/or conveyed airport noise land is subject to the airport's retention of adequate property rights (easement, deed restriction, lease terms and restrictions, etc.) that prevent incompatible land use. (*Grant assurance #31 / 49 USC 47107(c)(2)(A)*)
4. Probability of economic benefit to the neighboring jurisdiction. The airport must show that the redevelopment project will produce verifiable public benefits (e.g., increased tax base, employment, removal of blight, etc.). (*Sect 822 (c)(2)(B)*)
5. The proposed assemblage and redevelopment of the airport land must be shown to be feasible and provide the airport adequate financial return. The developed land must reflect the highest and best use of the land (subject to airport compatible land use restrictions) and secure Fair Market Value (FMV) proceeds on the sale or airport long term lease. At a minimum the FMV of the developed land must at least offset the development cost (Federal and local sponsor funded) and the pre-development FMV (raw land value) of the airport owned land for compatible redevelopment. To support a pilot program grant application, the FAA may require that the sponsor submit an acceptable FMV property appraisal to document current FMV of the airport owned land and proposed developed land values. (*Sect 822 (c)(2)(B)*).
6. Required Partnership with Neighboring Jurisdictions to expedite compatible redevelopment (*Sect. 822(e) & (f)*):

The airport sponsor shall use the AIP grant funds made available for the pilot program only in partnership with neighboring jurisdictions. The sponsor must show that the joint redevelopment plan and proposed pilot grant is made to enable both the airport sponsor and the neighboring jurisdictions to expedite the beneficial airport compatible redevelopment of the acquired noise land. With its pilot program application the airport sponsor must submit its



agreement with the local jurisdiction's governing authority (e.g. enforceable memorandum of agreement, joint ordinance or resolution, etc.) to the FAA for acceptance.

d. Eligible and Allowable Project Costs (Sect. 822 (b) & (h)(2)):

(1) Eligible work includes planning, engineering, design, and environmental permitting for the assemblage and compatible redevelopment of the airport's acquired noise land with the neighboring jurisdictions public owned land and third party / private owned land.

(2) Allowable grant funding and reimbursement of eligible cost is limited to redevelopment of the airport land and local public owned land. Where privately owned land is included in the redevelopment plan, the allowable eligible project costs shall be reduced by the percentage share of the total redevelopment acreage that is privately owned.

e. Use of Passenger Facility Charge Revenue (Sec. 822 (i)): The sponsor may use PFC revenue to pay for eligible and allowable project costs described above that is not financed by an AIP grant under the pilot program.

f. Repayment of Pilot Program Funding (Sect 822 (f)(3)). The total amount of the grant funds issued under the pilot program shall be added to the amounts required to be repaid and reinvested from the disposal sales proceeds of the airport owned land developed. As a grant condition, repayment is guaranteed by payment and reinvestment of local funds as necessary.

As provided under Grant Assurance #31 (49 USC 47107(c)(5)) a long term lease of land at FMV consistent with noise buffering purposes (airport compatible land use and development) is not a disposal. For such acceptable leases, the lease terms and rent payments must be at FMV. Lease revenues are airport revenue that must be applied to AIP eligible airport development or noise compatibility costs. Upon ultimate disposal or sale, this repayment provision including repayment of grant funds will be applied to sales proceeds.

A long term lease of airport land for noise buffer/compatible land use may require a change to the Airport Layout Plan and an FAA environmental determination in conformance to FAA Order 5050.4B.

- g. **Reinvestment Requirements on disposal of airport owned noise land. (Sect. 822(g)):**  
The part of the proceeds from a sale of the airport owned land that is proportional to the federal share of the cost of acquiring the land, plus the total amount of grant funds issued under the pilot program shall be available for reinvestment or repayment, giving preference to the actions in descending order:
- i. Reinvestment in an eligible noise compatibility project at the airport;
  - ii. Reinvestment in an eligible environmental mitigation for a AIP eligible project;
  - iii. AIP eligible development project;
  - iv. Transfer to an airport sponsor for eligible NCP expenses;
  - v. Repayment to the FAA.
- h. **Sunset.** The Pilot Program authorized by Section 822, PL 112-95 shall not be in effect after September 30, 2015.

