



U.S. Department  
of Transportation

Federal Aviation  
Administration

10A TECHNICAL UNIT

NOV 5 1985

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# Advisory Circular

**Subject:**  
AIRPORT IMPROVEMENT PROGRAM  
GRANT ASSURANCE NUMBER ONE -  
GENERAL FEDERAL REQUIREMENTS

**Date:** 7/22/85  
**Initiated by:** APP-510

**AC No:** 150/5100-16  
**Change:**

1. PURPOSE. This advisory circular describes those Federal requirements contained in Assurance 1 of the Part V Assurances (FAA Form 5100-100) which are incorporated into all grants issued pursuant to the Airport and Airway Improvement Act of 1982. It is intended to assist sponsors in carrying out their contractual obligations arising from grant agreements issued under the Airport Improvement Program.

PAUL L. GALIS  
Director, Office of Airport Planning  
and Programming

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Appendix 1. Part V Assurances (10 pages)

1. INTRODUCTION. This Advisory Circular (AC) is intended to provide sponsors with general information about their obligations under the various laws, regulations, and circulars listed in Assurance 1 of the Part V Assurances (FAA Form 5100-100) to which they become subject upon acceptance of a Federal grant under the Airport and Airway Improvement Act (AAIA) of 1982 (49 U.S.C. 2201 et seq.). Some of the requirements described in this circular have special application and are not relevant for every grant. Such special applications are noted. In the event of amendment to existing laws, regulations, circulars, policy guidelines, or any other situation resulting in a discrepancy between the requirements in this circular and the legal authorities upon which they are based, the legal authorities govern. The laws covering civil rights and labor matters require certain clauses to be inserted in contracts, leases, deeds, and other documents. These clauses are contained in two companion advisory circulars, AC 150/5100-15, Civil Rights Requirements for the Airport Improvement Program, and AC 150/5100-6, Labor Requirements for the Airport Improvement Program. Hence, they are not repeated here. The remaining assurances contained in the Part V Assurances are required by the AAIA and FAA policy and are generally self-explanatory. There are two standard formats of the Part V assurances - one for sponsors undertaking noise program implementation projects who do not operate airports, and one for all others. These are both included in Appendix 1 to this advisory circular. Airports District and Regional Offices should be contacted for further information on any of these Federal requirements. The circular contains the information a sponsor will normally need to comply with these Federal requirements in the performance of the following type grant agreements:

- a. Airport development, airport planning, and noise program implementation grants to airport sponsors;
- b. Integrated airport system planning grants to planning agencies; and
- c. Noise program implementation grants undertaken by sponsors that are not proprietors of the airport which is the subject of the noise compatibility program.

2. PART V ASSURANCES. The Part V Assurances, including Assurance 1, are required to be submitted as part of the application by sponsors requesting funds under the provisions of the Airport and Airway Improvement Act of 1982 and the Aviation Safety and Noise Abatement Act of 1979. Upon acceptance of the grant offer by the sponsor, the Part V Assurances, including Assurance 1, are incorporated in and become a part of the grant agreement. A sponsor may be:

- a. A public agency with control of a public-use airport;
- b. A private owner of a public-use airport (private sponsor);
- c. Both a public agency and a planning agency requesting funds for integrated airport system planning; or

d. A unit of local government in the area around the airport which is the subject of the noise compatibility program.

### 3. DURATION OF APPLICABILITY.

a. Airport Development or Noise Program Implementation Projects Undertaken by a Public Agency (Airport Sponsor). Assurance 1 remains in effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise program implementation project, or throughout the useful life of the project items installed within a facility under a noise program implementation project. In any event, this will not exceed 20 years from the date of acceptance of the grant offer of Federal funds for the project. However, there is no limit on the duration of applicability with respect to real property acquired with Federal funds.

b. Airport Development or Noise Program Implementation Projects Undertaken by a Private Sponsor. The preceding paragraph 3 a. applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of facilities developed or equipment acquired under an airport development or noise program implementation project shall be no less than 10 years from the date of the acceptance of Federal aid for the project.

c. Noise Program Implementation Projects Undertaken by Nonairport Sponsors. Assurance 1 remains in effect throughout the useful life of the facilities developed or equipment acquired or throughout the useful life of the items installed within a facility under this project. In any event, this will not exceed 20 years from the date of acceptance of the grant offer of Federal funds for the project. However, there is no time limit on the duration of applicability with respect to real property acquired with Federal funds.

4. THE ASSURANCE. Under Assurance 1, the sponsor assures and certifies, with respect to the grant, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for the project including, but not limited to the following: (The sponsor has the duty of knowing and conforming to applicable laws, regulations, policies, and guidelines as appear or are referred to in the grant agreements.)

#### Federal Legislation (All laws cited are as amended)

- a. Federal Aviation Act of 1958 - 49 U.S.C. 1301, et seq.
- b. Davis-Bacon Act - 40 U.S.C. 276(a) et seq.<sup>1/</sup>
- c. Fair Labor Standards Act of 1938 - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.<sup>2/</sup>

- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. 4601 et seq.<sup>1/2/</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).<sup>1/</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.<sup>1/</sup>
- h. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.<sup>1/</sup>
- i. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- j. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- k. Aviation Safety and Noise Abatement Act of 1979, 49 U.S.C. 2101, et seq.
- l. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- m. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.<sup>1/</sup>
- n. Airport and Airway Improvement Act of 1982 - 49 U.S.C. 2201, et seq.
- o. Powerplant and Industrial Fuel Use Act of 1978 - Section 403 - 42 U.S.C. 8373.<sup>1/</sup>
- p. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.<sup>1/</sup>
- q. Copeland Anti-Kickback Act - 18 U.S.C. 874.<sup>1/</sup>
- r. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.<sup>1/</sup>
- s. Endangered Species Act of 1973 - 16 U.S.C. 668(a), et seq.<sup>1/</sup>
- t. Single Audit Act of 1984 - 31 U.S.C. 7501, et. seq.<sup>2/</sup>

#### Executive Orders

Executive Order 12372, Intergovernmental Review of Federal Programs.

#### Federal Regulations

- a. 49 CFR Part 21 - Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.

<sup>1/</sup> These laws do not apply to planning projects.

<sup>2/</sup> These laws do not apply to private sponsors.

- b. 49 CFR Part 23 - Participation by Minority Business Enterprise in Department of Transportation Programs.
- c. 49 CFR Part 25 - Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs.
- d. 29 CFR Part 1 - Procedures for Predetermination of Wage Rates.
- e. 29 CFR Part 3 - Contractors or Subcontractors on Public Buildings or Public Works Financed in Whole or Part by Loans or Grants from U.S.
- f. 29 CFR Part 5 - Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction.
- g. 49 CFR Part 27 - Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
- h. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally Assisted Contracting Requirements).
- i. 14 CFR Part 150 - Airport Noise Compatibility Planning.
- j. Reserved.

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.\*
- b. A-102 - Uniform Requirements for Assistance to State and Local Governments.\*
- c. A-128 - Audits of States and Local Governments.

\*OMB Circulars A-87 and A-102 contain requirements for State and local governments receiving Federal assistance. Any requirement levied upon State and local governments by these two circulars shall also be applicable to private sponsors receiving Federal assistance under the Airport and Airway Improvement Act of 1982.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

In the following paragraphs, each of the above referenced laws, rules, etc., is briefly described, its applicability noted, and the basic requirements of the sponsor explained. The reader is cautioned that this advisory circular is a guide and does not necessarily contain all of the specific legal requirements of each law or regulation. Sponsors should consult the Airports District or Regional office or the original referenced document in cases where there is a question or unusual situation.

