



# **Southwest Oregon Regional Airport**

## Airport Master Plan

### Chapter Nine: Planning For Compliance

**Prepared By:**



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## Chapter 9. Planning for Airport Compliance

Airport sponsors that accept federal grants or federal property must also agree to certain obligations known as grant assurances. FAA Order 5190.6C, *Airport Compliance Manual*, provides guidance in interpreting and implementing these commitments, and the FAA's airport compliance program helps airport sponsors meet their obligations. In general, these grant assurances remain in effect for the useful life of the project but do not last longer than 20 years. An exception is for land acquisition grants which last for as long as the airport is owned and operated as an airport. The duration and applicability of each grant assurance for airport sponsors are summarized in FAA Order 5100.38D, *Airport Improvement Program Handbook*, Table 2-5, Duration and Applicability of Grant Assurances (Airport Sponsors).

Title 14 of the Code of Federal Regulations (CFR) Part 139, *Certification of Airports*, establishes standards for airports with (scheduled or unscheduled) commercial passenger service. Part 139 airports are subcategorized as Class I–IV airports based on the size of the air carrier aircraft that operate at the airport. Under Part 139, the size of the aircraft depends on the number of seats the aircraft has. An air carrier aircraft designed to seat 10 to 30 passengers is classified as small, while an aircraft designed to seat at least 31 passengers is classified as large. Southwest Oregon Regional Airport is a Class I Part 139 airport with scheduled operations of large and small aircraft as well as unscheduled operations of large aircraft.

### 9.1 Sources of Obligation

Each grant agreement and deed of property conveyance includes the obligations an airport sponsor must agree to as a condition of accepting grant funding or property from the federal government. FAA-administered airport financial assistance programs include:

- Grant agreements issued through airport development grant programs such as the Federal Aid to Airports Program (FAAP), Airport Development Aid Program (ADAP), and Airport Improvement Program (AIP).
- Grant agreements and instruments of non-surplus conveyance issued under the 1946 Airport Act, 1970 Airport Act, or the Airport and Airway Improvement Act of 1982 (AAIA).
- Surplus property instruments of transfers issued under the provisions of Section 13(g) of the Surplus Property Act of 1944.
- Deeds of conveyance issued under Section 16 of the 1946 Airport Act, Section 23 of the 1970 Airport Act, and Section 516 of the AAIA.
- AP-4 agreements authorized by various acts between 1939 and 1944.
- Exclusive Rights under Section 303 of the Civil Aeronautics Act of 1938 and Section 308(a) of the FAA Act.
- Commitments included in environmental documents prepared in accordance with FAA requirements related to the National Environmental Policy Act of 1969 (NEPA) and the AAIA.

- Written agreements between the sponsor and the FAA which include settlement agreements resulting from litigation.

## 9.2 Federal Grants Assurances

At the time of this writing, there are 40 standard AIP Grant Assurances that airport sponsors must comply with when entering grant agreements for planning and development. In April 2025, the FAA released updated assurances reflecting legislative changes from the FAA Reauthorization Act of 2024 and relevant Executive Orders. Key updates include modifications to Assurances 1, 5, 29, and 30, as well as the addition of Assurance 40, which mandates continued access to 100LL aviation gasoline until a certified unleaded alternative is available, or December 31, 2030, whichever occurs first.

The FAA's publication "Airport Sponsor and Airport User Rights and Responsibilities" offers simplified explanations of several key assurances, including Assurances 5, 22, 23, 24, and 25, which cover airport sponsor authority, nondiscrimination, disadvantaged business opportunities, and appropriate use of airport revenue. For more in-depth guidance, ACRP Report 184 – *Understanding FAA Grant Assurance Obligations* provides valuable analysis of compliance responsibilities and enforcement practices.

The following sections highlight and interpret key grant assurances, incorporating updates from the 2025 FAA revisions, Airport Sponsor and Airport User Rights and Responsibilities, and ACRP Report 184.

### 9.2.1. Grant Assurance 1 – General Federal Requirements

Grant Assurance 1 establishes that airport sponsors must comply with all applicable federal laws, regulations, executive orders, and policies when accepting and using federal grant funds. This assurance serves as the legal foundation for ensuring that federal funds are used lawfully and in alignment with national policies and objectives.

