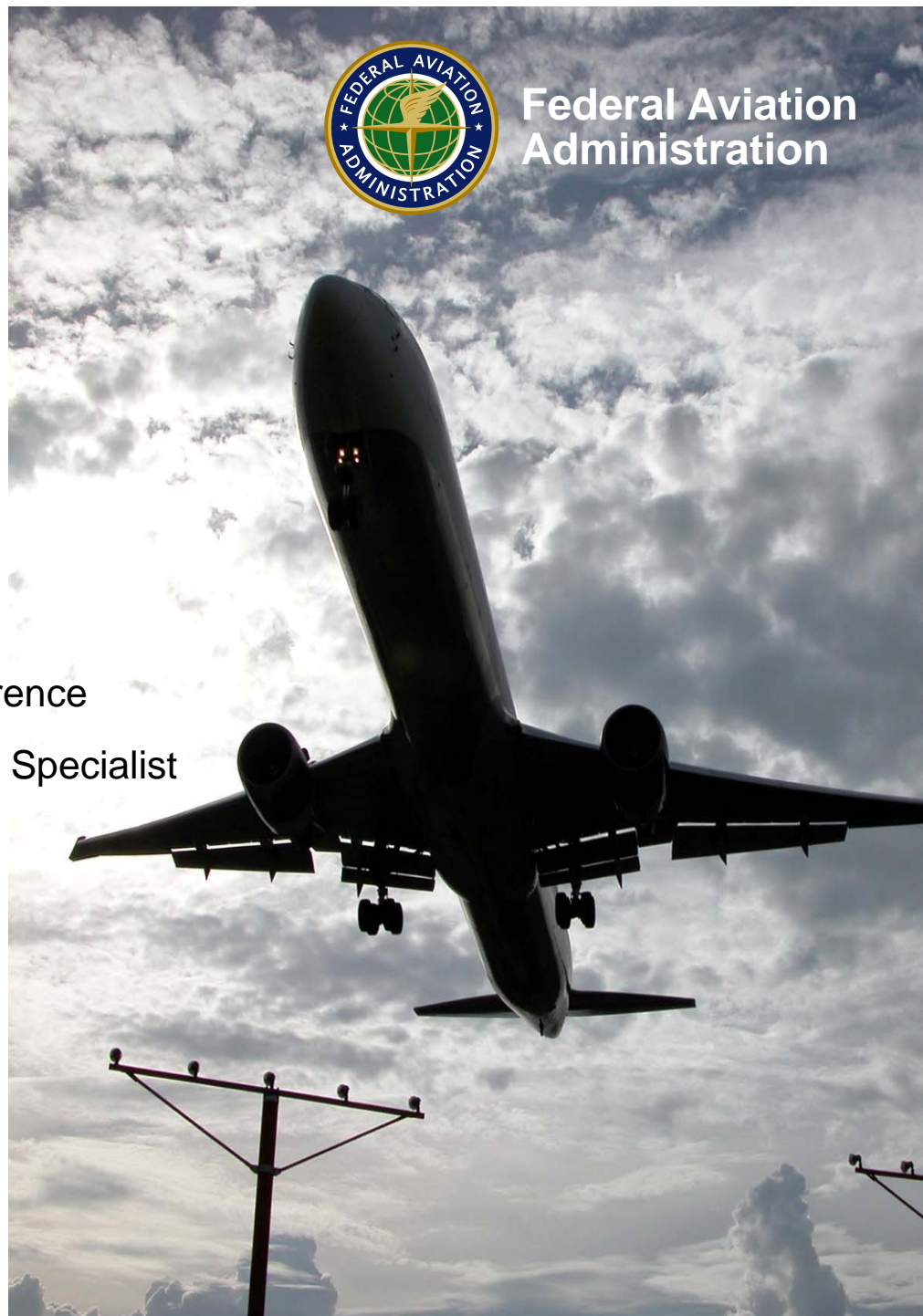


Airport Compliance

Navigating Compliance Issues

Presented to: Wisconsin Aviation Conference
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Airport Compliance Grant Assurances

- **Essentially a contract**
- **Funds are given in exchange for assurances regarding the airport and its operation and maintenance**
- **Grant Assurances, as applicable, are required of all airport sponsors**



Grant Assurances

- **Are required by public law – Obligations imposed by contract and/or Federal Law**
- **Are not a means to allow the FAA to control or direct the operation of an airport**
- **Are intended to protect the Federal investment in the national airport system**
- **Provide a basis for operating rules to meet the Sponsor's Federal Obligations**



Sources of Obligations

- **Grant Agreements:**
 - Federal Aid to Airports Program (FAAP)
 - Airport Development Aid Program (ADAP)
 - Airport Improvement Program (AIP)
- **Surplus Property Transfers**
- **Nonsurplus Property Transfers**
- **AP-4 Agreements**
- **Other**



Duration of Obligations

That Depends...