5. FEDERAL AVIATION ACT OF 1958. Among other purposes, this Act created the Federal Aviation Agency (the predecessor of the Federal Aviation Administration), provided for the regulation and promotion of civil aviation in such a manner as best to foster its development and safety, and provided for the safe and efficient use of the airspace by both civil and military aircraft. Section 103 of this Act states, as a declaration of policy, that the Administrator should consider the promotion, encouragement, and development of civil aeronautics to be in the public interest. To supplement this policy directive, Section 308(a) of this Act states in part that there shall be no exclusive right for the use of any landing area or air navigation facility upon which Federal funds have been expended.

a. Applicability. Section 308(a) of the Act is applicable only to airport sponsors.

b. Sponsor must allow no exclusive right for the use of its landing area or air navigation facility upon which Federal funds have been expended. This requirement is repeated in more detail in Assurance 22, Economic Nondiscrimination, and Assurance 23, Exclusive Rights, of the airport and planning agency sponsor assurances.

6. DAVIS-BACON ACT. This Act relates to the rate of wages paid by construction contractors and subcontractors who hold contracts for constructing, renovating, or repairing public (Government) buildings. However, Section 515(b) of the AAIA of 1982 extends the coverage of the Act to construction contracts in excess of \$2,000 for work on projects for airport development. Basically, the Act requires mechanics and laborers to be paid the prevailing wage as determined by the Department of Labor. This Act is accompanied by the Contract Work Hours and Safety Standards which requires that laborers, mechanics, guards, and watchmen be paid overtime for any work in excess of an 8-hour day or a 40-hour week (the Fair Labor Standards Act requires overtime pay for hours worked over 40 hours a week only). See Advisory Circular 150/5100-6, Labor Requirements for the Airport Improvement Program.

a. Applicability. This act applies to federally-funded construction projects in excess of \$2,000.

b. Sponsor must:

(1) Obtain the proper wage determination to be used in the invitation for bids. This may be obtained through the FAA from the Department of Labor if it is not already published in the Federal Register.

(2) State the minimum rates from the wage determination in the invitation for bids.

(3) Include in all contracts in excess of \$2,000 for AIP-funded construction projects which involve labor:

(1) Provisions establishing minimum wage rates which contractors shall pay to skilled and unskilled labor;



(ii) The required contract language found in 29 Code of Federal Regulations (CFR) Part 5. This language can also be found in AC 150/5100-6.

7. FAIR LABOR STANDARDS ACT OF 1938. The Fair Labor Standards Act (FLSA), as amended, requires that all employees engaged in interstate commerce or in the production of goods for interstate commerce, as well as employees in the construction industry be paid at least the Federal minimum wage. Section 213 of the Act lists the exemptions to this; but, on the whole, it applies to most employees in AIP construction projects. The FLSA also requires overtime pay for work performed in excess of 40 hours a week. The Department of Labor is responsible for enforcement of this law. There are no special contract clauses or conditions which the sponsor must include in contracts as most companies are already subject to the FLSA.

8. HATCH ACT. Limits the political activities of Federal employees, employees of the District of Columbia government, and certain employees of State and local governments. The law is found in Section 1501-1508 of Title 5, United States Code; Part 151 of Title 5, Code of Federal Regulations. Executive branch employees in any agency of a State or local government whose principal employment is in connection with an activity financed in whole or in part by Federal loans or grants are covered by the law. The governor, the lieutenant governor, the mayor of a city, or other elected officials of a State or local government are exempt if the elective office is their principal employment.

a. Applicability. This act does not apply to private sponsors.

b. Sponsor must:

(1) Not use official authority or influence for the purpose of interfering with or affecting the result of elections or nominations for office.

(2) Not directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes. (This prohibition is aimed at activities such as threatening to deny promotion to any employee who does not vote for certain candidates, requiring employees to contribute a percentage of their pay to a political fund, influencing subordinate employees to buy tickets to political fund raising dinners and similar events, and advising employees to take part in political activity. This prohibition principally affects supervisors but is applicable to any covered employee. For example, employees may not coerce, command, or advise other covered employees to make political contributions or to contribute their time or anything of value for political purposes.)

(3) Not be a candidate for public office in partisan elections. (Primary and run-off elections to nominate candidates of partisan political parties are partisan elections for purposes of the law even though no party designation appears on the ballot. However, candidacy for political party office is not prohibited by this provision. The law also permits officers and employees to be candidates in nonpartisan elections. These are elections in which none of the candidates are nominated or elected as representatives of political parties whose presidential candidates received electoral votes at the last preceding presidential election.)

9. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970. Establishes a uniform policy for the fair and equitable treatment of persons displaced as a result of a Federal or federally-assisted project in order that such persons will not suffer disproportionate injuries from a project designed for the benefit of the public as a whole. The Department of Transportation has issued 49 CFR Part 25, Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs, to implement this act.

a. Applicability. This act and regulation applies only to projects which involve the displacement of persons, businesses, or farm operations resulting from land acquisition. It does not apply to planning projects or to private sponsors.

b. Sponsor must comply with 49 CFR Part 25. See paragraph 28 of this AC.

10. NATIONAL HISTORIC PRESERVATION ACT OF 1966. Requires the head of any Federal agency having jurisdiction over a Federal or federally-assisted undertaking to take into account, prior to approving the undertaking, its effect on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register of Historic Places. The FAA complies with this Act by requiring the sponsor to take certain actions.

a. Applicability. This act does not apply to planning projects, nor to projects which are categorically excluded from environmental or intergovernmental coordination requirements.

b. Sponsor must:

(1) Perform a review to determine if any properties in or eligible for inclusion in the National Register of Historic Places are within the "area" of the proposed project's potential environmental impact. (The "area" is that geographic area within which direct and indirect impacts generated by the proposed project could reasonably be expected to occur and thus cause a change in the historic, architectural, archeological, or cultural qualities of the property. The National Park Service maintains the National Register and publishes a list of new entries once a year in the Federal Register. Information on whether properties are eligible for inclusion in the National Register may be obtained from the State Historic Preservation Officer (SHPO) as well as from local officials, historical societies, museums, or academic institutions having jurisdiction or expertise with regard to such properties.)

(2) Consult the SHPO for advice and obtain a written response from the SHPO. (This consultation may be accomplished through the process for intergovernmental review of Federal programs.)

(3) If the SHPO recommends the need for a professional cultural resource survey of the environmental impact area, contact the FAA for a determination of whether such survey is required for the environmental assessment. (In making its determination, the FAA will follow the SHPO's recommendation if it provides good reason for believing that previously unidentified eligible historic, architectural, archeological, or cultural properties are located within the area of the proposed project's environmental impact.)

(4) If no properties in or eligible for inclusion in the National Register have been identified within the area of the proposed project's environmental impact, document this information in the environmental assessment with the letter from the SHPO and a record of any other analysis or survey undertaken. No further analysis is necessary.

(5) If any property in or eligible for inclusion in the National Register has been identified within the area of the proposed project's environmental impact, use the Advisory Council on Historic Preservation's Procedures for the Protection of Historic and Cultural Properties to determine if the proposed project will have any effect on the property. Initially, the "Criteria of Effect," contained in these procedures, must be applied in consultation with the SHPO. If these criteria indicate, and the SHPO agrees, that the proposal would not directly or indirectly affect those historic, architectural, archeological, or cultural characteristics of the property that qualified it to meet National Register criteria, a "Determination of No Effect" must be documented in the environmental assessment with the relevant SHPO letter. No further analysis is necessary. However, if there is disagreement between the sponsor and the SHPO on the proposed Determination of No Effect, the matter must be referred to the FAA for resolution.