Under this assurance, sponsors agree to operate in compliance with a wide range of federal requirements related to civil rights, environmental protection, labor standards, and procurement practices. These include, but are not limited to, Title VI of the Civil Rights Act, the National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act, and applicable federal procurement standards.

The 2025 update to Grant Assurance 1 clarified which federal requirements remain applicable and removed references to certain executive orders that were previously incorporated by citation. The update also reinforces that airport sponsors are responsible for staying current with federal laws and regulations throughout the term of the grant and adjusting their practices accordingly to maintain compliance.

### **9.2.2. Grant Assurance 5 – Preserving Right and Powers**

The 2025 update to Grant Assurance 5 strengthens the requirements for airport sponsors to retain full control and operational authority over airport property. The changes emphasize the need for explicit FAA approval before taking any action that could affect the airport sponsor's ability to meet federal obligations and introduce stricter requirements for property transfers and successor responsibilities.

Grant Assurance 5 obligates airport sponsors to retain all rights and authority necessary to comply with the terms and conditions of their federal grant agreements. The airport may not take, or permit, any action that would diminish its ability to fulfill these obligations without prior written approval from the FAA. This includes acting promptly to acquire, extinguish, or modify any third-party rights that could interfere with the sponsor's performance.

Additionally, the airport sponsor must not sell, lease, encumber, or otherwise dispose of its title or interest in the airport property, as described in the grant agreement, without FAA approval. If such a transfer is approved, the sponsor must ensure the transferee is legally and financially capable of assuming all grant obligations and is formally bound to them.

### **9.2.3. Grant Assurance 20 – Hazard Removal and Mitigation**

Grant Assurance 20 requires airport sponsors to take reasonable action to prevent and eliminate existing or potential obstructions in the navigable airspace around the airport. This includes both natural and man-made objects that could interfere with safe aircraft operations.

Obstructions are defined as objects that penetrate the imaginary surfaces described in 14 CFR Part 77, *Safe, Efficient Use and Preservation of the Navigable Airspace*, including approach, transitional, horizontal, and conical surfaces extending outward from runways. The assurance obligates the airport sponsor to monitor such hazards and, to the extent practicable, mitigate or remove them, either directly or through cooperation with local jurisdictions, landowners, or other stakeholders.

### **9.2.4. Grant Assurance 21 – Compatible Land Use**

Grant Assurance 21 requires airport sponsors to take appropriate action, to the extent possible, to ensure that land use in the vicinity of the airport is compatible with normal airport operations, including aircraft noise and overflight activity. This obligation includes promoting and encouraging land use planning and zoning that minimizes the risk of development incompatible with airport operations.

### **9.2.5. Grant Assurance 22 – Economic Nondiscrimination**

Grant Assurance 22 requires the airport sponsor to operate the airport for the use and benefit of the public, and to make it available to all types, kinds, and classes of aeronautical activity on fair and reasonable terms and without unjust discrimination.

**9.2.6. Grant Assurance 23 – Exclusive Rights**

Grant Assurance 23 requires airport sponsors to operate the airport without granting or permitting any exclusive right to conduct any aeronautical activity at the airport. Aeronautical activity is defined as any activity that involves or is related to the operation of an aircraft or contributes to the safety of such operations (e.g., air taxi and charter operations, aircraft storage, sale of aviation fuel etc.).

**9.2.7. Grant Assurance 24 – Fee and Rental Structure**

Grant Assurance 24 requires the airport to maintain a fee and rental structure for the facilities and services provided to airport users that will make the airport as self-sustaining as possible. (Note: it is typical that fees be considered fair and reasonable for aeronautical activities and collected at fair market value for nonaeronautical activities.)

**9.2.8. Grant Assurance 25 – Airport Revenue**

Grant Assurance 25 requires the airport sponsor to use all airport revenues for the capital or operating costs of the airport, the local airport system, or other local facilities that are owned or operated by the owner or operator of the airport and directly relate to the actual air transportation of passengers or property.

**9.2.9. Grant Assurance 29 – Airport Layout Plan (ALP)**

Grant Assurance 29 requires the airport sponsor to develop, operate, and maintain the airport in accordance with its most recently approved ALP. All airport development must conform to the ALP, and any changes must receive prior FAA approval or acceptance.

