Overview

• Rules, regulations and implications of acquiring, managing, and disposing of airport lands.
Land Acquisition

- AIP Funding
- Noise Lands
- Relocation
Why Acquire Property?

- Reduce incompatible land uses
- Support airport development
- Noise compatibility
- Prevent hazards
- Protect safety areas
- Collateral development opportunities
Method of acquisition?

• Typically through purchase of fee simple

• Alternate methods permitted unless cost exceeds fee simple interest
  – Eminent Domain
  – Easement
  – Property exchanges
  – Donations
When can I use AIP funds?

AIP eligible if “necessary for airport purposes”
- Current or reasonably foreseeable airport development project
- Remove/prevent airport hazard
- Off-site airport utilities
- Noise compatibility
Future Airport Development

- Valid aeronautical need
- FAA approval of selected site
- Airspace clearance
- Approved ALP
- NEPA
- Justification for long-term need
  - Rising land costs
  - Encroachment by incompatible uses
Acquiring Noise Lands

- Acquire and mitigate within the DNL 65
- AIP funds available:
  - Part 150 NCP measure
  - Mitigation measure in a FONSI or ROD
- Grant Assurance 31
  - Dispose at earliest practicable time when no longer needed for noise compatibility
  - Dispose at FMV
  - Must retain interest to ensure compatible use
  - Proceeds returned to FAA or reinvested in NCP project
Relocation and Acquisition

- **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC Chapter 61)**
- **49 CFR Part 24**
- Uniform and equitable treatment of persons displaced from their homes, businesses, or farms
  - Procedure (purchase and treatment of landowner)
  - Substance (price)
- “Persons will not suffer disproportionate injuries as a result of programs designated for the benefit of the public as a whole”
Relocation Assistance

• Displaced Persons
  – Any person who moves as a direct result of the acquisition of real property
    • Owner and/or tenant
  • Eligible for two kinds of relocation payments:
    – Moving expenses
    – Cost of replacement housing
Legal Authorities and References

Uniform Act  (42 USC § 4601 et seq.)
Grant Assurance 31  (42 U.S.C. § 47101(c))
ASNA, Noise Compatibility Programs  
  (42 U.S.C. § 47504(a)(2)(E))
Regulations (49 CFR Part 24)

AIP Handbook
Airport Compliance Manual
Order 5100.37B
AC 150-5100-17
Basic Principles for Acquisition

• Inside- vs. outside-the-fence

• Proprietor grant assurance obligations
  – Approach protection
  – Land use compatibility (if legally authorized)
  – Implementation far more complex than black-letter law

• Even without FAA funding, exhaustive federal regulation
Basic Principles for Acquisition

• Best practice: Land use compatibility even if not legally required
• Defensive vs. proactive measures
  – Distinguish requirements, obligations and authority to spend airport money
• With one exception, *must* keep land that has been acquired for airport purposes
Land Management

- FAA control:
  - AIP-funded
  - Sponsor-purchased
  - Surplus Property Act
- Converting aeronautical to non-aeronautical
General Restrictions on Airport Land

• Once an airport sponsor accepts an AIP grant, for any purpose:
  – *All* property listed on the Exhibit “A” is federally obligated.
  – Regardless of how it was acquired or its purpose.

*See* FAA Airport Compliance Manual, Order 5190.6B, ¶22.4 (b)(1)
Use of Aeronautical Land for Non-Aeronautical Purposes

**Q:** If conversion of unused land designated for aeronautical purposes to non-aeronautical use generally needs FAA approval?

3 major categories:

- Interim Uses
- Concurrent Uses
- Conversion to Other Airport Use
Interim Use of Aeronautical Property for Non-Aeronautical Purposes

• *For no more than five (5) years.*
  – Regardless of how property was acquired.

• Nonaeronautical use *exceeding three (3) years is subject to concurrent use guidelines* (discussed below).

Remember!
Interim Use of Aeronautical Property for Non-Aeronautical Purposes (continued)

• *Not* allowed if *aeronautical demand* is likely in this timeframe.

  – Demand may be shown by:

  1. projected growth in airport operations; or
  2. Interest by an aeronautical service provider.

