



AIRPORT NOISE

Land Acquisition, Management and Disposal



An Overview of the New FAA Requirements

According to FAA requirements, all airports that have noise land grants are required to complete their "Noise Land Inventory" and "Reuse Plan" by October 2009. Based on the United States Department of Transportation Office of Inspector General audit report in 2005, over 100 airports throughout the nation will have to comply with this requirement. This will involve all airports in the U.S. that have implemented Federal Aviation Administration (FAA) funded noise compatibility programs involving land acquisition.

BY RICHARD MOELLER

IMPLEMENTATION PLAN

The required inventory and plan will address the airport sponsor's compliance with, and implementation of, FAA's Assurance 31, executed at the time of grant approval. On February 1, 2008, the FAA issued the Program Guidance Letter (PGL) 08-02 titled, "Management of Noise Land: Inventory-Reuse-Disposal," which is now posted on the FAA website.

The FAA's PGL is divided into seven sections:

- 1) Obligations/Acquisition of Noise Land
- 2) Management of Noise Land
- 3) Retaining Noise Land
- 4) Disposal of Unneeded Noise Land
- 5) Use of disposal proceeds
- 6) FAA Oversight of Noise Land
- 7) Compliance and Reporting

In addition to a flow chart to assist airports in determining whether a parcel of land is needed for noise compatibility, the PGL includes other helpful guidelines. Attachments are included as follows:

"A" defines land use compatibility for various types of developments in high noise zones;

"B" and "C" define requirements for noise land inventories and land use plans required;

"D" provides a sample scope of work statement for appraisals;

"E" is a sample escrow account document for dealing with land sale proceeds.

AIRPORT COMPLIANCE

Since 1982, the Airport Improvement Program (AIP) has provided more than \$4 billion in grants to pay for noise mitigation projects at airports throughout the nation. As a condition of receiving AIP grants, sponsors sign a series of assurances related to compliance with pertinent laws, regulations or administrative policies. Under one of these assurances, airport sponsors agree to dispose of AIP-funded noise land when it is no longer needed for noise mitigation or airport development. This requirement is referred to as AIP Grant Assurance 31. The current focus on this issue resulted from the audit in 2005 by the U.S. Department of Transportation Office of Inspector General of the FAA's administration and sponsor's compliance with Assurance 31. The audit report indicated that numerous improvements should be made in stewardship of the program by the FAA and its sponsors.

Airports can receive AIP funds to acquire land and sound-insulate homes and public buildings in areas exposed to significant aircraft noise under Part 150 Noise Compatibility Program. As a condition of receiving the AIP grant, airports must agree to dispose of land when it is no longer needed for noise purposes or AIP eligible airport development projects. Such eligible projects could include terminal facilities, runways, taxiways, runway protection zones, areas for fixed base operators or other eligible elements of the airport facility that requires land to accommodate it.

All such reuses must be in accordance with the Airport Improvement Program Handbook, FAA Order 5100.38C. Noise lands, if not needed for AIP eligible airport development, are to be sold, leased or exchanged and put to compatible uses. Acceptable compatible



uses are outlined in Attachment A of the FAA PGL 08-02. Any proceeds received from the disposal of noise lands are to be used for funding other noise acquisition projects or returned to the FAA's Airport and Runway Trust Fund.

RECYCLING PROPERTY

The basic idea of noise compatibility programs is to remove or protect sensitive land uses from aircraft noise. Where property interests were acquired to do this, the idea is to recycle this acquired property asset in one or more ways:

- Retention for AIP eligible airport uses;
- Retain land for non AIP eligible airport uses and pay back the federal share of market value;
- Retain land for noise compatible purposes, if disposal is not feasible and review status at least every five years;
- Exchange for airport related land uses;
- Dispose of property by sale, exchange or lease for purposes that would be compatible with the existence of aircraft noise.

The guidance specifies that acquired noise land areas would be planned and zoned for uses consistent with the existence of aircraft noise levels, higher than 65 decibels based on average day/night levels.

The FAA recently has made several important clarifications regarding the retention of property for proposed AIP eligible airport uses. Such proposed development must be depicted as future development land on the FAA approved Airport Layout Plan (ALP) for projects that are eligible for AIP grant funds. For example, unneeded noise land may be converted for a current or planned runway protection zone (RPZ) or runway safety area (RSA) land underlying airport approaches. In addition, AIP eligible landside development and eligible off airport use of land for navigational aid facilities and installation of airport utilities may be an AIP eligible development (reference AIP Handbook at paragraph 701, Land Acquisition for Current Airport Development).

