




Airport Sponsor Assurances








Background on Assurances



- To secure Airport Improvement Program (AIP) grant funds, an airport sponsor is required to give certain assurances to the FAA known as the **Airport Sponsor Assurances**.
 - In essence, airport sponsors must agree to comply with the Assurances (currently 39) as a condition of receiving AIP grant funds.







Background on Assurances



- The Assurances provide a means for the federal government to ensure that public-use **airports** are **developed, operated, and maintained** in a **safe, secure, efficient, compatible, and compliant** manner.







The 39 Assurances



1. General Federal Requirements
2. Responsibility/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. Air and Water Quality Standards







The 39 Assurances



11. Pavement Preventative 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



The 39 Assurances

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







The 39 Assurances



- 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




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Economic Non-Discrimination







Economic Non-Discrimination



- Sponsor 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 use.







Economic Non-Discrimination



- Each commercial aeronautical activity (operator) shall be subject to the **same rates, fees, rentals, and other charges** as are **uniformly applicable** to all other such operators making the **same or similar uses** of the airport and utilizing the **same or similar facilities**.







Economic Non-Discrimination



- Each commercial aeronautical activity (operator) shall **furnish services on a reasonable and not unjustly discriminatory basis** to all airport users.
- This provision shall be included in the agreement with the operator and shall be enforced by the sponsor.








Economic Non-Discrimination

- Terms and Conditions of Use**
 - Sponsor may establish **reasonable 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.






Economic Non-Discrimination




Terms and Conditions of Use...

- Sponsor **may prohibit** or **limit** any type, kind, or class of aeronautical use.
 - ☞ Must be **necessary** for **safe** operation of "airport".
- OR**
- ☞ Must be **necessary** to **serve** the civil aviation needs of the "public"
- **FAA must concur with sponsor**





Economic Non-Discrimination



Commercial Aeronautical Activity by Sponsor



- Sponsor may **engage** in **competitive** commercial aeronautical **activity**.
 - ☞ Subject to **same conditions** as **applicable** to **competing** contractors or concessionaires.







Economic Non-Discrimination



Self-Service







Self-Service



- Sponsor will not exercise or grant any right or privilege which operates to prevent any person operating aircraft on the airport from performing any services on its own aircraft with its own employees and equipment that it may chose to perform including, but not limited to, maintenance, repair, and fueling of aircraft.



Self-Service

- Each air carrier using the airport shall have the right to service itself or to use any commercial flight support service provider authorized or permitted by the airport to serve any air carrier at the airport.



Airport Assurance 23


Exclusive Rights








Exclusive Rights



- 
Prohibition against exclusive rights
 - Sponsor will permit **no exclusive right** for the **use of the airport** by any person providing, or intending to provide, aeronautical services to the public (47107(a)(4)).





Exclusive Rights



- 
Definition of an exclusive right
 - Any power, privilege or right **excluding** or **debaring another** from enjoying or exercising a like power, privilege, or right.



Exclusive Rights

- 
How is an exclusive right conferred?
 - By express agreement
 - By the imposition of unreasonable terms, conditions, and standards
 - By any other means
 - May be conferred on one or more parties




Exclusive Rights




Proprietary Exclusive Right

- Sponsor may engage in any commercial aeronautical activity and deny same rights to others without violating prohibition.
 - ☞ Only as a principal
 - Using its own employees, equipment, and resources



Exclusive Rights






Single Operator is OK if...

- It would be unreasonably costly, burdensome, or impractical for more than one FBO to provide aeronautical service(s)

AND



- Allowing more than one FBO to provide service(s) would require the reduction of space leased under an existing agreement








Airport Assurance 24



Fee and Rental Structure







Fee and Rental Structure



- 
 Sponsor will 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 the particular airport.








Primary Management and Compliance Documents







Primary Management and Compliance Documents

- 
Definition
 - A **compendium** of documents that **govern** the:
 - ☞ **Operation**
 - ☞ **Management**, and
 - ☞ **Development** of an airport







Primary Management and Compliance Documents


- General Provisions
- Leasing/Rents and Fees Policy
 - Lease, Use, or Operating Agreements
- Minimum Standards
 - Commercial Operator Permit
- Rules and Regulations
- Development Standards








Primary Management and Compliance Documents

- Purpose – in combination, these documents:
 - Contribute to the financial health of an airport
 - Facilitate (foster) orderly development
 - Promote the provision of quality products, services, and facilities
 - Protect the health, safety, interest, and general welfare of the public
 - Reduce the potential for conflict with lessees, consumers, and users
 - ☞ Reduce the potential for (and provide a platform for the resolution of) Part 13 (informal) and 16 (formal) complaints