*See Airport Compliance Manual ¶22.6.*
Interim Use

- May not be incompatible with current or foreseen aeronautical use of the property or other airport property.

- No long-term leases or capital improvements

Interim Use

• AIP-funded parcels must continue to be used or needed for airport purposes.
Concurrent Use of Property for Aeronautical and Non-Aeronautical Purposes

• **Surplus Property Parcels.** If Land continues to be used for its primary aeronautical function:
  
  – compatible non-aeronautical use is a *concurrent use*; and
  
  – *release* from the federal obligations is *not required*. 
Concurrent Use of Property for Aeronautical and Non-Aeronautical Purposes (continued)

- **AIP Grant Land.**

- Request FAA approval
  - May be granted by amendment to ALP.
Concurrent Use of Property for Aeronautical and Non-Aeronautical Purposes (continued)

• **In both cases**, the concurrent use must:

  – Be compatible with the primary aeronautical use, and

  – Not prevent the use of the land for needed aeronautical support purposes.

*See FAA Airport Compliance Manual, ¶¶22.5 (a) and (b)*
Concurrent Use of Property for Aeronautical and Non-Aeronautical Purposes (continued)

- **In both cases,** the concurrent use must:
  - Be compatible with the primary aeronautical use of the land, and
  - Not prevent the use of the land for needed aeronautical support purposes.

*See FAA Airport Compliance Manual, ¶¶22.5 (a) and (b)*
Conversion to Non-Aeronautical Use Property

• FAA may release sponsor from the obligation to maintain an airport parcel for aeronautical use.

– makes it available for non-aeronautical use to generate airport revenue.

See FAA Airport Compliance Manual ¶22.18
Land Disposal

- FAA standards
- Restrictions on the use of sale proceeds
- Requirement to sell or repay FAA
Sale/Disposal of Airport Property

• **Sponsor that seeks to sell or dispose of airport property (shown on Exhibit A):**

  – *must obtain FAA approval.*
Sale/Disposal of Airport Property

• Release may be granted if:

  – Property no longer needed to support an airport purpose or activity directly; and
  
  – Disposal will produce an equal or greater benefit () as retaining the land.

• Benefit may be to another public airport
Sale/Disposal of Airport Property

• Disposal must not adversely affect the development, improvement of the airport.
• Property must not be needed for present or foreseeable airport purposes.
• Sponsor must:
  – obtain FMV for the property and use the proceeds for airport purposes.

Standards for Sale of Property

• Must protect, advance, or benefit civil aviation.

• Major considerations:
  – Reasonableness and practicality of request.
  – Effect on needed aeronautical facilities.
  – Net benefit to civil aviation.
  – Compatibility of proposal with needs civil aviation needs.
Restrictions on the use of revenues derived from the sale of airport property

• The airport account must receive FMV compensation for all deletions of airport real property from the airport (i.e., from Exhibit “A”).
• Even if the sponsor does not sell the property or sells it below FMV.

See FAA Airport Compliance Manual, Order 5190.6B, ¶22.16.
Restrictions on the Use of Revenues Derived from the Sale of Airport Land Acquired for Noise Compatibility

• Statute removed requirement to pay to FAA the AIP share of proceeds from sale of noise land.
  – Proceeds may now be “reinvested in another project at the airport or transferred to another airport as the Secretary prescribes”.

• Section 135 of the “FAA Modernization and Reform Act of 2012” amended 49 U.S.C. § 47107(c)(2)
Restrictions on the Use of Revenues Derived from the Lease of Airport Land Acquired for Noise Compatibility

• If noise land parcel is leased at FMV and used as noise buffer, lease will *not* be considered a disposal of the land.
  – Changed FAA position.

• Lease revenue may be used for
  – an AIP eligible development project that would otherwise be eligible for grant funding, or
  – *any permitted use of airport revenue.*

  – See FAA Grant Assurance 31.
Grant Funded or Surplus Property Parcels

• Specific agreement may prescribe the use of proceeds from the sale of land donated or funded by the U.S.

• Revenue, Order 5190.6B, Appendix E, pg. 64
Questions?

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