



Federal Aviation
Administration

AIRPORT SPONSOR & AIRPORT USER RIGHTS AND RESPONSIBILITIES



AIRPORT SPONSOR & AIRPORT USER RIGHTS AND RESPONSIBILITIES

The rights and responsibilities of the sponsors and users of federally obligated public-use airports are based on Federal law. In exchange for Federal airport development assistance (including the transfer of Federal property for airport purposes), airport sponsors make binding commitments to assure that the public's interest in civil aviation will be served. An airport sponsor's responsibilities are commonly referred to as its Federal grant obligations or grant assurances.

The Federal Aviation Administration (FAA) has a statutory mandate to ensure that airport owners comply with their grant obligations. [FAA Order 5190.6B, *Airport Compliance Manual*](#), issued September 30, 2009, generally provides the policies and procedures to be followed by the FAA in carrying out this duty. The Order is not regulatory and is not controlling with regard to airport sponsor conduct; rather it establishes the policies and procedures to be followed by FAA personnel in carrying out the FAA's responsibilities for ensuring airport compliance.

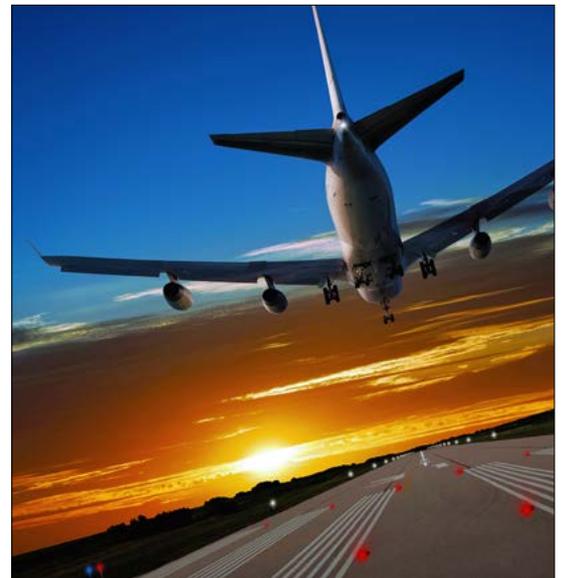
The FAA Airport Compliance Program is designed to ensure the availability of a national system of safe, properly-maintained, public-use airports operated in a manner consistent with the airport owners' Federal obligations and the public's investment in civil aviation. The Airport Compliance Program does not control or direct the operation of airports; rather, it monitors the administration of the valuable rights pledged by airport sponsors to the people of the United States in exchange for monetary grants and donations of Federal property to ensure that the public interest is being served. More information about the [FAA's Airport Compliance Program](#) is available.

From time to time, individual airport users and airport sponsors may view these grant obligations differently. In most cases, airport users and airport sponsors are able to work together to identify a solution which is consistent with the airport sponsor's obligations and acceptable to both parties. However, when the two parties cannot come to an agreement, they may ask the FAA to help them interpret how the airport sponsor's obligations apply. The following discussion will serve as a guide to current FAA policy interpretation of the applicable laws and those sponsor assurances which commonly affect aeronautical users' rights at federally obligated public-use airports nationwide. The complete list of [sponsor assurances](#) is available.

Airport Owner Rights and Powers

Grant Assurance 5, *Preserving Rights and Powers*, requires, in pertinent part, that the sponsor of a federally obligated airport:

“...will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor.”



Put simply, an airport sponsor is prohibited from taking any action which could preclude it from complying with its grant obligations. For example, an airport sponsor may not enter into a management agreement which would result in exclusive use or discrimination at the airport. Airport sponsors are strongly encouraged to use strong subordination clauses to ensure their ability to comply with Grant Assurance 5.

In addition to obligating the airport sponsor to preserve its rights and powers to carry out all grant agreement requirements, this assurance also places certain limitations on the sponsor's use of airport land. Most real estate transactions require prior FAA approval, and airport sponsors are prohibited from encumbering airport property.