**Attachments:**

1. Sponsor Checklist
2. Copy of Section 822, PL 112-95 Pilot Program for the Redevelopment of Airport Properties

## Attachment 1. Sponsor Check List

Sponsor Checklist for Pilot Program Project.			
Sponsor:	LOCID:	Date of Submittal:	Version/Update #:
<p><b>Instructions:</b> The following checklist supplements the airport sponsor's grant and/or PFC application for a pilot program project to redevelop acquired noise land in partnership with the authorized local government jurisdiction(s). This sponsor must complete and submit this check list in accordance with the FAA Program Guidance Letter (PGL) 13-04. Consultants and/or sponsors must provide the attachments and supporting documentation noted and indicate "Yes" or "No" for every item on the checklist. The same checklist must be provided to the FAA for review and verification.</p>			
<p><b>Airport Identification:</b></p> <p>Airport:  City and State  Location Identifier:  Airport Owner:</p>			
<p><b>Pilot Program Project Submission Information (To be completed by Sponsor or Consultant):</b>  Redevelopment Project Requirements Prepared by:  Name of Consulting Firm:  Name of Individual:  Date:  Telephone:  Email address:</p> <p><b>Sponsor Review Performed by:</b></p> <p>Title:  Date:</p>			
<p><b>FAA Review (To be completed by FAA Airport District Office)</b></p> <p>Name:</p> <p>Title:</p> <p>Date:</p> <p>Comments:</p>			



## Sponsor Checklist for Pilot Program Project.

Sponsor:

LOCID:

Date of Submittal:

Version/Update #:

1) Airport sponsor has an FAA Approved Noise Compatibility Program (NCP)? ☐ Yes

2) Adjoining Local Jurisdiction Land Redevelopment Partner :

Attach sponsor and the local jurisdiction's governing authority agreement (memorandum of agreement, joint resolution, etc.) for the proposed assemblage and airport compatible redevelopment of airport noise land.

3) Location and name/identification of proposed redevelopment tract(s).

Attach location map showing land ownership and boundaries.

a) What is the total acreage of the proposed redevelopment tract?

b) How many acres are airport owned land? (Reference Exhibit A and/or Noise land inventory and reuse plan)

c) How many acres are owned by the neighboring jurisdictions (public owned)?

d) How many acres are owned by others (privately owned)?


4) Confirm the airport owned land being proposed for redevelopment is no longer needed for noise compatibility or AIP eligible airport purposes.

a) Is redevelopment land needed for current or planned airport development? Future airport use or development land shown on the Airport Layout Plan (ALP) or included in an agreement with the FAA must be retained (FAA Order 5190.6, Compliance Handbook and PGL 08-02 Management of Acquired Noise Land).

☐ No. ☐ Yes. **STOP** The redevelopment proposal is not acceptable.

b) Is Fee title to airport land within the Runway Protection Zone (RPZ) and other identified critical areas retained by the airport? Are the RPZ and critical areas clear of incompatible development conforming to FAA requirements? See FAA AC 150/5300-13 (Change 17) for RPZ design standards.

☐ Yes. ☐ No. **STOP** The redevelopment proposal is not acceptable.

c) Is the sponsor's accepted Noise Land Inventory and Re-use Plan current for the disposal and redevelopment of the airport land?

☐ Yes. ☐ No, sponsor is in process of making updates as needed.



## Sponsor Checklist for Pilot Program Project.

Sponsor:

LOCID:

Date of Submittal:

Version/Update #:

**5) Describe the proposed redevelopment. Include maps and conceptual development/design plans (attachments).**

a) Reference state and local land use and development reviews and approvals required.

b) Is an ALP change required to incorporate the proposed redevelopment project as noise buffer/compatible land use long term lease?

c) What FAA NEPA evaluation is required for the proposed pilot program project?

