

AIRPORT COMPLIANCE BASICS

- This presentation was given at the TxDOT Aviation Conference in Austin, Tx on May 14, 2013.



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

National Policy

ORDER
5190.6B

Effective Date:
September 30, 2009

SUBJ: FAA Airport Compliance Manual

The Airport Compliance Program ensures airport sponsors' compliance with their federal obligations in the form of grant assurances, surplus and non-surplus obligations, or other applicable federal law. The Airport Compliance Program is administered by the FAA headquarters Airport Compliance Division (ACO-100) based in Washington, DC.

This handbook provides guidance to FAA personnel on interpreting and administering the various continuing commitments airport sponsors make to the U.S. Government when they accept grants of federal funds or federal property for airport purposes. The handbook (i) analyzes the various federal obligations set forth in legislatively mandated airport sponsor assurances, (ii) addresses the nature of the assurances and the application of the assurances in the operation of public use airports, and (iii) facilitates interpretation of the assurances by FAA personnel. This manual was designed to provide guidance to FAA personnel pertaining to the Federal Aviation Administration (FAA) Airport Compliance Program.

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Director
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Airport Compliance

- Grant assurances are part of every project involving federally funding for NPIAS airports
- State funding for TASP only – non NIPIAS airports has parallel grant assurances
- Airport owners (sponsors), tenants, and users have rights and obligations
- FAA Order 5190.6B (September 30, 2009) grant assurances is guiding document



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The 39 Grant Assurance Obligations

FEDERAL AIP GRANT ASSURANCES

The following list identifies the topics covered by the 39 stand (See Appendix 3 for a more complete and textual description)

1. General Federal Requirements
2. Responsibility and Authority of the Sponsor
3. Sponsor Fund Availability
4. Good Title
5. Preserving Rights and Powers
6. Consistency with Local Plans
7. Consideration of Local Interests
8. Consultation with Users
9. Public Hearings
10. Air and Water Quality Standards
11. Pavement Preventive Maintenance
12. Terminal Development Prerequisites
13. Accounting Systems, Audit, and Record Keeping
14. Minimum Wage Ranges
15. Veteran's Preference
16. Conformity to Plans and Specifications
17. Construction Inspection and Approval
18. Planning Projects
19. Operation and Maintenance
20. Hazard Removal and Mitigation
21. Compatible Land Use
22. Economic Nondiscrimination
23. Exclusive Rights
24. Fee and Rental Structure
25. Airport Revenue
26. Reports and Inspections
27. Use by Government Aircraft
28. Land for Federal Facilities
29. Airport Layout Plan
30. Civil Rights
31. Disposal of Land
32. Engineering and Design Services
33. Foreign Market Restrictions

34. Policies, Standards, and Specifications
35. Relocation and Real Property Acquisition
36. Access by Intercity Buses
37. Disadvantaged Business Enterprises
38. Hangar Construction
39. Competitive Access

You as the sponsor are obligated to follow grant assurances in your TxDOT contract for federal and state funds.

TEXAS DEPARTMENT OF TRANSPORTATION
AIRPORT PROJECT PARTICIPATION AGREEMENT
(Federally Assisted Airport Development Grant)

PART III - Sponsor Responsibilities

1. In accepting the Agreement, the Sponsor guarantees that:

ATTACHMENT C

Part V ASSURANCES Airport Sponsors March 2011

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

How Long Am I Obligated?

- Most contracts for improvements (runways, taxiways, lights, etc.) are for 20 years
- Certain land grant or purchase agreements / contracts run as long as the land is part of the airport.

TEXAS DEPARTMENT OF TRANSPORTATION
AIRPORT PROJECT PARTICIPATION AGREEMENT
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FAA / TxDOT Enforcement

- There is an informal resolution process, no formal paperwork, arbitrate between the parties by FAA compliance office.
- **FAR part 13** describes rules of practice to investigate alleged violations – this is an informal but documented process.
- **FAR part 16** is the formal process – sometimes leads to formal legal determination by the FAA Administrator.

Airport sponsors that do not meet compliance standards can lose future federal or state funding



So, What if I Have a Problem?

- If you cannot resolve an issue concerning grant assurances, consider the following:
- Contact TxDOT planning for compliance questions. FAR Part 13 determination starts with written comments from the sponsor, tenant, or concerned citizen.
- We ask for as many of the facts concerning the issue as possible and what end results are desired...



So, What if I Have a Problem?

- **TxDOT, for state compliance issues and as an agent for the FAA for federal compliance, will review, research, meet, discuss, etc. and issue a finding in writing to the interested parties.**
- **Issues of disagreement between parties which do NOT involve compliance are usually local issues. TxDOT will render any assistance but will not use the Part 13 process – only advise.**



So, What if I Have a Problem?