Use on Reasonable and Not Unjustly Discriminatory Terms

Grant Assurance 22, Economic Nondiscrimination, requires, in pertinent part, that the sponsor of a federally obligated airport:

“...will make its airport available as an airport for public use on reasonable terms, and without unjust discrimination, to all types, kinds, and classes of aeronautical uses.” Assurance 22(a)

“...may establish such equal 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.” Assurance 22(h)

“...may...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...to serve the civil aviation needs of the public.” Assurance 22(i)

Subsection (h) qualifies subsection (a) and subsection (i) represents an exception to subsection (a) to permit the sponsor to exercise control of the airport sufficient to preclude unsafe and efficient use of navigable airspace which would be detrimental to the civil aviation needs of the public. However, any airport sponsor restrictions on aeronautical activities based upon safety and efficiency under Assurance 22(i) must be adequately justified and supported, and they must be approved in advance by the FAA. In all cases, the FAA is the final arbiter regarding aviation safety and will make the determination regarding the reasonableness of any proposed measure to restrict, limit, or deny aeronautical access to the airport. The FAA considers it inappropriate to provide federal assistance for improvements to airports where the benefits of such improvements will not be fully realized due to inherent restrictions on aeronautical activities.

Federally obligated airport sponsors are required to operate airports for the use and benefit of aeronautical users and to make those airports available to all types, kinds, and classes of aeronautical activities on fair and reasonable terms, and without unjust discrimination. However, airport sponsors may adopt reasonable commercial minimum standards and/or airport rules and regulations.

Airport sponsors have an obligation to treat in a uniform manner those users making the same or similar use of the airport. However, an airport sponsor may treat similarly situated airport users differently, including rental rates, lease terms, etc., as long as those differences are not unjust. Typically, in order to sustain an allegation of unjust economic discrimination, a complainant must establish they requested similar terms and conditions as another similarly situated user, but was denied those terms for unjust reasons.

Restrictions on Self-servicing of Aircraft

Grant Assurance 22(f) provides that an airport sponsor:



“...will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to, maintenance, repair, and fueling) that it may choose to perform.”

The FAA considers the right to self-service as prohibiting the establishment of any unreasonable restriction on the owners or operators of aircraft regarding the servicing of their own aircraft and equipment. When airport users and airport sponsors disagree about whether or not a restriction is reasonable and a formal complaint is filed, the FAA becomes the final arbiter in the matter.

Aircraft owners must be permitted to fuel, wash, repair, and otherwise take care of their own aircraft with their own personnel, equipment, and supplies. The airport sponsor, however, is obligated to operate the airport in a safe and efficient manner. The establishment of fair and reasonable rules, applied in a not unjustly discriminatory manner, governing the introduction of equipment, personnel, or practices which would be unsafe, unsightly, detrimental to the public welfare, or which would affect the efficient use of airport facilities by others, is not unreasonable.

The Prohibition Against Exclusive Rights

Grant Assurance 23, Exclusive Rights, provides, in pertinent part, that the sponsor of a federally obligated airport:

“...will permit no exclusive right for the use of the airport by any persons providing, or intending to provide, aeronautical services to the public...”

The fact that an aeronautical activity is provided by only one entity does not necessarily establish an exclusive rights violation. An exclusive rights violation is the denial by an airport sponsor to afford other qualified parties an opportunity to be an on-airport aeronautical service provider.

Although federally obligated airports may impose qualifications and minimum standards upon those who engage in aeronautical activities, the FAA has taken the position that the application of any unreasonable requirement or standard that is applied in an unjustly discriminatory manner may constitute a constructive grant of an exclusive right. When airport users and airport sponsors disagree about whether or not a requirement is reasonable and a formal complaint is filed, the FAA becomes the final arbiter in the matter.

