

Compliance Basics

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What did I sign on to?

When a sponsor accepts grant funds for airport planning or development under the Airport Improvement Program (AIP) it binds itself to compliance with the terms of the Grant Agreement. These terms include the 39 Grant Assurances and any added special conditions the FAA or PA BOA might decide to add. The number of Grant Assurances the sponsor must comply with, as well as the duration of time during which the sponsor must comply with each Grant Assurance, depends on:

- Whether the grant is a development or planning grant; and
- The useful life of the project being funded.

The maximum duration of the obligation for all but three grant assurances (Grant Assurance 23, Exclusive Rights, Grant Assurance 25, Airport Revenues, Grant Assurance 30, Civil Rights) is 20 years. However, if the airport has received an AIP grant for land acquisition the duration of the obligations is perpetual.



How does the FAA enforce compliance with the Grant Agreement?

The purpose of FAA's compliance program is not to punish airport sponsors for past or current noncompliance but instead to ensure that airports take appropriate steps to come back into compliance with the terms of the Grant Agreements. Where evidence of noncompliance has been found the FAA will typically request that the sponsor provide a corrective action plan detailing a reasonable time within which the sponsor will take steps to resolve the compliance discrepancy.

Remedies for noncompliance: If a sponsor does not satisfactorily resolve compliance discrepancies within a reasonable amount of time the FAA can withhold consideration of future funding. In rare circumstances, the FAA may take action to close an airport for safety purposes or collect fines or restitution where revenue diversion or misuse of grant funds is present.



Complaints and Investigation under Part 13 and Part 16?

If an individual or entity believes that an airport sponsor is not complying with the terms of its grant agreement they may file a complaint with the FAA under 14 CFR Part 13 or 14 CFR Part 16.

	Part 13	Part 16
Process	Informal process with relaxed requirements handled at the ADO/Regional level.	Formal process involving filing deadlines, pleadings, motions etc. handled at the FAA HQ level.
Duration	Usually under 6 months from complaint to FAA preliminary decision.	Often over 6 months from complaint to FAA Director's Determination.
Remedies available	Withholding consideration of grants using discretionary or NPE funds.	Withholding approval of grants using discretionary, NPE, primary entitlement funds, withholding of PFC applications, suspension of payment of grant funds, Cease and Desist Orders, and Orders concerning revenue diversion.
Precomplaint resolution	Not required, but recommended.	Required.



The Grant Assurances

The following is a list of the 39 Grant Assurances. During this presentation the highlighted Grant Assurances will be discussed in greater detail. The link below leads to the most recent version of the Grant Assurances.

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 Interest
8. Consultation with Users
9. Public Hearings
10. Metropolitan Planning Organization
- 11. Pavement Preventive Maintenance**
12. Terminal Development Prerequisites
13. Accounting System, Audit, and Record Keeping Requirements
14. Minimum Wage Rates
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 Revenues**
- 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

https://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip-2020.pdf



Grant Assurance 4, Good Title

Requirement: Sponsors must have good title to at least the property within the Runway Safety Areas of each runway at the airport. Good title can be demonstrated by fee simple ownership of the property or through long term lease. Good title can also be established if satisfactory assurance can be provided indicating that good title will be acquired.

Good title is a precondition to sponsor eligibility to receive a grant and is determined by FAA review of an Exhibit A. The requirements for Exhibit A's are provided in FAA ARP SOP 3.00



Grant Assurance 5(a), Preserving Rights and Powers: Deprivation of Powers

Requirement: The sponsor can't deprive itself of the power to comply with the grant assurances.

What does that mean? The sponsor can't enter into an agreement that gives an entity the right to take an action that violates the grant assurances.

Examples:

- A sponsor can't enter into an agreement with an FBO giving the FBO the exclusive right to provide fuel or flight instruction or maintenance at an airport. (Grant Assurance 23, Exclusive Rights)
- A sponsor can't enter into an agreement with an FBO allowing the FBO to price gouge. (Grant Assurance 22, Economic Nondiscrimination)

Solution: Subordination clause, subordinating the lease with the aeronautical service provider to compliance with FAA grant terms.



Grant Assurance 5(b) Preserving Rights and Powers: Selling, Leasing, Encumbering

Requirement: Except as provided for in Section 163 of the FAA Reauthorization Act of 2018 the sponsor can't sell, lease, encumber, or transfer its title in airport property without FAA approval.

What is Section 163? Section 163 is a new law that limits FAA approval authority with respect to airport property that isn't needed for safety/efficiency purposes and/or that wasn't acquired with federal financial assistance.

What does the sponsor have to do? If a sponsor wants to sell, enter into a long term lease, encumber or transfer its title in airport property it must provide information to the FAA so that the FAA can determine if Section 163 applies. If Section 163 is found to apply the sponsor must still update the ALP to depict the proposed sale or change in use. If Section 163 does not apply a NEPA analysis must be performed in connection with the land release request the sponsor must submit to the FAA for approval.