- **TxDOT / FAA compliance represent the interest of the public money invested. TxDOT and the FAA airport development and compliance offices will assist the sponsor and tenants equally in resolving compliance concerns.**
- **TxDOT and the FAA ADO have a partnership with the sponsor for airport development however in compliance disputes TxDOT must treat all parties equal in resolving the issue.**



So, What if I Have a Problem?

- **When a determination is given by TxDOT, either the sponsor or other party(s) may ask for a second FAR part 13 review or file for a formal determination under FAR part 16.**
- **The process for grant assurance compliance is one of advise and consent by TxDOT and the FAA ADO. When reviewing an issue, TxDOT and the FAA will define the intent and limits for compliance to the parties involved rather than dictate exactly what steps the sponsor or other party need to take. Most compliance issues have several possible acceptable solutions.**



The Assurances

Of the 39 assurances, generally those that require day-to-day management include:

- 4. Good title
- 5. Preserving Rights and Powers
- 11. Pavement Preventive Maintenance
- 13. Accounting, Audit, Record Keeping
- 19. Operations and Maintenance**
- 21. Compatible Land Use
- 22. Economic Nondiscrimination**
- 23. Exclusive Rights**
- 24. Fee and Rental Structure**



Assurance 19, Operations and Maintenance

Maintaining the infrastructure – RAMP funds are a good way to keep up

Temporary Airport Closures – may be permitted under certain circumstances – build out or repair / temporary obstructions / aeronautical activity events with FAA concurrence.

Airspace Evaluation – 7460-1 process for construction on the airport or within 20,000* feet of the closest runway



Assurance 22, Economic Nondiscrimination

Sponsor must make the airport available for aeronautical activity.

All parties seeking to provide aeronautical services must be reasonably accommodated.

Rates and fees need NOT be exactly equal among all tenants – if Sponsor can show a sound accounting principle for differences – examples:

- *Prime vs. secondary locations for FBOs*
- *Airport-based aeronautical services vs. “drive-on” operators*



Assurance 23, Exclusive Rights

Sponsor may not mandate any tenant or transient purchase fuel, supplies, or services from the Sponsor run operation or any tenant service provider.

Sponsor may exercise a Proprietary Exclusive Right to be the sole provider of services on their airport; this right may NOT be contracted out or sublet.

Sponsor may not permit one tenant to lease or tie up all airport property – Sponsor must respond to a request to lease space or property on the airport in a timely manner – otherwise this is a form of exclusive right.



Assurance 24, Fee and Rental Structure

Rates – sponsor needs to structure rates to adjust for inflation & costs. FAA recommends 5 year adjustment minimum.

Lease Duration, Sponsor owned Structures – FAA recommends 20 years maximum, often month-to-month

Lease Duration, Ground Lease Only - Only of sufficient duration to amortize tenant's cost of the structure. FAA discusses up to 30 years (GA 38)

Reversion of Property – tenant titles property to sponsor at the end of term – NOT required by law or GA, but can be a good business move in some cases



FAA and “Through-The –Fence” Operations

- TTF is private property access to a publically funded airport
- Interim policy published 3/18/2011 in the FR
- Affects residential (RTTF) only; FAA regions must assist airports to meet standards for access



**Federal Register - Mar 18, 2011,
Vol. 76, No. 53, page 15028**

FAA Reauthorization Act

- **Congressman Graves of Missouri added new section to Fed law (49 USC 47107)**
- **Removes restrictions on RTTF; existing or future**
- **FAA is evaluating and revising guidelines**



Guideline for Sponsors - Airworthiness / Aeronautical Activity

02/13/2013 supersedes all previous

What is aeronautical activity?

Synopsis: For an aircraft to be safe for flight (“flyable aircraft”) involves three considerations:

1. Correct and valid certificates, documents, and equipment, in the aircraft or available (see attachment one for a full list).
2. An annual or condition or progressive maintenance inspection completed and released by an appropriate authority that the aircraft is in a condition safe for flight.
3. A determination by the pilot in command that the aircraft is in a condition safe for flight.