Grant Assurance 23 provides for two limited exceptions. An airport sponsor may choose to offer some or all aeronautical services itself and exclude other entities from competing with these services. This is referred to as the airport sponsor's proprietary exclusive right. If an airport sponsor chooses to exercise its proprietary exclusive right to offer aeronautical services, it must do so with its own resources and its own employees; airport sponsors may not contract out their proprietary exclusive right. The second exception applies when the airport sponsor faces unreasonably costly, burdensome, or impractical challenges in accommodating more than one fixed-base operator to provide a service and adding a second fixed-base operator would result in a reduction in space leased to and actively used by the existing fixed-base operator.

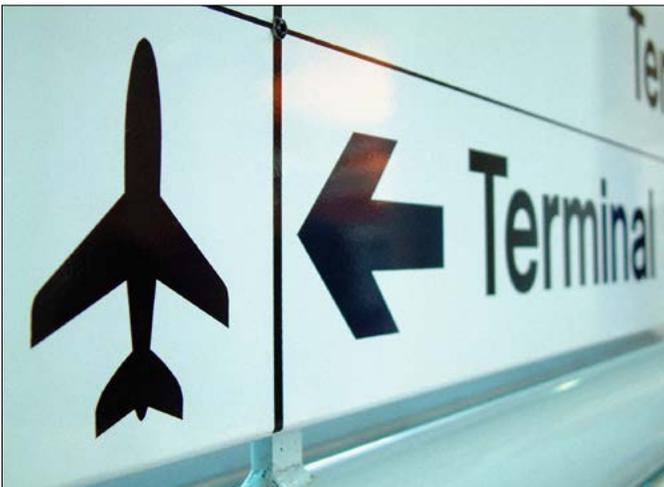
Airport Rates and Charges

Grant Assurance 24, Fee and Rental Structure, provides, in pertinent part, that the sponsor of a federally obligated airport:

“...maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection.”

The airport sponsor's obligation to make an airport available for public use does not preclude the owner or sponsor from recovering the cost of providing the facility. The owner or sponsor is expected to recover its costs through the establishment of fair and reasonable fees, rentals, or other user charges that will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.

The [FAA's Policy Regarding Airport Rates and Charges](#) (61 Fed. Reg. 31994; June 21, 1996 as amended) provides comprehensive guidance on the legal requirement that airport fees be fair, reasonable, and not unjustly discriminatory. Federal law does not prescribe a single approach to rate-setting; airports may utilize their preferred methodology as long as that methodology is applied consistently to similarly-situated aeronautical users and conforms to other requirements outlined in the FAA's Rates and Charges Policy. Ordinarily, the FAA will not investigate the reasonableness of a general aviation airport's fees absent evidence of a progressive accumulation of surplus aeronautical revenues.



The Use of Airport Revenue

Grant Assurance 25, Airport Revenues, provides, in pertinent part, that:

“All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport...” Assurance 25(a)

Revenue generated by the airport includes aeronautical and nonaeronautical rents, fees, charges, and other payments received by the airport sponsor. Airport revenue must be used for the operational and capital costs of the airport, the local airport system, or other facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. Certain airports are exempted from this requirement because the law grandfathers certain financial arrangements that existed prior to September 3, 1982.

The FAA's Policy and Procedures Concerning the Use of Airport Revenue (64 Fed. Reg. 7696; February 16, 1999) provides several examples of unlawful revenue diversion. Some of these examples include:

- Paying in excess of the value of goods or services the airport receives;
- Improper cost allocations;
- Charging less than fair market value rental rates to nonaeronautical users, including the sponsor itself;
- Directly subsidizing air carriers;
- Using airport revenue for general economic development activities;
- Paying for marketing and promotions not related to the airport;
- Loaning money to other entities at less than prevailing rates; and
- Using airport revenue to participate in some types of community events.

