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.

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

Airport Assurance 22

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.

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.
  OR
  - Must be necessary for safe operation of "airport".
  - 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)).

Definition of an exclusive right
➢ Any power, privilege or right excluding or debarring another from enjoying or exercising a like power, privilege, or right.

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

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

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

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)

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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)

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Leasing/Rents and Fees Policy

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

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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

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

**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

**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

**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

**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.

#### 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.

#### Independent Operator
- An 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

**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

**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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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

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

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

**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

**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” versus “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