Compliance







Primary Management and Compliance Documents

- Role
 - Set the stage (parameters) for the way an airport does business
 - Play an important (essential) role in the operation and management of an airport (large or small)
 - ☞ Essential to have all of these documents (or tools) in the airport manager's toolbox
 - While these documents are interrelated, they function independently of each other





Compliance

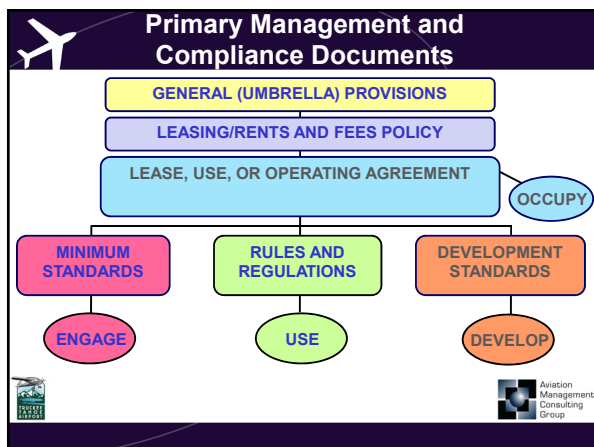





Primary Management and Compliance Documents

- Beyond serving the **intended purpose** (role), these documents need to be consistent with (not duplicate):
 - Airport Sponsor Assurances
 - Applicable regulatory measures
 - Other compliance related directives issued by the **FAA**
 - Policies
 - Orders (e.g., 5190.6B)
 - ACs (e.g., 150/5190-6 and 150/5190-7)










General (Umbrella) Provisions

- Definition**
 - The provisions that are **common** to all PMCDs including definitions (key terms)
- Role/Purpose**
 - Eliminates redundancy (instead of restating the common provisions in each document)







Leasing/Rents and Fees Policy



- Definition**
 - Sets forth the **parameters** for **leasing** airport **land** and **improvements** **and** **outlines** the **process** for **establishing** and **adjusting** **rents** and **fees**
- Role/Purpose**
 - Conveys** the airport's **leasing** (and **rents** and **fees**) **policies/practices**
 - Applies to entities who want to occupy/use airport property (new and/or renewal of existing agreements)*




Leasing/Rents and Fees Policy



- Major Sections**
 - Introduction
 - Leasing** Land and/or Improvements
 - Agreements**
 - Rents** and **Fees** (Setting and Adjusting)
 - Appendix




Minimum Standards

- Definition**
 - Sets forth the **requirements** that need to be **met** to **engage** in **commercial aeronautical activities** at an airport
- Role**
 - Establishes **consistent threshold requirements** – which **levels the playing field** and **promotes fair competition** among operators (minimum “ante”)
 - Applies to entities who want to engage in commercial aeronautical activities at an airport*




Minimum Standards



Purpose (AC-150/5190-7)

- To protect the level and quality of services offered to the public
 - ☞ Promote safety in all airport activities
 - ☞ Maintain a higher quality of service for airport users
 - ☞ Protect airport users from unlicensed and unauthorized products and services
 - ☞ Enhance the availability of services for all airport users
 - ☞ Promote the orderly development of airport land
 - ☞ Prevent disputes between aeronautical providers and reduce the potential for complaints
 - Order 5190.6B






Minimum Standards




Major Sections

- Introduction
- General Requirements
- Fixed Base Operator (FBO)
- Specialized Aviation Service Operators (SASO)
- General Aviation Permit






Rules and Regulations



Definition

- Sets forth the rules and regulations for the safe, orderly, and efficient use of an airport



Role/Purpose

- Protects the public health, safety, interest, and welfare on the airport
 - ☞ Applies to all persons using the airport – at all times – for any purpose








Special Development Considerations



- 
Rules and Regulations should...
 - **Emphasize** those areas (i.e., operations or activities) that are unique to the airport
 - **Complement** (not duplicate) other Primary Management and Compliance Documents or any “applicable” regulatory measures
 - Be a **separate** (stand alone) document






Rules and Regulations



- 
Major Sections
 - Introduction
 - **General** Rules and Regulations
 - **Aircraft** Rules and Regulations
 - **Vehicle** Rules and Regulations
 - **Lessee** Rules and Regulations
 - Aviation **Fueling**










Development Standards



- 
Definition
 - Sets forth the **parameters governing** the **design**, **development**, and/or **modification** of general aviation **improvements** at an airport
- 
Role/Purpose
 - **Promotes** (and **ensures**) **consistent**, **attractive**, and **compatible high quality** general aviation development at an airport
 - ☞ *Applies to any entity who wants to develop and/or modify improvements at the airport*