COMPLAINT RESOLUTION

The FAA's role in adjudicating disputes between airport users and airport sponsor's is to ensure the sponsor's compliance with its Federal obligations. When allegations made in a complaint are verified, the FAA works with the airport sponsor to develop a corrective action plan to address the findings of noncompliance. **Please note that the FAA does not have the legal authority to award monetary judgments or order payment for damages.**

Informal Complaint Process

Under 14 Code of Federal Regulations § 13.1, any person who knows of a violation of Federal aviation laws, regulations, rules, policies, or orders may report the violation to the FAA informally as a “report of violation.” Airport users may report allegations of grant assurance violations to the FAA under Section 13.1. This is commonly referred to as an “informal complaint.”

The FAA strongly encourages individuals seeking to file informal complaints under 14 CFR, § 13.1, to do so in writing. A telephone conversation may not capture all the details of the alleged violations while the written submission is able to emphasize all the issues and concerns.

Informal complaints of alleged violations are primarily addressed through the FAA's review of written submissions. Therefore reports must:

1. Clearly state each alleged violation;
2. Identify the specific grant assurance(s) alleged to have been violated;
3. Provide a comprehensive, detailed description of the alleged violation, including the actions and/or inactions taken by the airport sponsor which result in the alleged violation;
4. Provide issue-by-issue supporting arguments, information and documentation; and
5. Include a summary of the actions you have taken to bring the perceived violation(s) to the attention of the airport sponsor and any efforts to resolve the issues directly with the airport sponsor.

Factually accurate supporting detail is essential for us to effectively evaluate each allegation and to establish a basis for determining the validity of each allegation. **Please be advised that information and documents provided to the FAA are not considered confidential and are subject to public release under the Freedom of Information Act.**



The FAA's local Airports District Office or Regional Airports Division investigates informal complaints. Allegations which do not fall within the scope of FAA jurisdiction or which lack sufficient clarity to permit evaluation will not be reviewed further. The remaining allegations will be investigated to determine whether further FAA action is warranted. The investigative process requires the FAA to contact the airport sponsor.

A list of [FAA Airports District and Regional Offices](#) is available.

There are no regulatory time frames associated with the Part 13.1 process. The FAA strives to investigate and conclude informal complaints within 120 days from receipt of the complaint. However, extenuating factors such as time required to obtain additional factual information, the complexity of the allegations, the need to coordinate with other offices within the FAA, and office workload requirements, etc. may preclude the investigating office from meeting this target deadline.

Upon completion of the investigation, a preliminary determination setting forth the Region's position on the allegations is sent to both the complainant and the airport sponsor. This preliminary determination is not a final agency decision subject to judicial review.

Formal Complaint Process

[FAA Rules of Practice for Federally-Assisted Airport Proceedings, 14 Code of Federal Regulations § 16](#) is the process available to substantially affected complainants seeking a final agency decision. The FAA's Office of Airport Compliance conducts FAA investigations under Part 16. These enforcement procedures were published in the Federal Register ([61 Fed. Reg. 53998, October 16, 1996](#)) and became effective on December 16, 1996.

In order to file a formal complaint under 14 CFR, Part 16, the complainant must be “directly and substantially affected” by any alleged noncompliance of a federally obligated airport. Prior to filing a complaint, the parties are required to initiate and engage in good faith efforts to resolve the disputed matter informally. A complaint will not be considered unless the person or authorized representative filing the complaint certifies that substantial and reasonable good faith efforts to resolve the issue have been made and that there is no prospect for a timely resolution.