**6) Assure/explain that the development plan precludes any land use or construction that is not compatible with current or planned airport use, operations or development?**

a) Does zoning allow compatible development and prevent incompatible development or use on the proposed redevelopment area? Provide a reference to the zoning ordinance and the governing jurisdiction's assurance that compatible land use restrictions will continue to be enforced.

b) Does the proposed redevelopment project conform to applicable land use and development laws and requirements? Describe the local jurisdictions and any other governmental development approvals.

c) Reference any FAA airspace (OE/AAA), wildlife hazard/bird attractant, other airport safety management reviews and approvals for the proposed redevelopment project. Describe any pending FAA reviews and approvals.

d) The airport will retain adequate property rights to ensure compatible land use. Include copy of proposed aviation easement, deed restriction, development subdivision covenants, etc.

## Sponsor Checklist for Pilot Program Project.

Sponsor:

LOCID:

Date of Submittal:

Version/Update #:

**How is the sponsor to ensure and enforce the compatible land use restrictions on the proposed redevelopment project?**

**7) What work is proposed to be included for reimbursement in the pilot program redevelopment project(s)? (Attach scope of work and supporting cost documentation.)**

Land use planning? ☐ Site Engineering? ☐ Lot/Subdivision Design? ☐ Infrastructure design? ☐  
 Environmental Permitting? ☐ Other/describe.

**How was this work funded (or is to be funded)? The pilot program grant must exclude any costs for which federal assistance has been granted or privately funded (excluding local share). Describe:**



## Sponsor Checklist for Pilot Program Project.

Sponsor:

LOCID:

Date of Submittal:

Version/Update #:

### 8) What other work has been completed on the proposed redevelopment project?

Land use planning? ☐ Site Engineering? ☐ Lot/Subdivision Design? ☐ Infrastructure design? ☐  
 Environmental Permitting? ☐ Other/describe.

How was this prior work funded? Was there any Federal or state or private funding of completed work? Does this completed work conform to FAA airport compatible land use requirements?

Describe:

### 9) What additional work is needed to complete the redevelopment?

Describe the needed development and infrastructure work and the proposed financing/funding to complete the compatible development to build-out/lot sales (local, other public and private funding, real estate tax financing, NONE etc.).

### 10) Allowable Cost Calculation for Pilot Program Grant (cost estimate/actual cost supporting documentation attached).

a) Total eligible cost.

b) Per cent Allowable. (Airport owned and local public jurisdiction owned acreage / total developable acreage, see 3 above).

c) Allowable cost (a\*b):

## Sponsor Checklist for Pilot Program Project.

Sponsor:

LOCID:

Date of Submittal:

Version/Update #:

**11) Is the proposed redevelopment feasible to provide financial return to the airport sponsor?**

a) Estimated current FMV of the airport owned land before redevelopment?

b) Estimated allowable redevelopment cost?

c) Estimated FMV of developed airport land?

Will proposed redevelopment meet grant assurance obligation? Federal share of sale proceeds (c) is greater than Federal share of current FMV (a) plus pilot program grant funding (b).

Yes ☐

No ☐ **STOP** The redevelopment proposal is not acceptable.

Commensurate with land values and development risk involved, an adequate independent real estate appraisal report may be required. Appraisal scope of work to be developed by sponsor in consultation with the FAA.

**12) How does the grant financed work expedite the airport compatible redevelopment of the airport and local jurisdiction land? Explain.**

**13) What are the expected economic benefits to the neighboring jurisdiction secured with the joint redevelopment? Describe.**

**14) Additional Comments:**



## Attachment 2. Section 822 PL 112-95, Pilot Program for the Redevelopment of Airport Properties

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a pilot program under which operators of up to 4 public-use airports may receive grants for activities related to the redevelopment of airport properties in accordance with the requirements of this section.