Alternatives

- 
Playing Calvinball
 - Using a “make up the rules as you go approach” to planning, developing, operating, and managing an airport
- 
Managing by Lease (MBL)
 - Planning, developing, operating, and managing an airport based on existing leases (terms and conditions)
- 
Both approaches are highly problematic!
 - Increase the potential for:
 - ☞ Conflict, complaints, and/or disputes









Calvinball








Terminology



Terminology

- Fixed Base Operator (FBO)**
 - Airport based service organization
 - Agreement with airport owner/operator
 - Provides fueling services and engages in a minimum of one of the four primary service areas







Terminology


- Primary Service Areas**
 - Location based services
 - ☞ Line services/ground handling
 - ☞ Crew and passenger services
 - ☞ Facilities
 - Tiedown, hangar, and office
 - Technical services
 - ☞ Aircraft maintenance and parts
 - ☞ Paint and interiors
 - Flight services
 - ☞ Charter and aircraft management
 - ☞ Flight training and aircraft rental
 - Aircraft sales





Terminology



- Fixed Base Operator (FBO)**
 - Full Service FBO
 - ☞ Provides fueling and engages in all four primary service areas
 - Limited Service FBO
 - ☞ Provides fueling and engages in location based services only







Terminology



- 
Specialized Aviation Service Operator (SASO)
 - May not have an agreement with the airport
 - ☞ Commonly a sublessee of an FBO
 - Typically engages in **only one** of the **four** primary service areas
 - ☞ Commonly engages in only one specialty
 - ☞ Typically compliments the FBO's "core" capabilities
 - **Does not provide fueling services**
 - Shopping mall concept
 - ☞ FBO = department stores (anchor tenants)
 - ☞ SASO = specialty stores




Terminology

- 
Aeronautical Activity (Use)
 - Any activity or service that involves, makes possible, facilitates, is related to, assists in, or is required for operation of aircraft, or which contributes to or is required for safety of aircraft operations








Terminology

- 
Commercial (for hire)
 - For the purpose of securing earnings, income, compensation (including exchange or barter of goods and services), and/or profit









Terminology




Non-Commercial (not for hire)

- Not for the purpose of securing earnings, income, compensation (including exchange or barter of goods and services), and/or profit
 - ☞ A non-commercial aircraft operator owns and/or operates aircraft that is incidental or ancillary to the business (i.e., the aircraft is used only to provide transportation for the exclusive use of employees, agents, and/or customers of the business and not for commercial activities) or the aircraft is used strictly for private (not for hire), personal, or recreational purposes only





Terminology



Employee

- Any individual employed by an entity whereby said entity collects and pays all associated taxes on behalf of employee
 - ☞ The determination of status between employee and contractor shall be made according to current IRS codes




Terminology




Independent Operator

- A entity offering aeronautical service(s) but without an established place of business on the airport
 - ☞ Independent operators do not have a lease agreement (with the airport) or sublease agreement (with an operator at the airport)








Terminology



Through-the-Fence (TTF) Operation

- The ground movement of aircraft to/from land adjacent to, but not part of, airport property to/from the airport's airside infrastructure (e.g., runways and taxiways)
 - ☞ TTF operations occur when an airport sponsor grants an entity ground access by an aircraft across the airport's property boundary to the airport's airside infrastructure and permission to engage in associated activities from property adjacent to the airport
 - A fence (with gates) may or may not exist




Terminology




Self-Service

- The servicing of an aircraft (i.e., maintaining, repairing, fueling, etc.) by the aircraft owner or the aircraft owner's employee(s) using the aircraft owner's vehicles, equipment, and resources
 - ☞ Self-service is allowed provided there is no attempt to perform such services for others for compensation and conditioned on compliance with the airport's primary management and compliance documents and applicable regulatory measures



Terminology






Self-Fueling

- The non-commercial fueling of an aircraft by the aircraft owner or the aircraft owner's employee(s) using the aircraft owner's vehicles, equipment, and resources



Self-Serve Fueling


- The fueling of an aircraft by the pilot using commercial fuel pump installed specifically for this purpose





Development and Review Process









Development Process

- Overview
 - Identify and understand influencing factors
 - ☞ Internal and external
 - Solicit stakeholder input (outreach program)
 - ☞ On-airport and off-airport
 - Consult resources and references
 - Utilize a structured development/review process
 - Conduct a comprehensive assessment
 - ☞ Land and improvements
 - ☞ Operators