(6) If the application of the Criteria of Effect indicates an effect on properties, the "Criteria of Adverse Effect" must be applied. If these criteria indicate, and the SHPO agrees, that there would be no adverse effect, documentation supporting a "Determination of No Adverse Effect," as specified in the Procedures together with the written views of the SHPO shall be forwarded to the Advisory Council on Historic Preservation for review by the Executive Director. Unless an objection is noted by the Executive Director within 20 days of receipt of adequate documentation, such documentation shall be included in the environmental assessment and no further analysis is necessary. Disagreement on the Determination of No Adverse Effect between the sponsor and the SHPO or the Advisory Council must be referred to the FAA for resolution.

(7) If an adverse effect on properties is indicated, a "Determination of Adverse Effect" must be included in the environmental assessment with supporting documentation. A preliminary case report must be prepared as specified in the Procedures, either as part of the environmental assessment or as a separate document, and submitted to the FAA for the Advisory Council's consultation process. Further consultation and analysis under the guidance of the FAA will be necessary.

11. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974. Provides for the survey, recovery, and preservation of significant scientific, prehistorical, historical, archeological, and paleontological data, when such data may be destroyed or irreparably lost due to a Federal, federally licensed, or federally funded project. The FAA complies with this Act by requiring sponsors to take the actions listed in b., below.

a. Applicability. This act does not apply to planning projects, nor to projects which are categorically excluded from environmental or intergovernmental coordination requirements.

b. Sponsor must:

(1) Consult with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify significant scientific, prehistorical, historical, archeological, or paleontological data that are subject to adverse effects by the activity.

(2) Notify the FAA of the results of the consultation and of the existence of any such data.

(3) Comply with any subsequent requirements established by the FAA to avoid or mitigate adverse effects upon data identified in the investigation.

12. FLOOD DISASTER PROTECTION ACT OF 1973. Prohibits the Federal Government from providing funds for "acquisition or construction" purposes after July 1, 1975, for use in an area that has been identified by the Federal Emergency Management Agency (FEMA) as an area having special flood hazards unless the community in which such area is situated is participating in the National Flood Insurance Program (NFIP). Under the 1973 Act, "acquisition or construction" means the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and any machinery, equipment, fixtures, and furnishings contained therein. Typical AIP eligible items include crash/fire/rescue buildings and standby engine generators.

a. Applicability. This act applies to projects which include acquisition or construction of buildings and equipment. It does not apply to planning projects.

b. Sponsor must:

(1) For any project which includes eligible buildings and equipment, provide a statement as to whether the area in which the items to be acquired or constructed will be located has been identified by FEMA as an area having special flood hazards. (FEMA publishes maps indicating flood hazard areas and associated degrees of risk. These maps generally are prominently displayed in community buildings such as town halls and county buildings. Free copies of Flood Hazard Boundary Maps and Flood Insurance Rate Maps may be obtained by calling the NFIP servicing contractor toll-free at (800) 638-6620.)

(2) If the project area is identified as having a special flood hazard, certify that the sponsor's community is participating in the NFIP. (If the community is not participating in the NFIP and the project area is identified as having a special flood hazard, the items to be acquired or constructed are ineligible for Federal participation under the AIP. Information on whether the community is participating may be obtained from community officials, property insurance agents, or FEMA's insurance servicing contractor for the NFIP at (800) 638-6620.)

(3) If the project area is located in a FEMA-identified flood hazard area and if the sponsor's community is participating in the NFIP, purchase or have purchased the required insurance and maintain it during the useful life of the items so acquired or constructed.

13. REHABILITATION ACT OF 1973. Section 504 of this Act specifically prohibits discrimination against handicapped people in any program or activity receiving Federal financial assistance. To implement the statutory requirement, the Department of Transportation adopted 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance. This part specifies accessibility standards to be incorporated into new and existing terminals and amenities which must be provided the handicapped, such as specially equipped telephones, teletypewriters, etc.

a. Applicability. This Act applies to all sponsors.

b. Sponsor must:

(1) Notify participants, applicants, and employees that it does not discriminate on the basis of handicap.

(2) Comply with 49 CFR Part 27. See paragraph 30, below.

14. CIVIL RIGHTS ACT OF 1964 - TITLE VI. Provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements are primarily concerned with discrimination in service to the public rather than employment which is covered under Title VII of the Act. The Department of Transportation has adopted 49 CFR Part 21 to implement Title VI. Title VI applies to the AIP program with 49 CFR Part 21 outlining the specific areas and services covered.

a. Applicability. This Act applies to all sponsors.

b. Sponsor must comply with the requirements of 49 CFR Part 21. Additional guidance on complying with both the Act and Part 21 is contained in AC 150/5100-15, Civil Rights Requirements for the Airport Improvement Program.

15. AVIATION SAFETY AND NOISE ABATEMENT ACT OF 1979. Authorizes Federal financial assistance for preparing plans and for carrying out programs to achieve noise-compatible land uses around airports. The FAA has issued 14 CFR Part 150, Airport Noise Compatibility Planning, to implement this Act.

a. Applicability. This Act, for grant purposes, applies only to projects intended to reduce or mitigate the noise impact of airports.

b. Sponsor choosing to submit noise exposure maps and develop airport noise compatibility program must comply with 14 CFR Part 150. See paragraph 32, below.

16. AGE DISCRIMINATION ACT OF 1975. The purpose of this Act is to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance.

a. Applicability. This act applies to all sponsors.

b. Sponsor must ensure that no person shall, on the basis of age, be excluded from participation, or be denied the benefits of, or be subjected to discrimination under any of the sponsor's programs or activities.

17. ARCHITECTURAL BARRIERS ACT OF 1968. Provides that buildings and facilities financed by Federal grants be designed and constructed to be accessible to the physically handicapped. The Department of Transportation has issued 49 CFR Part 27, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance to implement this Act.

a. Applicability. This act does not apply to planning projects.

b. Sponsor must comply with 49 CFR Part 27. See paragraph 30, below.

18. AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982. Establishes the airport development grant program for Fiscal Year 1982 through Fiscal Year 1987. Except for Assurances Number 5, 18, and 29 for airports and planning agencies and Number 5 for nonairport sponsors, all Part V Assurances are derived from specific requirements contained in this Act. The other assurances are derived from Section 519, General Powers, of the Act.

a. Applicability. This act applies to all sponsors.

b. Sponsor must comply with the requirements of the Airport and Airway Improvement Act as contained in the Part V Assurances and the grant agreement.

19. POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978. This Act requires Federal agencies to carry out programs and to take such actions to maximize the efficient use of energy and conserve natural gas and petroleum in programs funded or carried out in Federal grant programs. The FAA complies with this Act by requiring sponsors to take the actions listed in subparagraph b.

a. Applicability. This act does not apply to planning projects.

b. Sponsor must:

(1) Incorporate, to the extent consistent with good engineering practice, in the building design, construction, and operation, the most cost-effective energy conservation features.

(2) Require fuel and energy conservation practices in the operation and maintenance of the airport.

(3) Encourage airport tenants to use fuel and energy conservation practices.

20. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT. Section 102 of the Act requires each contractor to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate not less than 1.5 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health or safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. The Department of Labor has issued 29 CFR Part 5, Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction, to implement this Act.

a. Applicability. This act does not apply to planning projects.

b. Sponsor must comply with the requirements of 29 CFR Part 5. Guidance on complying with both the Act and the regulation is contained in AC 150/5100-6, Labor Requirements for the Airport Improvement Program.

21. COPELAND ANTI-KICKBACK ACT. Provides for a fine or imprisonment to anyone who, by force, intimidation, or threat of dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he or she is entitled under his or her contract for employment. The Department of Labor has issued 29 CFR Parts 1, 3, and 5, to implement this Act.

a. Applicability. This Act does not apply to planning projects.

b. Sponsor must comply with the requirements of 29 CFR Parts 1, 3, and 5. Guidance on complying with both the Act and the regulation is contained in AC 150/5100-6, Labor Requirements for the Airport Improvement Program.

22. NATIONAL ENVIRONMENTAL POLICY ACT OF 1969. Requires that all agencies of the Federal Government include in every recommendation or report on any major Federal action significantly affecting the quality of the human environment, a detailed statement by the responsible official on the environmental impact of the proposed action. The FAA complies with this Act by requiring grant applicants to prepare environmental assessments, where appropriate, in support of proposed AIP projects.

a. Applicability. This act does not apply to planning projects.

b. Sponsor must:

(1) Identify potential impacts of proposed projects (except those categorically excluded by the FAA), develop conceptual alternatives, and prepare an environmental assessment. (An environmental assessment shall examine systematically each potential impact to determine if the impact is significant. The assessment must be developed in coordination with appropriate local, State, and

Federal agencies, with community involvement, and in direct consultation with the FAA. The material contained in the assessment must be objective, complete, and accurate in order for it to serve as the basis for the preparation of the FAA's environmental documents.)

(2) Provide additional data and information to the FAA, when required, to assist in its review of environmental impacts and in the preparation of environmental documents.

23. ENDANGERED SPECIES ACT OF 1973. Requires each Federal agency to ensure that any action authorized, funded, or carried out by such agency does not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary of Interior, after consultation as appropriate with the affected states, to be critical. The procedure to be followed in determining impacts on endangered or threatened species and on critical habitat is dependent on whether the environmental assessment of the proposed project will lead to a finding of no significant impact or to an environmental impact statement.

- a. Applicability. This act does not apply to planning projects.
- b. Sponsor must:

(1) If it appears the proposed project will not have a significant impact and therefore will likely result in a finding of no significant impact:

(i) Consult the list of Endangered or Threatened Wildlife and Plants to determine whether there are any such species in the area affected by the proposed project. If there are not, this information should be included in the environmental assessment. No further analysis is necessary.

(ii) If there are endangered or threatened species in the area affected by the proposed project, include in the environmental assessment an analysis of anticipated impacts on such species and their critical habitats. If this analysis shows that the proposed project would not affect endangered or threatened species or adversely modify their critical habitat, it may be assumed that impacts are insignificant. No further analysis is necessary.

(iii) If the environmental assessment indicates an impact on endangered or threatened species or on critical habitat, the proposal is considered to have potential significant impact. Further evaluation will have to be performed under FAA direction.

(2) As soon as it appears the proposed project will have a significant impact and therefore result in the preparation of an environmental impact statement:

(i) Alert the FAA field office to this likelihood so that the FAA, or the sponsor in behalf of the FAA, may request from the Regional Director of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, whichever



has jurisdiction, information on whether any species which is listed or proposed to be listed may be present in the area affected by the proposed project. If the reply from the Fish and Wildlife Service or National Marine Fisheries Service indicates that no such species are present, it may be assumed that there would be no significant impact on endangered or threatened species. The environmental assessment must include the letter from the Fish and Wildlife Service or National Marine Fisheries Service. No further analysis is necessary.

(ii) If the reply from the Fish and Wildlife Service or National Marine Fisheries Service indicates that endangered or threatened species may be present in the area affected by the proposed project, a biological assessment must be prepared to identify whether the species or critical habitat are likely to be affected by the project and what those effects would be. If this biological assessment indicates no adverse effects on the species or critical habitat, it may be assumed that there would be no significant impact on endangered or threatened species. The environmental assessment must include the biological assessment. (The FAA will forward the biological assessment to the Fish and Wildlife Service or the National Marine Fisheries Service for its records.) No further analysis is necessary.

(iii) If the biological assessment indicates an adverse effect on endangered or threatened species or on critical habitat, the proposal is considered to have potential significant impact. Consultation under Section 7(a) of the Endangered Species Act Amendments of 1978 and further evaluation will have to be performed under FAA direction.

24. SINGLE AUDIT ACT OF 1984. Requires each State and local government that receives \$25,000 or more a year of Federal funds to have an audit made. The Office of Management and Budget has issued Circular A-128, Audits of State and Local Governments, to implement this Act.

a. Applicability. This act applies to public sponsors who receive a total of \$25,000 or more in any fiscal year in Federal grants from one or more major Federal programs. Public sponsors receiving more than \$100,000 in any year are subject to different requirements than those between \$25,000 and \$100,000.

b. Sponsor must comply with OMB Circular A-128. See paragraph 35, below.

25. EXECUTIVE ORDER 12372, INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS. Establishes a system of intergovernmental consultation using State processes for review of Federal activities. This new system replaced the A-95 system under which Federal programs previously had been reviewed. Executive Order 12372 allows states, in consultation with local officials, to establish their own process for reviewing and commenting on Federal programs and activities and requires Federal agencies to accept State or local views, when transmitted by the State single point of contact, or explain why not.

a. Applicability. This executive order applies to all sponsors.

b. Sponsor must contact its State single point of contact, prior to submitting its application for Federal assistance, for information on notification, coordination, and review requirements. (The address of the State single point of contact may be obtained from the FAA.)

26. 49 CFR PART 21, NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION - EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964. This regulation implements Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements are primarily concerned with discrimination in service to the public rather than employment which is covered under Title VII of the Act.

a. Applicability. This regulation applies to all sponsors.

b. Sponsor must comply with the requirements of 49 CFR Part 21. Full guidance on complying with both the Act and the regulation is contained in AC 150/5100-15, Civil Rights Requirements for the Airport Improvement Program.

27. 49 CFR PART 23 - PARTICIPATION BY MINORITY BUSINESS ENTERPRISE IN DEPARTMENT OF TRANSPORTATION PROGRAMS. Provides for carrying out the Department of Transportation's policy of supporting the fullest possible participation of firms owned and controlled by minorities (MBEs) and women (WBEs) in Department of Transportation programs.

a. Applicability. This regulation applies to all sponsors.

b. Sponsor must comply with all requirements of the regulation. Full guidance on complying with this regulation is contained in AC 150/5100-15, Civil Rights Requirements for the Airport Improvement Program.

28. 49 CFR PART 25, UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS. This regulation implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which establishes a uniform policy for the fair and equitable treatment of persons displaced as a result of a federally assisted project.

a. Applicability. This regulation applies to projects which involve land acquisition and the displacement of persons, businesses, and farm operations resulting from land acquisition. It does not apply to planning projects or to private sponsors.

b. Sponsor must furnish to the FAA satisfactory assurances that certain measures have been or will be taken, including:

(1) Having the real property appraised and making every reasonable effort to acquire such property expeditiously through negotiation;

(2) Adequately informing the public of acquisition policies, requirements, and payments which apply to the project;

(3) Providing relocation assistance programs for displaced persons;

(4) Adequately informing the public of the relocation payments and services available and providing fair and reasonable relocation payments to displaced persons;

(5) Assuring that comparable replacement dwellings are available or provided, if necessary, within a reasonable period of time before any individual or family is displaced; and

(6) Assuring that the relocation program is realistic and is adequate to provide orderly, timely, and efficient relocation of displaced individuals and families to decent, safe, and sanitary housing available without regard to race, color, religion, sex, or national origin with minimum hardship to those affected.

c. Project assurances are also applicable to that land acquired and to those displacements that have occurred prior to a grant agreement and are intended to be reimbursed as a part of such grant. Guidance on complying with these procedures is contained in AC 150/5100-11, Land Acquisition and Relocation Assistance Under the Airport Development Aid Program.