If the airport sponsor retains unneeded noise land for non-eligible uses under AIP grant funding, such as commercial/industrial uses, parking lots or other non-aeronautical revenue producing use, payback of the Federal funds will be required. The payback amount will be based on the appraised fair market value of the disposed land used for non-eligible AIP purposes. The sponsor will also need to place deed restrictions on the land to prevent incompatible use or development. The deed restrictions will necessarily be incorporated in the ALP.



LAND ACQUISITION COSTS

The acquisition of noise lands usually will involve the purchase of improved residential properties. Acquisition costs can include land, buildings, relocation assistance, title work, appraisals, negotiations, closing, environmental assessments/remediation, demolition and clearance. Portions of the noise acquisition area may be suitable for retention for airport operation purposes, as noted above. Noise lands can also be retained if they continue to be needed for noise compatibility, because they cannot be reasonably developed. Such a situation must be reviewed periodically by the sponsor to assess whether there is justification to continue to retain such lands. The FAA guidance contains a helpful flow diagram to assist in determining whether a parcel is needed for noise compatibility.

If noise lands are utilized for eligible AIP uses approved by the FAA, there is no requirement to pay back the federal share of the noise land acquisition costs. If lands are sold, leased or exchanged, the payback of the federal share is based on the market value of the property as estimated by a real estate appraisal report. The report must be prepared in accordance with Uniform Standards of



Professional Appraisal Practice (USPAP) and FAA requirements including PGL 08-02, Attachment D: Appraisal Scope of Work Statement in the guidance.

The FAA guidance also affords the offsetting of certain selling expenses incurred by the sponsor in the disposal of noise land property against the payback amount of the federal share. Any land sale proceeds resulting from a disposal must be accounted for and held in an escrow account approved by the FAA in accordance with PGL 08-02, Attachment E, in the guidance. Such funds can be used for new noise land acquisitions or other AIP eligible noise projects by the sponsor.

AIRPORT SPONSOR RESPONSIBILITY

The referenced PGL 08-02 provides guidance to airport sponsors relative to the management, inventory, reuse and disposal of acquired noise lands. All acquired noise lands must be inventoried. The inventory will necessarily include the use of maps and tables to compile the data required by the new FAA guidance. Any noise lands that may be eligible for use in an airport development project (using AIP funding) must be identified. Similarly, any lands not suitable or needed for airport development must be identified. This data should already be included on the airport's Exhibit A Property Map, if it is up to date. If the Exhibit A is not current, it would be appropriate to update that document first as the data required for the noise land inventory can be retrieved from that source.

Once this inventory for all acquired noise land is assembled, the airport sponsor is required to prepare a Reuse Plan that explains the airport sponsor's plan for conversion of lands eligible for airport development or alternatively the disposal, lease or exchange of lands not suitable or needed for airport development. Sponsors are

“...over 100 airports throughout the nation will have to comply with this requirement.”

expected to undertake appropriate land use planning initiatives relative to lands not needed for airport development. This action will result in informed decisions regarding what compatible land uses can be considered based on appropriate local land use planning and zoning requirements. Such planned uses must be compatible with the local land use plan and the existing aircraft noise environment. The Noise Land Inventory and the Reuse Plan are submitted to the FAA for approval, after which the sponsor can proceed to implement the approved plan.

After planning is complete and the Reuse Plan has been approved by the FAA, the property would be appraised by the airport and disposal options including market sale, lease or exchange could potentially be considered. A feasibility analysis may also be undertaken to determine whether it would be better to dispose of raw land or incur certain limited development approval and permitting costs to realize the highest and best use of the property.

COMPLETION DATE

According to FAA PGL 08-02, all airports that have noise land grants are required to complete their Reuse Plan by October 2009. The Noise Land Inventory will be completed prior to the Reuse Plan. FAA approval of the noise land inventory and the Reuse Plan is required before the airport can proceed with implementation. ☺

The author would like to acknowledge his appreciation for the technical assistance provided by Rick Etter, Airports Acquisition Specialist, Federal Aviation Administration, in the development of this article.

For PGL information visit the FAA website at www.faa.gov/airports_airtraffic/airports/aip/guidance_letters/media/PGL_08_02.pdf

For AIP information visit www.faa.gov/airports_airtraffic/airports/aip/.