Influencing Factors

- Internal factors
 - Managerial
 - ☞ Mission (purpose)
 - ☞ Vision (aspirations)
 - ☞ Values (beliefs)
 - ☞ Goals, objectives, action plans (and budgets)
 - Existing guiding documents
 - ☞ Policies, procedures (SOPs), memorandums, directives, correspondence, etc.
 - Airport profile
 - ☞ Airport type, infrastructure, products, services, and facilities



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Buy-In



Influencing Factors


- Internal factors...
 - Airport profile...
 - Activity levels
 - Based aircraft, aircraft operations, and fuel volumes
 - Planning and development
 - Master Plan (ALP)/Land Use Plan
 - Available land and improvements
 - Designated uses (highest and best)
 - Anticipated future growth/development
 - Financial and economic
 - Rents, fees, and other charges





Influencing Factors

- External factors
 - Political
 - Governing body
 - Operators (FBOs and SASOs), other lessees (non-commercial), consumers, users, and community
 - Community
 - National, regional, and local marketplace





Buy-In







Input Sources

- On-Airport
 - Governing body
 - Operators, lessees, consumers, and users
- Off-Airport
 - Industry colleagues (peers)
 - Professional advisors (consultants)
 - Community
 - FAA
- Methods
 - Committees, working (focus) groups, task forces
 - Public meetings (open house/forum)






Resources and References




FAA Orders...

- Order 5100.38C, Airport Improvement Program (AIP) Handbook, June 28, 2005
- **Order 5190.6B, FAA Airport Compliance Manual, September 30, 2009**
 - ☞ Replaced Order 5190.6A (its predecessor document) which was originally written to provide guidance for FAA "compliance" personnel to **help interpret** the Airport Sponsor Assurances and **investigate** and **resolve complaints or disputes**
 - Recommends that airport sponsors develop and implement Minimum Standards






Resources and References




FAA Advisory Circulars

- The FAA issues ACs to:
 - ☞ Help **explain** the **intent** of a **regulation**
 - ☞ **Provide guidance** and **information** to the aviation public in a **designated subject area**
 - ☞ **Show a method** acceptable for **complying** with a related regulation
- When incorporated by reference in the Airport Sponsor Assurances, ACs become mandatory (contractual) obligations of the sponsor






Resources and References




FAA Advisory Circulars...



- AC 150/5100-16A, AIP Grant Assurance Number One – General Federal Requirements, October 4, 1988
- AC 150/5150-2B, Federal Surplus Personal Property for Public Airport Purposes, October 4, 1984
- **AC 150/5190-6, Exclusive Rights at Federally Obligated Airports, January 4, 2007**
- **AC 150-5190-7, Minimum Standards for Commercial Aeronautical Activities, August 28, 2006**








Resources and References



- 
FAA Policy Statements
 - Policy Regarding Airport Rates and Charges
 - ☞ Federal Register
 - Volume 61, Number 121, June 21, 1996
 - Policy and Procedures Concerning the Use of Airport Revenue
 - ☞ Federal Register
 - Volume 64, Number 30, February 16, 1999









Review Process



- 
Importance of structure
 - Internal development/review
 - ☞ Management
 - ☞ Operations
 - ☞ Properties
 - ☞ Risk Management
 - ☞ Legal
 - ☞ Governing Body
 - External review
 - ☞ Key Stakeholders (Outreach Program)
 - ☞ FAA (Airport District Office)










Assessment



- 
Land and improvements
 - “Available” verses “leased” (lease summary)
- 
Operators
 - Products, services, and facilities (and amenities)
 - Vehicles and equipment
 - Personnel
 - Hours of operation
 - Certifications and licenses
 - Insurance








Final Work Products



- 
Self-contained
 - With exception of references
- 
Easy to read and follow
 - Well organized, clear, and concise
- 
Compliment (not duplicate)
 - Applicable federal, state, and local regulatory measures








Final Work Products



- 
Review and Update
 - Once developed, these documents should be **reviewed** on a **periodic basis** and **updated** (as needed)
 - ☞ It is important to ensure that these documents are (and continue to be) **relevant** for the activities and **reasonable** and **appropriate** for the **market** and the **airport**
 - Situations and/or circumstances can change
 - » Industry, market, airport, etc.



Concluding Thoughts

- 
How important is the process?
 - The process can be **more important** (and more beneficial) **than the final work product** (final documents)







Concluding Thoughts...

- If consistent with the Airport Sponsor Assurances and other compliance related directives issued by the FAA...
 - PMCDs will reduce the potential for (and provide a platform for resolving) conflicts, complaints (Part 13 or 16), and disputes (including lawsuits)



Question and Answer

- Primary Management and Compliance Documents

