

Aviation Group Client Update

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NOTICE OF MODIFICATION TO GRANT ASSURANCES

Today, the FAA announced it will modify five Airport Improvement Program (AIP) grant assurances to conform to the [FAA Modernization and Reform Act of 2012 \(the "Act"\)](#). The effective date for these modifications is **April 13, 2012**, however the FAA will consider comments on the modifications to the grant assurances.

Grant Assurance 5: Preserving Rights and Powers

The Act amended statutory conditions for project grant approval to permit sponsors of general aviation airports to enter into residential through-the-fence arrangements. Sponsors of commercial service airports may not enter into arrangements that result in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on the airport. To the extent any arrangement results in permission for the owner of a residential property adjacent to or near the airport, it must comply with Section 136 of the Act and the applicable grant assurances.

Grant Assurance 15: Veteran's Preference

The Act expands the statutory grant regarding veteran's preference to include Persian Gulf veterans, Afghanistan-Iraq war veterans, and small business concerns owned and controlled by disabled veterans. This preference only applies where the individuals are available and qualified to perform the work to which the employment relates.

Grant Assurance 25: Airport Revenues

The Act added two new exceptions related to the use of airport revenue. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, the limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996. Second, revenues derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport are also excepted if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of the Act.

Grant Assurance 29: Airport Layout Plan

The FAA amended Grant Assurance 29 to require all proposed and existing access points used to taxi aircraft across the airport property's boundary be depicted on the airport layout plan (ALP). This includes all residential and commercial through-the-fence access points at both general aviation and commercial service airports. ALP depiction of existing access points can be made through pen-and-ink changes. With regard to the costs of relocating or replacing sponsor-owned property, in certain circumstances, a sponsor no longer has to bear all costs of relocating property or its replacement and of restoring the property or its replacement to the level that existed before the alteration was made.

Grant Assurance 31: Disposal of Land

The Act made several changes related to noise buffers, leasing of land for noise compatibility purposes, and preferences for reinvesting or transferring proceeds from disposal of land. The new Grant Assurance 31 language may be found at [77 Fed. Reg. 22376](#).

Although all modifications are effective, the FAA will consider comments regarding the noticed changes if received on or before **May 14, 2012**. If you have any questions, or if we can assist preparation and submission of comments, please contact our office.

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