The 2025 update to this assurance reinforces the FAA's oversight role by clarifying that unauthorized development or use of airport property outside the approved ALP may result in compliance action or ineligibility for federal funding and reaffirms the need to integrate environmental reviews and land release procedures into ALP revisions.

Additionally, any land identified on the ALP property map/Exhibit 'A' may not be sold, encumbered, or used for non-aeronautical purposes without FAA approval. These requirements ensure that federally obligated land remains dedicated to supporting safe, efficient airport operations.

**9.2.10. Grant Assurance 30 – Civil Rights**

Grant Assurance 30 requires airport sponsors to comply with federal civil rights laws prohibiting discrimination based on race, color, national origin, sex, age, or disability. This applies to all airport operations, including those of tenants and service providers. The 2025 update removed executive order references, reaffirmed the airport sponsor's responsibility to ensure tenant compliance, and clarified that violations may result in enforcement actions or loss of funding.

**9.2.11. Grant Assurance 31 – Disposal of Land**

Grant Assurance 31 requires the airport to obtain FAA approval for the sale or other disposal of property acquired under FAAP, ADAP, or AIP, as well as for the use of any net proceeds.

**9.2.12. Grant Assurance 40 – Access to Leaded Aviation Fuel**

Grant Assurance 40 was added by the FAA Reauthorization Act of 2024. It requires airport sponsors that offered 100LL aviation gasoline as of 2022 to continue providing reasonable access to leaded fuel for piston-engine aircraft until an FAA-certified unleaded alternative is widely available or until December 31, 2030, whichever comes first.

**9.2.13. Other Obligations**

Grant agreements include obligations relating to:

- Assurance 2 – Responsibility and Authority of the Sponsor
- Assurance 3 – Sponsor Fund Availability
- Assurance 4 – Good Title
- Assurance 6 – Consistency with Local Plans
- Assurance 7 – Consideration of Local Interest
- Assurance 8 – Consultation with Users
- Assurance 9 – Public Hearings
- Assurance 10 – Metropolitan Planning Organization Consultation
- Assurance 11 – Pavement Preventive Maintenance
- Assurance 12 – Terminal Development on Publicly Owned Land
- Assurance 13 – Accounting System, Audit, and Recordkeeping
- Assurance 14 – Minimum Wage Rates
- Assurance 15 – Veteran’s Preference
- Assurance 16 – Conformity to Plans and Specifications
- Assurance 17 – Construction Inspection and Approval
- Assurance 18 – Planning Projects
- Assurance 19 - Operation and Maintenance
- Assurance 26 – Reports and Inspections
- Assurance 27 – Use by Government Aircraft
- Assurance 28 – Land for Federal Facilities
- Assurance 32 – Engineering and Design Services
- Assurance 33 – Foreign Market Restrictions
- Assurance 34 – Policies, Standards, and Specifications
- Assurance 35 – Relocation and Real Property Acquisition
- Assurance 36 – Access by Intercity Buses
- Assurance 37 – Disadvantaged Business Enterprises
- Assurance 38 – Hangar Construction
- Assurance 39 – Competitive Access

### 9.3 Compatible Land Use

Land use compatibility is attained when property located on and near an airport is used in ways that don't adversely affect flight operations and is itself not adversely affected by airport operations. According to FAA Order 5190.6C, *Airport Compliance Manual*, land use planning and zoning are important tools to help to protect airport investments from incompatible land uses, protect airport approaches, and ensure land uses on and near airport property are compatible with normal airport operations while also meeting federal obligations relating to Grant Assurance 21 - Compatible Land Use.

This includes restricting uses that create or contribute to flight hazards such as tall structures or have features that block the line of sight from the control tower to the airfield, inhibit pilot visibility (e.g., glaring lights or smoke), interfere with navigational guidance systems, or attract birds and other wildlife. Likewise, the development of public facilities (e.g., schools, churches, concert halls) and residential areas should also be avoided near the airport due to noise and safety concerns. This includes airpark developments, which allow aircraft owners to reside and park their aircraft on the same property with immediate access to an airfield, because aircraft owners are entitled to the same protection from airport impacts as any other residents of the community.