(Note: ultralight aircraft operating within the limits of FAR 103 have no certificates, maintenance, or record keeping required by the FAA. FAR 103 ultralights are aeronautical activity and may operate on public use airports)

TxDOT Guideline Series: Aeronautical Activity; Use of Hangars on Public Airports

04/24/2013 supersedes all previous

Aeronautical activity defined - any of the following - Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to, the following:

TxDOT considers permanent or long term residence on airport property as non aeronautical use and the sponsor must take steps to move this person off of airport property. If the privately owned hangar owner or tenant does not exceed the limits given here or the definition of residential property given above, and the hangar is used 85% or more (determined by square footage) for aeronautical activity, then this become a local issue for the city or county to regulate this non aeronautical activity. If a privately owned hangar meets the “non-permanent residence” and “85% guideline” for aeronautical activity then any additional non aeronautical use of the hangar that is within local sponsor guidelines usually means this hangar meets the test for aeronautical activity.



www.txdot.gov – airplane icon at the bottom of the page

Español



TxDOT

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The Aviation Division helps cities and counties to obtain and disburse federal and state funds for reliever and general aviation airports included in the 300-airport [Texas Airport System Plan](#) (TASP). The division also participates in the FAA State Block Grant Program, through which it implements a federal improvement program for general aviation airports. The division operates a fleet of state-owned aircraft for the transportation needs of state officials and employees.

[David Fulton](#) serves as director. [Contact us](#) with questions or comments.

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Government Advocacy Resources for You

AOPA Resources for You

Advocacy is hard work!

AOPA needs your help in protecting your airport and your Freedom to Fly. So we have developed some useful resources and gathered them on this page to make your [job](#) easier. On this page you should find everything you and your fellow pilots need to take action in your community.

Use the guides and information you will find here to make your voice heard – in your community, with your elected officials, and amongst other pilots [and aviation](#) supporters. Remember, successful advocacy takes time and constant engagement. Use all of these tools to develop a comprehensive plan and make a difference.

Remember, participating in the [AOPA Airport Support Network](#) is critical for your airport – the ASN program can help guide you and other airport advocates as you organize or strengthen a local advocacy group armed with the political skills and information you need to defend your airport.

[Promoting GA Airports >>](#)

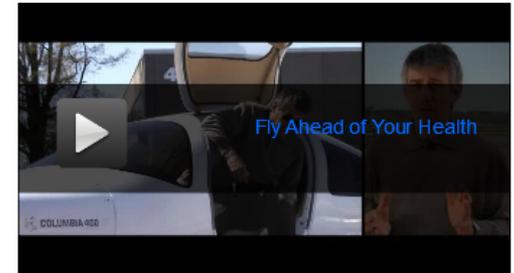
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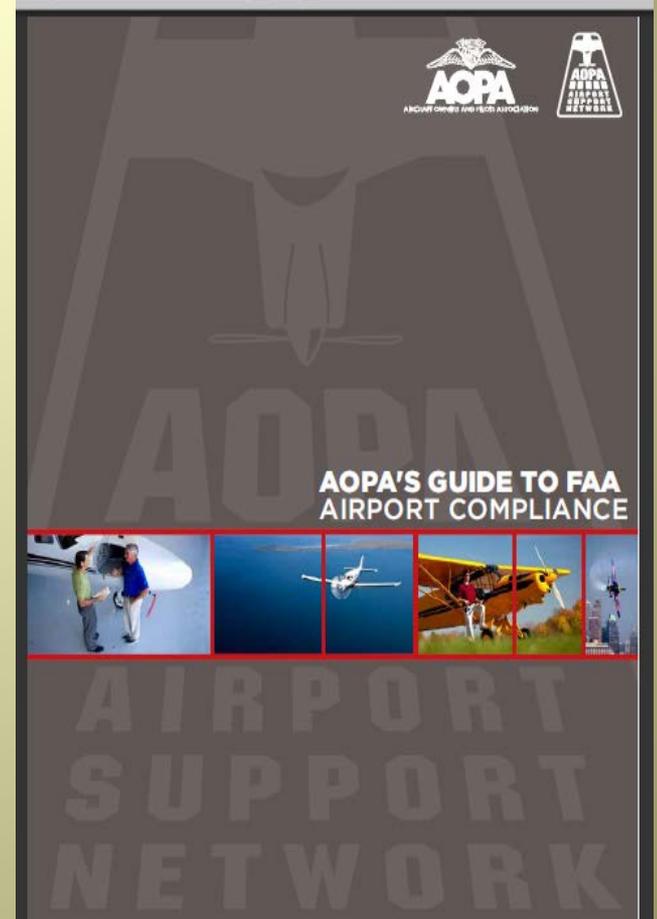
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*MSRP excludes tax, title license, registration and destination charges.

Good source for airport users to understand the relationship between the FAA, airport owner, and themselves for grant assurances



**www.aopa.org – Advocacy –
ASN Resources – AOPA Guides
– “FAA Airport Compliance”**