- **Useful life of the facilities/project (20 years)**
- **Common Obligations apply as long as the airport is an airport**
- **FOREVER**



Conditions of State Aid

- **Wisconsin Administration Code
TRANS 55.06**



Key Grant Assurances

- **#5 – Preserving Rights and Powers**
- **#22 – Economic Nondiscrimination**
- **#23 – Exclusive Rights**
- **#25 – Airport Revenues**



5 - Rights and Powers

- **Ensure that current/future plans will not deprive the airport of its rights and powers**
- **Review airports' policies and procedures to ensure that you are not giving away rights and responsibilities**



#22 –Economic Nondiscrimination

- **Airport open to all aeronautical users**
 - **Without unjust discrimination, unless restriction based on safety or efficiency**
 - **FAA makes final determination of safety and efficiency, including:**
 - **Safety & Efficiency Studies by Flight Standards and Air Traffic**



Aeronautical Activity – Definition

- **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.**



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Aeronautical Activity Includes But Is Not Limited To

- Air Taxi and Charter Operations
- Scheduled or nonscheduled Air Carrier Services
- Pilot Training
- Aircraft Rental and Sightseeing
- Aerial Photography
- Crop Dusting
- Aerial Advertising and Surveying
- Aircraft Sales and Service
- Aircraft Storage
- Sale of Aviation Petroleum Products
- Repair and Maintenance of Aircraft
- Sale of Aircraft Parts
- Parachute Activities
- Ultralight Activities
- Sport Pilot Activities
- Military Flight Operations
- Non-commercial construction of amateur-built or kit-built aircraft



#22 – Economic Nondiscrimination



Examples of Aeronautical Users	
General Aviation	Sport Aircraft (Ex. Paragliders)
Skydivers	Ultralights
Agricultural operators	Banner Towers



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#22 – Economic Nondiscrimination

- Adoption of REASONABLE Minimum Standards
 - May violate #22 if standards are too difficult to meet or unjustly discriminate among similarly-situated aeronautical users.
 - Standards may pursue other goals:
 - Efficiency
 - Legitimate airport business interests
 - Public aeronautical needs: level and scope of services



#23 – Exclusive Rights

- **No special privilege or monopoly to engage in aeronautical activity**
- **Obligation continues as long as the airport is an airport**
- **Also included in:**
 - **Surplus property conveyances**
 - **FAAP/ADAP/AIP grant agreements**
 - **Section 16/23/516 property conveyances**
 - **Common to all property transfers & grants**



#25 – Airport Revenue

- **All revenues generated by the airport and any local taxes on aviation fuel (after 12/30/87), will be expended by it for the capital or operating costs of the airport, the local airport system...and which are directly and substantially related to the actual air transportation of passengers or property.**



#25 - Airport Revenue

- **FAA's Revenue Use Policy defines airport revenue and describes the permitted and prohibited uses of airport revenue.**
- Revenue generated by the airport for the aeronautical and nonaeronautical uses, such as:
 - fees,
 - charges,
 - rents,
 - or other payments received by or accruing to the sponsor from users of airport property and services



Grant Assurances

- **Other grant assurances you are likely to encounter:**
 - #4 Good Title
 - #19 Operation and Maintenance
 - #20 Hazard Removal and Mitigation
 - #24 Fee and Rental Structure
 - #29 Airport Layout Plan
 - #31 Disposal of Land



Definition of “Release”

The formal, written authorization discharging and relinquishing the FAA’s right to enforce an airport’s contractual obligations.

[FAA Order 5190.6B, 22.2]



Types of Release Requests

- **Specific term (NEUP)**
- **Specific use requirement (aero to nonaero)**
- **All obligations in order to dispose of a specific parcel (land release)**
- **All obligations in order to dispose of and close the airport (full release)**

[FAA Order 5190.6B, 22.4(c)]



Two Important Rules

1. **FAA's authority to amend, modify, or release a sponsor from a commitment/term/condition/obligation varies based on the obligating document.**
2. **Although the FAA may have the authority to amend, modify, or release a specific commitment/term/condition/obligation, it is **NOT REQUIRED TO DO SO.****

[FAA Order 5190.6B, 22.1 and 22.30]



Review the Release Request

1. What is being requested?
2. Are the obligating documents included?
3. Why is the release being requested?
4. How will this benefit civil aviation?

If land/facilities are involved:

1. How is it used today?
2. What is FMV?
3. Sell v. rent analysis
4. Where will money go?

[FAA Order 5190.6B, 22.24-26]



FAA's Evaluation of Request

- 1. Is the request reasonable? Practicable?**
- 2. How would this affect the aeronautical use of the airport?**
- 3. What is the net benefit to civil aviation?**
- 4. The compatibility of the proposal with the needs of civil aviation.**
- 5. Will FAA need to coordinate the request with any other federal agencies?**
- 6. Are there any environmental impacts?**

[FAA Order 5190.6B, 22.4, 22.9(b), 22.10, 22.33]



Things the FAA Will Not Consider

- **Economic development**
- **Job creation**
- **Benefits to other local interests/parties**
- **Intangible benefits do not count towards FMV**
- **Releasing the exclusive rights obligation unless sponsor will dispose of the property**



Concurrent/Interim Use

- **Concurrent:** used for primary aeronautical purpose but also used for compatible revenue producing nonaeronautical purpose
- **Interim Use:** Use of dedicated aeronautical land for nonaviation purposes – not more than five years



Non-Aeronautical Events

- **Grant Assurance 19: “Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary”**
- **Considerations:**
 - Every airport is unique with different circumstances
 - What is being closed
 - What is the affect on aeronautical users
 - Safety
 - Benefit to the airport
 - Tenant and User support
 - FMV



Part 13 and Part 16 Complaints

- **Part 13 Complaints**
 - Informal Complaints
 - Reviewed by WI BOA
 - Not a final determination
- **Part 16 Complaints**
 - Formal Complaints
 - Reviewed and adjudicated by FAA headquarters staff
 - Final agency determination



Resources

https://www.faa.gov/airports/airport_compliance

- **Order 5190.6B – FAA Airport Compliance Manual**
- **Policy and Procedures Concerning the Use of Airport Revenue (Revenue Use Policy)**
- **Non-Aeronautical Use of Airport Hangars**
- **Policy Concerning Flying Club Operations**
- **AC 150/5190-6 Exclusive Rights**
- **AC 150/5190-7 Minimum Standards for Commercial Aeronautical Activities**
- **AC 150/5100-17 Land Acquisition and Relocation Assistance**



Questions