29. 29 CFR PART 1, PROCEDURES FOR PREDETERMINATION OF WAGE RATES; PART 3, CONTRACTORS OR SUBCONTRACTORS ON PUBLIC BUILDINGS OR PUBLIC WORKS FINANCED IN WHOLE OR IN PART BY LOANS OR GRANTS FROM U.S.; PART 5, LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION. Part 1 of these regulations implements the Davis-Bacon Act and related statutes which provide for the payment of minimum wages, including fringe benefits, to laborers and mechanics engaged in construction activity under contracts entered into or financed by or with the assistance of agencies of the United States or the District of Columbia, based on determinations by the Secretary of Labor of the wage rates and fringe benefits prevailing for the corresponding classes of laborers and mechanics employed on projects similar to the contract work in the local areas where such work is to be performed. Part 3 prescribes anti-kickback regulations under section 2 of the Copeland Anti-Kickback Act. The purpose of Part 5 of these regulations is to coordinate the administration and enforcement of the labor standards provisions of the Davis-Bacon Act and related acts by Federal agencies responsible for their administration.

a. Applicability. These regulations do not apply to planning projects.

b. Sponsor must comply with the requirements of 29 CFR Parts 1, 3, and 5. Guidance on complying with these regulations is contained in AC 150/5100-6, Labor Requirements for the Airport Improvement Program.

30. 49 CFR PART 27, NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAM AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE. This regulation implements the Architectural Barriers Act of 1968, which provides that buildings and facilities financed by Federal grants be designed and constructed to be accessible to the physically handicapped.

a. Applicability. This regulation does not apply to planning projects.

b. Sponsor must:

(1) Not limit, segregate, or classify applicants for employment or employees in any way that adversely affects their opportunities or status on the basis of handicap;

(2) Not discriminate on the basis of handicap in hiring, upgrading, promotion, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Make reasonable accommodations, such as job restructuring, modified work schedules, acquisition or modification of equipment, to the handicap of qualified applicants, or employees;

(4) Make existing and future facilities and programs accessible to handicapped persons by providing specific equipment to accommodate the handicapped as outlined in 49 CFR Part 27.

31. 41 CFR PART 60, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR (FEDERAL AND FEDERALLY ASSISTED CONTRACTING REQUIREMENTS). This regulation implements Executive Order 11246 (as amended), Equal Employment Opportunity in Federal or Federally Assisted Contracting. It provides for equal employment opportunity on all Federally assisted contracts and prohibits discrimination because of race, color, creed, or national origin.

a. Applicability. This regulation is applicable only to federally assisted construction contracts which exceed \$10,000.

b. Sponsor must comply with the requirements of the regulation. Guidance on complying with this regulation is contained in AC 150/5100-15, Civil Rights Requirements for the Airport Improvement Program.

32. 14 CFR PART 150, AIRPORT NOISE COMPATIBILITY PLANNING. This regulation implements the Aviation Safety and Noise Abatement Act of 1979, which provides Federal financial assistance for preparing plans and for carrying out programs to achieve noise-compatible land uses around airports. The regulation prescribes the procedures, standards, and methodology governing the development, submission, and review of airport noise exposure maps and airport noise compatibility programs, including the process for evaluating and approving or disapproving those programs.

a. Applicability. This regulation applies only to projects intended to reduce or mitigate the noise impact of airports.

b. Sponsor choosing to submit noise exposure maps and develop airport noise compatibility program must:

(1) Submit to the appropriate FAA Regional Director, after completion of the consultations and public procedure specified in the regulation, a noise exposure map which identifies each noncompatible land use in each area depicted on the map, as of the date of submittal, and a map with accompanying documentation setting forth the noise exposure based on forecast aircraft operations at the airport for the 5th calendar year beginning after the date of submittal. The forecast should be based on reasonable assumptions concerning future type and frequency of aircraft operations, number of nighttime operations, flight patterns, airport layout including any planned land use changes, and demographic changes in the surrounding areas. The accompanying documentation should also set forth the nature and extent, if any, to which those forecast operations will affect the compatibility of land use depicted on the latter map.

(2) After FAA has determined that the noise exposure maps comply with applicable requirements in the regulation, submit a noise compatibility program to the appropriate FAA Regional Director. The noise compatibility program should set forth the measures which the sponsor has taken or proposes for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise exposure maps submitted by the sponsor.

(Further information on the requirements of this regulation may be obtained from FAA Airports field offices.)

33. OMB CIRCULAR A-87, COST PRINCIPALS FOR STATE AND LOCAL GOVERNMENTS.

Establishes principles and standards for determining allowable costs applicable to grants, contracts, and other agreements with State and local governments and Federally recognized Indian tribal governments.

a. Applicability. This circular applies to all sponsors.

b. Sponsor must:

(1) Efficiently and effectively administer the Airport Improvement Program grant through the application of sound management practices.

(2) See that grant funds have been expended and accounted for consistent with underlying agreements and program objectives.

(3) Employ, in recognition of its own unique combination of staff facilities and experience, whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

34. OMB CIRCULAR A-102, UNIFORM REQUIREMENTS FOR ASSISTANCE TO STATE AND LOCAL GOVERNMENTS. Promulgates standards for establishing consistency and uniformity among Federal agencies in the administration of grants to sponsors. The standards promulgated by this circular are set forth in 15 attachments. The FAA complies with this circular by requiring certain actions by airport sponsors. (Information on the attachments to the circular, in addition to that contained below, may be obtained from FAA Airports field offices.)

a. Applicability. This circular applies to all sponsors.

b. Attachment A - Cash Depositories.

(1) This attachment sets forth standards governing the use of banks and other institutions as depositories of funds advanced under grants.

(2) Sponsor must:

(i) Deposit any money advanced in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage with the balance exceeding the FDIC coverage collaterally secured.

(ii) In addition, consistent with the national goal of expanding the opportunities for minority business enterprises, sponsors are encouraged to use minority banks (banks which are owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Office of Minority Business Enterprise, Department of Commerce, Washington, D.C. 20230.

c. Attachment B - Bonding and Insurance.

(1) This attachment sets forth bonding and insurance requirements for grants.

(2) Sponsor must follow, for construction or facility improvements, its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the grant (Federal share) exceeds \$100,000. For those grants exceeding \$100,000, the FAA may accept the bonding policy and requirements of the sponsor provided the FAA has made the determination that the Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(i) A bid guarantee from each bidder equivalent to 5 percent of the bid price.

(ii) A performance bond on the part of the contractor for 100 percent of the contract price.

(iii) A payment bond on the part of the contractor for 100 percent of the contract price.

d. Attachment C - Retention and Custodial Requirements for Records.

(1) The attachment sets forth record retention requirements for grants.