Grant Assurance 5(g) Preserving Rights and Powers: Residential Through the Fence (RTTF) Operations

Requirement: a) Commercial Service Airports (airports with over 2,500 enplanements a year and scheduled service) may not allow aircraft to operate onto the airport from an adjacent off airport residential location.

b) General Aviation Airports (except privately owned airports) may allow aircraft to operate onto the airport from an adjacent off airport residential location only if the sponsor complies with the guidance in Compliance Guidance Letter 2013-01.

What does it mean? If you're a GA Airport that wants to allow RTTF access read CGL 2013-01.

CGL 2013-01 Requirements: FAA approval of RTTF agreement with 5 requirements: 1) access charges, 2) cost of infrastructure, 3) noncommercial use of RTTF property, 4) access to the airport from other properties; and 5) prohibition of aircraft refueling.



Grant Assurance 11, Pavement Preventive Maintenance

Requirement: If the sponsor received a grant to construct, reconstruct, or repair airport pavement it must implement a pavement management program during the useful life of the pavement project at issue.

What is a pavement management program (PMP)? As prescribed by FAA Advisory Circular 150/5380-7B a PMP requires the sponsor to:

- 1) Create a pavement inventory describing all of the pavement at the airport including the year of construction and whether AIP or PFC funds were used for the construction, reconstruction or repair of the pavement;
- 2) Create a pavement inspection schedule requiring at least one detailed pavement inspection a year;
- 3) Create records of all detailed pavement inspections.



Grant Assurance 19, Operation & Maintenance

Requirement 1: The sponsor will operate the airport in a safe and serviceable condition.

Requirement 2: If the sponsor seeks to close the airport for non-aeronautical purposes it must first seek and receive FAA approval to do so.

- **For example:** If the sponsor wants to close one or more runways at the airport in order to hold a 5K run, a drag racing event, etc. it must receive approval from the FAA and/or PA BOA.

Requirement 3: The sponsor will promptly mark and light hazards.

Requirement 4: The sponsor will promptly notify airmen of any condition affecting aeronautical use of the airport.

- **For example:** If there is a safety issue at the airport the sponsor will normally be required to issue a NOTAM describing the condition.



Grant Assurance 21, Compatible Land Use

Requirement: The sponsor will take reasonable and appropriate action to restrict the use of land in the vicinity of the airport to activities compatible with normal airport operations.

What are noncompatible activities? Congested areas within the airport RPZ, residential areas within the 65 DNL, hazardous wildlife attracting areas, use of cranes that obstruct the airspace.

What does reasonable and appropriate mean? It means that if the sponsor has zoning authority over these areas it must adopt zoning laws and/or take all legitimate steps within its power to prevent the noncompatible activities from taking place in the vicinity of the airport.

If the sponsor does not have zoning authority the sponsor must complain to the entity that does have zoning authority about the adverse impacts to safety that will be caused by the proposed development.

Enforcement: Generally speaking, enforcement of this grant assurance is forward looking and concerns actions that must be taken concerning proposed noncompatible activities or noncompatible activities that have recently arisen.



Grant Assurance 22(a) Economic Nondiscrimination: Reasonable terms/no unjust discrimination

Requirement: The airport must be available on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities.

What does it mean?

- a) **Reasonable terms:** The sponsor can't impose conditions that render any operation at the airport impractical, or greatly inconsistent with established norms, without valid justification. For example, a sponsor can't:
 - 1. Charge a skydiving operator \$1,000,000 for each landing or takeoff;
 - 2. Limit the time period that noncommercial (self-service) maintenance can be performed on aircraft at the airport to Wednesdays between 3 and 5 am.
- b) **Unjust Discrimination:** Although the sponsor may discriminate where valid safety concerns are present the sponsor must treat similarly situated users relatively equally. For example, a sponsor can't:
 - Rent one of two identical T-Hangars to the owner of a Piper Cub for \$300 a month and rent the other identical T-Hangar to an owner of a different Piper Cub for \$600 a month where both leases are signed the same day.



Grant Assurance 22(b) Economic Nondiscrimination: Lease Terms w/Aeronautical Service Providers

Requirement: When the sponsor, or airport manager etc., enters into a lease or agreement with any aeronautical service provider (e.g. FBO, charter service, flight instruction, maintenance, skydiving etc.) to provide service at the airport, the agreement or lease must contain, and the sponsor must enforce, the following terms requiring the aeronautical service provider to:

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
- 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers



Grant Assurance 22(f), Economic Nondiscrimination: Self Service

Requirement: The sponsor must allow tenants to service their own aircraft, including fueling and maintaining their own aircraft.

What does this mean? The sponsor can't impose a rule or regulation stating that all fueling must be obtained from one of the airport's FBOs and/or aircraft maintenance can only be performed by aeronautical service providers on airport.