Formal complaints are filed with the FAA Part 16 Airport Proceedings Docket in the Office of the Chief Counsel. Documents filed with the FAA must be typewritten or legibly printed. The mailing address should read:

FAA Part 16 Airport Proceedings Docket
AGC-610
Federal Aviation Administration
800 Independence Ave., SW
Washington, DC 20591

The complaint should:

1. State the name and address of each person who is the subject of the complaint and, with respect to each person, the specific provisions of each law, grant assurance, and/or surplus property agreement that the complainant believes were violated;
2. Provide a concise but complete statement of the facts relied upon to substantiate each allegation;
3. Describe how the complainant was directly and substantially affected by the things done or omitted to be done by the respondent(s); and
4. Provide a summary of the actions taken to bring the perceived violation(s) to the attention of the airport sponsor and any efforts to resolve the issues directly with the airport sponsor.

The original and three copies of each document should be filed with the FAA Part 16 Airport Proceedings Docket. The original should be signed by the person filing it or the person’s duly authorized representative.

A certificate of service should accompany all documents when they are filed. The certificate must certify concurrent service on the FAA and all parties named in the complaint as persons responsible for the alleged action(s) or omission(s) upon which the complaint is based.

The certificate of service should be in substantially the following form:

I hereby certify that I have this day served the foregoing [name of document] on the following persons at the following addresses and facsimile numbers (if also served by facsimile) by [specify method of service]:

[list person, addresses, facsimile numbers]

Dated this _____ day of _____, 20__.

[signature], for [party]

After a formal complaint is received, the FAA has 20 days to either docket or dismiss the complaint. Formal complaints are dismissed when the complainant lacks standing, does not follow the correct procedures to file the complaint, or fails to document good faith efforts to resolve the matter informally.

Once a formal complaint is docketed, the airport sponsor has 20 days to file its answer. The complainant may file its reply within 10 days of the date of service of the answer. The airport sponsor may file a rebuttal within 10 days of the date of service of the complainant's reply. The FAA has 120 days, from the date of the last pleading submitted, to conduct its investigation and issue a Director's Determination.

Any party adversely affected by the Director's Determination may appeal the initial determination to the Associate Administrator for Airports within 30 days after the date of service of the initial determination. The Associate Administrator will render a Final Agency Decision which may be appealed to the U.S. Court of Appeals.

Prior to filing a formal complaint, please review the [Frequently Asked Questions about Part 16](#).

The [Part 16 Decision Database](#) contains copies of all Director's Determinations and Final Agency Decisions issued. Oftentimes, complaints focus on similar issues, so understanding how the FAA has decided a case in the past may be helpful.



RESOURCES AND REFERENCES

Airport Compliance Program

http://www.faa.gov/airports/airport_compliance/

FAA Order 5190.6B, Airport Compliance Manual

http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/

Sponsor Assurances

http://www.faa.gov/airports/aip/grant_assurances/media/airport_sponsor_assurances_2012.pdf

FAA's Policy Regarding Airport Rates and Charges

http://www.faa.gov/airports/airport_compliance/media/airports_rates_charges_policy_with_amendments.pdf

FAA's Policy and Procedures Concerning the Use of Airport Revenue

http://www.faa.gov/airports/resources/publications/federal_register_notices/media/obligation_final99.pdf

FAA's Advisory Circular on Exclusive Rights at Federally Obligated Airports

http://www.faa.gov/documentLibrary/media/advisory_circular/150-5190-6/150_5190_6.pdf

FAA's Advisory Circular on Minimum Standards for Commercial Aeronautical Activities

http://www.faa.gov/documentLibrary/media/advisory_circular/150-5190-7/150_5190_7.pdf

14 Code of Federal Regulations § 13.1

<http://www.gpo.gov/fdsys/pkg/CFR-2011-title14-vol1/xml/CFR-2011-title14-vol1-part13.xml#seqnum13.1>

14 Code of Federal Regulations § 16

<http://www.gpo.gov/fdsys/pkg/CFR-2011-title14-vol1/xml/CFR-2011-title14-vol1-part16.xml>

Frequently Asked Questions about Part 16

<http://part16.airports.faa.gov/index.cfm?page=FAQ>

Part 16 Decision Database

<http://part16.airports.faa.gov/index.cfm?page=CaseFileSearch>