(2) Sponsor must:

(i) Retain financial records, supporting documents, statistical records, and all other records pertinent for a period of 3 years, with the following qualifications:

(A) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(B) Records for nonexpendable property acquired with Federal funds shall be retained for 3 years after its final disposition.

(C) The retention period starts from the date of the submission of the final expenditure report.

(D) Sponsors may substitute microfilm copies in lieu of original records.

(ii) Provide access by the FAA and the Comptroller General of the United States, or any of their duly authorized representatives, to any pertinent books, documents, papers, and records, to make audits, examinations, excerpts, and transcripts.

e. Attachment D - Waiver of "Single" State Agency Requirements. Covers requests to Federal grantor agencies from State Governors for waiver of the "single" State agency requirements in accordance with the Intergovernmental Cooperation Act of 1968. This attachment does not require any particular actions by airport sponsors.

f. Attachment E - Program Income.

(1) Requires Federal grantor agencies to apply the standards set forth in the Attachment in requiring sponsors to account for gross income earned by the sponsor from grant-supported activities (program income).

(2) Sponsor must:

(i) Remit to the FAA interest earned on advances of Federal funds except for interest earned on advances to States or instrumentalities of a State as provided by the Intergovernmental Cooperation Act of 1968 (P.L. 90-577) and advances made to tribal organizations pursuant to section 102, 103, or 104 of the Indian Self Determination Act (P.L. 93-638).

(ii) Handle proceeds from the sale of real and personal property, either provided by the Federal Government, or purchased in whole or in part with Federal funds, in accordance with Attachment N to Circular A-102 pertaining to property management.

(iii) Handle all other program income earned during the grant period in accordance with the terms specified in the grant agreement.

(iv) Record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as part of the grant project transactions when such revenues are specifically earmarked for a grant project in accordance with a grant agreement.

g. Attachment F - Matching Share. This attachment sets forth criteria and procedures for the allowability of cash and in-kind contributions made by sponsor in satisfying cost sharing and matching requirements of Federal grantor agencies. Guidance on cost sharing or matching may be obtained from FAA Airports field offices.

h. Attachment G - Standards for Grantee Financial Management Systems.

(1) This attachment prescribes standards for financial management systems for grant-supported activities of State, local, and Federally recognized Indian tribal governments.

(2) Sponsor must employ a financial management system which provides for:

(i) Accurate, current, and complete disclosure of the financial results of each grant-supported project in accordance with reporting requirements set forth in Attachment H to Circular A-102.

(ii) Records that identify adequately the source and application of funds for each grant-supported project.

(iii) Effective control over and accountability for all funds, property, and other assets.

(iv) Comparison of actual outlays with budgeted amounts for each grant.

(v) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the sponsor, whenever funds are advanced by the FAA.

(vi) Procedures for determining reasonableness, allowability, and allocability of costs in accordance with the provisions of OMB Circular A-87, Cost Principles for State and Local Governments.

(vii) Accounting records that are supported by source documentation.

(viii) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.



i. Attachment H - Financial Reporting Requirements. This Attachment prescribes uniform reporting procedures for sponsors to: summarize expenditures made and Federal funds unexpended for each award, report the status of Federal cash advanced, request advances and reimbursement when the letter-of-credit method is not used; and promulgates standard forms incident thereto. Guidance on financial reporting requirements and sample forms are available from FAA Airports field offices.

j. Attachment I - Monitoring and Reporting of Program Performance.

(1) This attachment sets forth the procedures for monitoring and reporting program performance under Federal grants. These procedures are designed to place greater reliance on sponsors to manage the day-to-day operations of the grant-supported projects.

(2) Sponsor must:

(i) Constantly monitor the performance under the grant-supported project to assure that time schedules are being met, projected work units by time periods are being accomplished, and other performance goals are being achieved.

(ii) Submit a performance report for each grant which briefly presents the following for each project:

(A) A comparison of actual accomplishments to the goals established for the period.

(B) Where established goals have not been met, reasons why they were not met.

(C) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(iii) Except as provided in Attachment H, submit the performance or technical reports to the FAA and the Financial Status Reports covering the same period in the frequency established by Attachment H and, where appropriate, a final technical or performance report after completion of the project on a date specified by the FAA.

(iv) Inform the FAA as soon as the following types of conditions become known, required performance reporting dates notwithstanding:

(A) Problems, delays, or adverse conditions which will materially affect the ability to attain program objectives and prevent the meeting of time schedules or goals.

(B) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated.

k. Attachment J - Grant payment Requirements. This attachment establishes required methods of making payments to sponsors. These methods will minimize the time elapsing between the disbursement by a sponsor and the transfer of funds from the United States Treasury to the sponsor, whether such disbursement occurs prior to or subsequent to the transfer of funds. This attachment does not require any particular actions by airport sponsors.

l. Attachment K - Budget Revision Procedures. This attachment sets forth criteria and procedures to be followed by Federal grantor agencies in requiring sponsors to report deviations from grant budgets and to request approvals for budget revisions. Information on budget revision procedures may be obtained from FAA Airports field offices.

m. Attachment L - Grant Closeout Procedures. This attachment prescribes uniform closeout procedures for sponsors. Guidance on grant closeout procedures may be obtained from FAA Airports field offices.

n. Attachment M - Standard Forms for Applying for Federal Assistance. This attachment promulgates standard forms to be used by sponsors in applying for all Federal grants. Copies of standard forms and information on their purposes may be obtained from FAA Airports field offices.

o. Attachment N - Property Management Standards. This attachment prescribes uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds or whose cost was charged to a project supported by a Federal grant. Guidance on property management standards may be obtained from FAA Airports field offices.

p. Attachment O - Procurement Standards.

(1) This attachment establishes standards and guidelines for the procurement of supplies, equipment, construction, and services for Federal assistance programs. These standards are furnished to ensure that such materials and services are obtained efficiently and economically and in compliance with the provisions of applicable Federal law and Executive Orders.

(2) Sponsor must:

(i) Settle, in accordance with good administrative practice and sound business judgment, all contractual and administrative issues arising out of procurements entered into in support of a grant.

(ii) Use its own procurement procedures which reflect applicable State and local laws and regulations, provided they conform to the standards set forth in Attachment O and applicable Federal law.

(iii) Maintain a written code or standards of conduct which shall govern the performance of their officers, employees, or agents engaged in the award and administration of contracts supported by Federal funds.

(iv) Not permit its employees, officers, or agents to participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(A) The employee, officer, or agent;

(B) Any member of his or her family;

(C) His or her partner; or

(D) An organization which employs, or is about to employ, any of the above - has a financial or other interest in the firm selected for award.

(v) Not permit its officers, employees, or agent to solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. (Sponsors may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.)

(vi) Set, to the extent permitted by State or local law or regulation, standards of conduct which provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the sponsor's officers, employees, or agents, or by contractors or their agents.