Exception: In order to qualify for this protection tenants must perform the fueling or maintenance themselves or have their employees perform it. They can't use contractors and consider it self service.

Relation to GA 22(h): Consistent with paragraph (h) sponsors may impose rules upon self-service to ensure the safe and efficient operation of the airport. For example, sponsors can require that maintenance and fueling self-service operations can only be conducted in certain areas on the airport and can only be performed by individuals with the appropriate licensure and training.



Grant Assurance 22(i) Economic Nondiscrimination: Safety based discrimination

Safety Based Discrimination: The sponsor may prohibit or limit any type of aeronautical use of the airport if it is necessary for the safe operation of the airport or to serve the civil aviation needs of the airport.

Who determines if the prohibition or limitation is necessary for safety? Ultimately, the FAA.

How does this come up? Occasionally, sponsors seek to prohibit or limit skydiving operations, banner tow operations, glider operations etc. If a sponsor establishes a prohibition or limitation on any of these activities it must demonstrate to the FAA that such prohibition or limitation is necessary for safety purposes. Compliance Guidance Letter 2016 provides guidance concerning the documentation sponsors must submit to the FAA to enable the FAA to determine if the prohibition or limitation is necessary for safety purposes. During the period of time when the FAA is reviewing the request the sponsor may enforce the prohibition or limitation.

Things to keep in mind: With respect to restrictions on skydiving operations the FAA typically defers to the USPA's Basic Safety Regulations with respect to guidance on the size requirements for parachute landing areas.

Sponsors cannot prohibit operations from one skydiving operator or banner tow operator while allowing operations from a similarly situated skydiving operator or banner tow operator.



Grant Assurance 23, Exclusive Rights

Requirement: The sponsor will provide no exclusive rights to any aeronautical service provider at the airport.

What does it mean? A sponsor can't give any aeronautical service provider the sole ability to provide any aeronautical service (such as fueling, charter services, maintenance, flight instruction, etc.) at the airport.



Grant Assurance 25, Airport Revenues: What is airport revenue?

Requirement: Sponsors can only use airport revenue for the capital and operating costs of the airport, the local airport system, or other facilities operated by the sponsor related to air transportation.

Applicable FAA Guidance: The *FAA's Policy and Procedures Concerning the Use of Airport Revenue* (64 FR 7696) provides in depth guidance on the requirements of Grant Assurance 25. This guidance is summarized below:

Airport revenue is revenue accrued by the sponsor:

- a) from airport users for services provided (rents, landing fees, fuel fees, etc.)
- b) The sale or transfer of airport real property, including the entire airport, excluding airport real property acquired with federal financial assistance;
- c) The sale or lease of mineral, natural, or agricultural products on airport property;
- d) From entities using airport property for non-aeronautical activities;
- e) From state or local taxes on aviation fuel;
- f) From sponsor activities using airport property



Grant Assurance 25, Airport Revenues: How can airport revenue be used?

Airport Revenue can be used for:

1. Payments for the reasonable costs of goods and services received for the maintenance, operation, and development of the airport.
2. The cost of promoting competition at an airport, as well as, public and industry awareness of airport facilities and services.
3. The cost of promotional expenses designed to increase travel at the airport so long as specific information is included about the airport in the advertisement.
4. Repayment of airport owner for contributions made to the airport within the last 6 years;
5. Lobbying/attorney fees
6. Cost incurred by government officials;
7. Reasonable and proportional costs of government under a cost allocation plan;
8. Support of community activities where the amount of contribution is minimal;
9. Portions of ground access projects.



Grant Assurance 25, Airport Revenues: What is prohibited?

- Revenue spent on general economic development;
- Use of airport property for non-aeronautical purposes for less than FMV rent (Common examples include non-aeronautical businesses, municipal buildings etc.) Limited exceptions may apply to parks, police and fire stations;
- Use of land for aeronautical purposes rent-free or for nominal rates (exceptions apply for aviation museums, aviation schools, CAP, police/fire flight units);
- Significant expenditure in support of community activities;
- Direct subsidy of air carriers.



Grant Assurance 26, Reports and Inspections

Requirement 1 Document Requests: The sponsor must make available to the FAA any airport records or documents affecting the airport that the FAA requests.

What does it mean? It means that if the FAA asks a sponsor to turn over a record and the sponsor refuses to do so the FAA may decide to withhold consideration of future grant funding.

Requirement 2 Financial Reports: Commercial Service Airports are required to post financial information on the FAA's publicly available CATS website. This information includes a detailed description of an airport's revenues and expenses as well as information concerning any payment made by the sponsor to a governmental unit and any service or lease provided by a sponsor to a governmental entity.

Although airports that are not commercial service airports are not required to post this information on the CATS website they are required to retain this information and have it available for FAA review upon request.



QUESTIONS