A "through-the-fence" agreement is one in which the airport allows owners of property located adjacent to the airport to access the airfield. While the FAA does not support these types of agreements under any circumstances when they are associated with residential use (e.g., airpark developments), exceptions may be granted on a case-by-case basis for off-airport aeronautical businesses provided the airport sponsor makes sure the agreement does not violate any grant assurances.

The most common improper and noncompliant land use is when property that has been designated for aeronautical use, or property not released by the FAA for nonaeronautical use, is used or leased for nonaeronautical uses (i.e., not shown on the ALP). This includes using hangars to store automobiles, using property and buildings for nonairport vehicle and maintenance equipment storage, aircraft museums, and municipal administrative offices.

Failure to take adequate steps to prevent hazardous wildlife on airport property is another common area of noncompliance. This can stem from allowing on-airport and/or adjacent incompatible land uses that are hazardous wildlife attractants such as wastewater ponds, municipal flood control channels and drainage basins, sanitary landfills, solid waste transfer stations, public parks, or golf courses.

### 9.4 Compliance at Southwest Oregon Regional Airport

The following conditions at OTH should be monitored to ensure the Airport is complying with the grant assurances.

#### **9.4.1. Nonaeronautical Use of Disposal of Obligated Airport Property**

The FAA must approve using airport property for nonaeronautical purposes if that property is subject to grant assurances, and any agreement must preserve the rights and powers of the airport sponsor to comply with its obligations. This means the airport sponsor will not sell, lease, encumber, or otherwise transfer title or interest in any property shown on Exhibit A of the ALP without prior approval from the FAA. When airport property that was purchased using federal funds for noise compatibility purposes is no longer needed, the airport sponsor is required to promptly dispose of the property at fair market value (Grant Assurances 5, 19, 29, 31).

#### **9.4.2. Hangar Use Policy**

In June of 2016, the FAA released a final policy on the nonaeronautical use of aircraft hangars on federally obligated airports. This policy reinforces other obligations that aeronautical facilities on an airport need to be used for aeronautical purposes, that the FAA must approve nonaeronautical use of hangars, and that airport sponsors receive fair market value for nonaeronautical uses. The policy states that a hangar be used primarily for aeronautical purposes, and that airport sponsors may permit nonaeronautical items to be stored provided the items do not interfere with the aeronautical use. Aeronautical uses include storage of active aircraft, final assembly of aircraft under construction, non-commercial construction of amateur-built or kit-built aircraft, storage of aircraft handling equipment, and the maintenance, repair, or refurbishment of aircraft, but not the indefinite storage of non-operational aircraft. Airport sponsors may adopt more restrictive rules for the use of hangars via airport rules and regulations, minimum standards, lease provisions, building codes, or local ordinances. One of the best ways to ensure compliance with hangar use policies is to hold regular hangar inspections and ensure airport policies are current. Enforcement of proper hangar use helps the airport comply with Grant Assurances 5 and 25, ensuring facilities are used appropriately and revenue is properly managed.

#### **9.4.3. Compatible Land Use**

As discussed previously, compatible land use planning is primarily a local responsibility, as the FAA has a limited regulatory role in land use decisions outside the airport boundary. However, under Grant Assurance 21 – Compatible Land Use, airport sponsors are obligated to take reasonable action to restrict the development of land uses that are incompatible with normal airport operations. This includes working with local jurisdictions to promote zoning and planning practices that protect airspace, reduce noise impacts, and preserve public safety.

### **9.5 Summary**

According to FAA Order 5190.6C, the FAA's airport compliance program is contractually based and does not attempt to control or direct the operation of airports. Rather, the program is designed to monitor and enforce obligations agreed to by airport sponsors in exchange for valuable benefits and rights granted by the federal government in return for substantial direct

grants of funds and conveyances of federal property for airport purposes. The airport compliance program is designed to protect the public interest in civil aviation.

Grants and property conveyances are made in exchange for binding commitments (i.e., grant assurances) designed to ensure the public interest in civil aviation will be served. The FAA bears the responsibility of seeing that these commitments are met. The FAA considers all federal airport obligations important. However, the most important objective in the FAA's oversight of the compliance program is to ensure and preserve safety at all federally obligated airports.