35. OMB CIRCULAR A-128, AUDITS OF STATE AND LOCAL GOVERNMENTS. Reserved.



U.S. Department  
of Transportation  
Federal Aviation  
Administration

## Part V - Assurances

### Airport and Planning Agency Sponsors

Approved: OMB No. 2120-0085

#### A. General.

1. These assurances shall be complied with in the performance of the following grant agreements:
  - a. Airport development, airport planning, and noise program implementation grants to airport sponsors.
  - b. Integrated airport system planning grants to planning agencies.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of the Airport and Airway Improvement Act of 1982 or the Aviation Safety and Noise Abatement Act of 1979. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport, the term "private sponsor" means a private owner of a public-use airport, and the term "sponsor" includes public agency sponsors and private sponsors.
3. These assurances also are required to be submitted as part of the project application by a sponsor which is both a public agency and a planning agency requesting funds for integrated airport system planning under the provisions of the Airport and Airway Improvement Act of 1982.
4. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

#### B. Duration and Applicability.

1. **Airport Development or Noise Program Implementation Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise program implementation project, or throughout the useful life of the project items installed within a facility under a noise program implementation project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurance against exclusive rights or the terms, conditions, and assurances with respect to real property acquired with Federal funds. Furthermore, the duration of the Civil Rights assurance shall be as specified in the assurance.
2. **Airport Development or Noise Program Implementation Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of facilities developed or equipment acquired under an airport development or noise program implementation project shall be no less than 10 years from the date of the acceptance of Federal aid for the project.
3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, and 30 in Section C apply to planning projects. The terms, conditions and assurances of the grant agreement shall remain in full force and effect during the life of the project.

#### C. Sponsor Certification. The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

##### Federal Legislation

- a. Federal Aviation Act of 1958 - 49 U.S.C. 1301, *et seq.*
- b. Davis-Bacon Act - 40 U.S.C. 276(a), *et seq.*<sup>1</sup>
- c. Federal Fair Labor Standards Act of 1938 - 29 U.S.C. 201, *et seq.*
- d. Hatch Act - 5 U.S.C. 1501, *et seq.*<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. 4601, *et seq.*<sup>1\*</sup>
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470 (f).<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469, through 469C.<sup>1</sup>
- h. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a<sup>1</sup>
- i. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- j. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- k. Aviation Safety and Noise Abatement Act of 1979, 49 U.S.C. 2101, *et seq.*
- l. Age Discrimination Act of 1975 - 42 U.S.C. 6101, *et seq.*
- m. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, *et seq.*<sup>1</sup>
- n. Airport and Airway Improvement Act of 1982 - 49 U.S.C. 2201, *et seq.*
- o. Powerplant and Industrial Fuel Use Act of 1978 - Section 403 - 42 U.S.C. 8373.<sup>1</sup>
- p. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, *et seq.*<sup>1</sup>
- q. Copeland Antikickback Act - 18 U.S.C. 874.<sup>1</sup>
- r. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, *et seq.*<sup>1</sup>
- s. Endangered Species Act of 1973 - 16 U.S.C. 668(a), *et seq.*<sup>1</sup>
- t. Single Audit Act of 1984 - 31 U.S.C. 7501, *et seq.*<sup>2</sup>

<sup>1</sup> These laws do not apply to planning projects.

<sup>2</sup> These laws do not apply to private sponsors.

**Executive Orders**

Executive Order 12372, Intergovernmental Review of Federal Programs.

**Federal Regulations**

- a. 49 CFR Part 21 - Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- b. 49 CFR Part 23 - Participation by Minority Business Enterprise in Department of Transportation Programs.
- c. 49 CFR Part 25 - Uniform Relocation, and Real Property Acquisition for Federal and Federally-Assisted Programs.
- d. 29 CFR Part 1 - Procedures for Predetermination of Wage Rates.
- e. 29 CFR Part 3 - Contractors or Subcontractors on Public Buildings or Public Works Financed in Whole or Part by Loans or Grants from U.S.
- f. 29 CFR Part 5 - Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction.
- g. 49 CFR Part 27 - Non-Discrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
- h. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-Assisted Contracting Requirements).
- i. 14 CFR Part 150 - Airport Noise Compatibility Planning.
- j. Reserved.

**Office of Management and Budget Circulars**

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.\*
- b. A-102 - Uniform Requirements for Assistance to State and Local Governments.\*
- c. A-128 - Audits of State and Local Governments.

\* OMB Circulars A-87 and A-102 contain requirements for state and local governments receiving Federal assistance. Any requirement levied upon state and local governments by those two circulars shall also be applicable to private sponsors receiving Federal assistance under the Airport and Airway Improvement Act of 1982.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

**2. Responsibility and Authority of the Sponsor.**

- a. **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- b. **Private Sponsor:** It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative, and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with the application; and to provide such additional information as may be required.

**3. Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.

**4. Good Title.** It holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

For noise program implementation projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

**5. Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise program implementation project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under the Airport and Airway Improvement Act of 1982 to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee, all of the terms, conditions, and assurances contained in this grant agreement.

- c. For all noise program implementation projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise program implementation project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
  - d. For noise program implementation projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
  - e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
  - f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance with the Airport and Airway Improvement Act of 1982, the regulations and the terms, conditions and assurances in the grant agreement and shall insure that such arrangement also requires compliance therewith.
- 6. Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport. For noise program implementation projects, other than land acquisition, to be carried out on property not owned by the airport and over which property another public agency has land use control or authority, the sponsor shall obtain from each such agency a written declaration that such agency supports the project and the project is reasonably consistent with the agency's plans regarding the property.
- 7. Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near which the project may be located.
- 8. Consultation with Users.** In making a decision to undertake any airport development project under the Airport and Airway Improvement Act of 1982, it has undertaken reasonable consultations with affected parties using the airport at which the project is proposed.
- 9. Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community. It shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary.
- 10. Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.
- 11. Local Approval.** In projects involving the construction or extension of any runway at any general aviation airport located astride a line separating two counties within a single state, it has received approval for the project from the governing body of all villages incorporated under the laws of that state which are located entirely within five miles of the nearest boundary of the airport.
- 12. Terminal Development Prerequisites.** For projects which include terminal development at a public airport, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958 and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft other than air carrier aircraft.
- 13. Accounting System, Audit, and Recordkeeping Requirements.**
- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the U.S. General Accounting Office publication entitled *Guidelines for Financial and Compliance Audits of Federally Assisted Programs*.
  - b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the

project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than 6 months following the close of the fiscal year for which the audit was made.

- 14. Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a — 276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.
- 15. Veterans Preference.** It shall include, in all contracts for work on any projects funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans as defined in Section 515(c)(1) and (2) of the Airport and Airway Improvement Act of 1982. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.
- 16. Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval by the Secretary, shall be incorporated into this grant agreement. Any modifications to the approved plans, specifications, and schedules shall also be subject to approval by the Secretary and incorporation into the grant agreement.
- 17. Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms with the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.
- 18. Planning Projects.** In carrying out planning projects:
  - a. It will execute the project in accordance with the approved program narrative contained in the project application or with modifications similarly approved.
  - b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
  - c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
  - d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
  - e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
  - f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
  - g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
  - h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

**19. Operation and Maintenance.**

- a. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.

In furtherance of this assurance, the sponsor will have in effect at all times arrangements for —

- (1) Operating the airport's aeronautical facilities whenever required;
- (2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
- (3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

- b. It will suitably operate and maintain noise program implementation items that it owns or controls upon which Federal funds have been expended.
- 20. Hazard Removal and Mitigation.** It will adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
- 21. Compatible Land Use.** It will take appropriate action, including the adoption of zoning laws, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce the compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.
- 22. Economic Nondiscrimination.**
- a. It will make its airport available as an airport for public use on fair and reasonable terms and without unjust discrimination to all types, kinds, and classes of aeronautical uses.
  - b. In any agreement, contract, lease or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor —
    - (1) to furnish said services on a fair, equal, and not unjustly discriminatory basis to all users thereof, and
    - (2) to charge fair, 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.
  - c. Each fixed-based operator at any airport owned by the sponsor shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
  - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
  - e. Each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights. Classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers.
  - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
  - g. In the event that the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by contractors or concessionaires of the sponsor under these provisions.
  - h. The sponsor may establish such fair, equal, 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.
  - i. The sponsor may prohibit or limit any given type, kind, or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.
- 23. Exclusive Rights.** It will permit no exclusive right for the use of the airport by any persons providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply: (1) It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and (2) If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm or corporation the exclusive right at the airport, or at any other airport now owned or controlled by it, to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to



conduct an aeronautical activity now existing at such an airport before the grant of any assistance under the Airport and Airway Improvement Act of 1982.