(b) **GRANTS.**—Under the pilot program, the Administrator may make a grant in a fiscal year, from funds made available for grants under section 47117(e)(1)(A) of title 49, United States Code, to an airport operator for a project—

(1) to support joint planning, engineering, design, and environmental permitting of projects, including the assembly and redevelopment of property purchased with noise mitigation funds made available under section 48103 of such title or passenger facility revenue collected under section 40117 of such title; and

(2) to encourage airport-compatible land uses and generate economic benefits to the local airport authority and adjacent community.

(c) **ELIGIBILITY.**—An airport operator shall be eligible to participate in the pilot program if—

(1) the operator has received approval for a noise compatibility program under section 47504 of such title; and

(2) the operator demonstrates, as determined by the Administrator—

(A) a readiness to implement cooperative land use management and redevelopment plans with neighboring local jurisdictions; and

(B) the probability of a clear economic benefit to neighboring local jurisdictions and financial return to the airport through the implementation of those plans.

(d) **DISTRIBUTION.**—The Administrator shall seek to award grants under the pilot program to airport operators representing different geographic areas of the United States.

(e) **PARTNERSHIP WITH NEIGHBORING LOCAL JURISDICTIONS.**—

An airport operator shall use grant funds made available under the pilot program only in partnership with neighboring local jurisdictions.

(f) **GRANT REQUIREMENTS.**—The Administrator may not make a grant to an airport operator under the pilot program unless the grant is—

(1) made to enable the airport operator and local jurisdictions undertaking community redevelopment efforts to expedite those efforts;

(2) subject to a requirement that the local jurisdiction governing the property interests subject to the redevelopment efforts has adopted and will continue in effect zoning regulations that permit airport-compatible redevelopment; and

(3) subject to a requirement that, in determining the part of the proceeds from disposing of land that is subject to repayment and reinvestment requirements under section 47107(c)(2)(A) of such title, the total amount of a grant issued under the pilot program that is attributable to the redevelopment of such land shall be added to other amounts that must be repaid or reinvested under that section upon disposal of such land by the airport operator.

(g) **EXCEPTIONS TO REPAYMENT AND REINVESTMENT REQUIREMENTS.**—

Amounts paid to the Secretary of Transportation under subsection (f)(3)—

(1) shall be available to the Secretary for, giving preference to the actions in descending order—

(A) reinvestment in an approved noise compatibility project at the applicable airport;

(B) reinvestment in another approved project at the airport that is eligible for funding under section 47117(e) of such title;

(C) reinvestment in an approved airport development project at the airport that is eligible for funding under section 47114, 47115, or 47117 of such title;

(D) transfer to an operator of another public airport to be reinvested in an approved noise compatibility project at such airport; and

(E) deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) (2) shall be available in addition to amounts authorized under section 48103 of such title;

(3) shall not be subject to any limitation on grant obligations for any fiscal year; and

(4) shall remain available until expended.

(h) FEDERAL SHARE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of the allowable costs of a project carried out under the pilot program shall be 80 percent.

(2) ALLOWABLE COSTS.—In determining the allowable costs, the Administrator shall deduct from the total costs of the activities described in subsection (b) that portion of the costs which is equal to that portion of the total property to be redeveloped under this section that is not owned or to be acquired by the airport operator pursuant to the noise compatibility program or that is not owned by the affected neighboring local jurisdictions or other public entities.

(i) MAXIMUM AMOUNT.—Not more than \$5,000,000 of the funds made available for grants under section 47117(e)(1)(A) of such title may be expended under the pilot program for any single public use airport.

(j) USE OF PASSENGER REVENUE.—An airport operator participating in the pilot program may use passenger facility revenue collected under section 40117 of such title to pay any project cost described in subsection (b) that is not financed by a grant under the pilot program.

(k) SUNSET.—This section shall not be in effect after September 30, 2015.

Canceled