- 24. Fee and Rental Structure.** It will maintain a fee and rental structure consistent with Assurance 22 and 23, for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise program implementation project for which a grant is made under the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport.
- 25. Airport Revenue.** If the airport is under the control of a public agency, all revenues generated by the airport will be expended by it for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property. Provided, however, that if covenants or assurances in debt obligations previously issued by the owner or operator of the airport, or provisions in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport shall not apply.
- 26. Reports and Inspections.** It will submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request. For airport development projects, it will also make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request. For noise program implementation projects, it will also make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request.
- 27. Use of Government Aircraft.** It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that —
- a. Five (5) or more government aircraft are regularly based at the airport or on land adjacent thereto; or
  - b. The total number of movements (counting each landing as a movement) of government aircraft is 300 or more, or the gross accumulative weight of government aircraft using the airport (the total movements of government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.
- 28. Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or right in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.
- 29. Airport Layout Plan.** It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plan and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or in any of its facilities other than in conformity with the airport layout plan as so approved by the Secretary if such changes or alterations might adversely affect the safety, utility, or efficiency of the airport.
- 30. Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (1) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits or (2) the period during which the sponsor retains ownership or possession of the property.



U.S. Department of  
Transportation  
Federal Aviation  
Administration

## PART V - ASSURANCES

### Noise Program Implementation Projects Undertaken By Non Airport Sponsors

Approved: OMB No. 2120-0065

#### A. General.

1. These assurances shall be complied with in the performance of grant agreements for noise program implementation projects undertaken by sponsors that are not proprietors of the airport which is the subject of the noise compatibility program.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of the Airport and Airway Improvement Act of 1982 and the Aviation Safety and Noise Abatement Act of 1979. Sponsors are units of local government in the area around the airport which is the subject of the noise compatibility program.
3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

**B. Duration.** The terms, conditions, and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired or throughout the useful life of the items installed within a facility under this project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no time limit on the duration of the terms, conditions, and assurances with respect to real property acquired with Federal funds. Furthermore, the duration of the Civil Rights assurance shall be as specified in the assurance.

**C. Sponsor Certification.** The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

#### Federal Legislation

- a. Federal Aviation Act of 1958 - 49 U.S.C. 1301, *et seq.*
- b. Davis-Bacon Act - 40 U.S.C. 276(a), *et seq.*
- c. Federal Fair Labor Standards Act of 1938 - 29 U.S.C. 201, *et seq.*
- d. Hatch Act - 5 U.S.C. 1501, *et seq.*
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 - 42 U.S.C. 4601, *et seq.*
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470 (f).
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469, through 469C.
- h. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a
- i. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- j. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- k. Aviation Safety and Noise Abatement Act of 1979, 49 U.S.C. 2101, *et seq.*
- l. Age Discrimination Act of 1975 - 42 U.S.C. 6101, *et seq.*
- m. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, *et seq.*
- n. Airport and Airway Improvement Act of 1982 - 49 U.S.C. 2201, *et seq.*
- o. Powerplant and Industrial Fuel Use Act of 1978 - Section 403 - 42 U.S.C. 8373.
- p. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, *et seq.*
- q. Copeland Antikickback Act - 18 U.S.C. 874.
- r. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, *et seq.*
- s. Endangered Species Act of 1973 - 16 U.S.C. 668(a), *et seq.*
- t. Single Audit Act of 1984 - 31 U.S.C. 7501, *et seq.*

#### Executive Orders

Executive Order 12372, Intergovernmental Review of Federal Programs.

#### Federal Regulations

- a. 49 CFR Part 21 - Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- b. 49 CFR Part 23 - Participation by Minority Business Enterprise in Department of Transportation Programs.

- c. 49 CFR Part 25 - Uniform Relocation and Real Property Acquisition for Federal and Federally-Assisted Programs.
- d. 29 CFR Part 1 - Procedures for Predetermination of Wage Rates.
- e. 29 CFR Part 3 - Contractors or Subcontractors on Public Buildings or Public Works Financed in Whole or Part by Loans or Grants from U.S.
- f. 29 CFR Part 5 - Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction.
- g. 49 CFR Part 27 - Non-Discrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
- h. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-Assisted Contracting Requirements).
- i. 14 CFR Part 150 - Airport Noise Compatibility Planning.
- j. Reserved.

**Office of Management and Budget Circulars**

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-102 - Uniform Requirements for Assistance to State and Local Governments.
- c. A-128 - Audits of State and Local Governments.

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are incorporated by reference in the grant agreement.

**2. Responsibility and Authority of the Sponsor.** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

**3. Sponsor Fund Availability.**

- a. It has sufficient funds available for that portion of the project costs which are not to be paid by the United States.
- b. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.

**4. Good Title.** For projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

**5. Preserving Rights and Powers**

- a. It will not enter into any transaction, or change thereto, or take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act to acquire, extinguish, or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber or otherwise transfer or dispose of all or any part of its title or other interests in that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under the Airport and Airway Improvement Act of 1982 to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee, all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise program implementation projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise program implementation project. That agreement and changes thereto must be approved in advance by the Secretary.

- d. For noise program implementation projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary.
- 6. Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport. For noise program implementation projects to be carried out on property which is not owned by the sponsor and which is under the land use control or authority of a public agency other than the sponsor, the sponsor shall obtain from each agency a written declaration that such agency supports the project and the project is reasonably consistent with the agency's plans regarding the property.
- 7. Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near which the project may be located.
- 8. Accounting System, Audit, and Recordkeeping Requirements.**
- It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the U.S. General Accounting Office publication entitled **Guidelines for Financial and Compliance Audits of Federally Assisted Programs**.
  - It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grants. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than 6 months following the close of the fiscal year for which the audit was made.
- 9. Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.
- 10. Veterans Preference.** It shall include, in all contracts for work on any projects funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans as defined in section 515(c)(1) and (2) of the Airport and Airway Improvement Act of 1982. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.
- 11. Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval by the Secretary, shall be incorporated into this grant agreement. Any modifications to the approved plans, specifications, and schedules shall also be subject to approval by the Secretary and incorporation into the grant agreement.
- 12. Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms with the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.
- 13. Operation and Maintenance.** It will suitably operate and maintain noise program implementation items that it owns or controls upon which Federal funds have been expended.

14. **Hazard Prevention.** It will protect the aerial approaches to the airport by preventing the establishment or creation of future airport hazards on property owned or controlled by it or over which it has land use jurisdiction.
15. **Compatible Land Use.** It will take appropriate action, including the adoption of zoning laws, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, it will not cause or permit any change in land use, within its jurisdiction that will reduce the compatibility, with respect to the airport, of the noise program implementation measures upon which Federal funds have been expended.
16. **Reports and Inspections.** It will submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request. It will also make records and documents relating to the project, and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request.
17. **Land for Federal Facilities.** It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land purchased under this grant agreement as the Secretary considers necessary or desirable for construction, operation and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.
18. **Civil Rights.** It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the sponsor retains ownership or possession of the property.