



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2020-0137]

Airport Improvement Program (AIP) Grant Assurances

AGENCY: Federal Aviation Administration (FAA), Department of Transportation.

ACTION: Notice of modification of Airport Improvement Program grant assurances; opportunity to comment.

SUMMARY: The FAA has updated the AIP grant assurances to reflect recent legislative provisions in the FAA Reauthorization Act of 2018 as well as recently issued executive orders.

DATES: The FAA is implementing these modified grant assurances upon publication of this notice to expedite processing Fiscal Year 2020 grants under the AIP. The FAA will accept public comments concerning these modified grant assurances for 30 days. Comments must be submitted on or before **[insert date 30 days after date of publication in the Federal Register]**. If necessary, in response to comments received, the FAA will consider appropriate revisions to these grant assurance modifications through publication of a subsequent notice in the Federal Register.

ADDRESSES: You may send comments [identified by Docket Number FAA-2020-0137] using any of the following methods:

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- Fax: 1-202-493-2251.
- Hand Delivery: To Docket Operations, Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dave Cushing, Manager, Airports

Financial Assistance Division, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267-8827; fax: (202) 267-5302.

Authority for Grant Assurance Modifications.

This notice is published under the authority described in Subtitle VII, Part B, Chapter 471, Sections 47107 and 47122 of Title 49 United States Code (U.S.C.). In addition, the statutory authorities delegated to the Federal Aviation Administration are enumerated in Title 49 Code of Federal Regulations (CFR) § 1.83 (“Delegations to the Federal Aviation Administration”).

SUPPLEMENTARY INFORMATION: A sponsor (applicant) seeking financial assistance in the form of an AIP grant for airport planning, airport development, noise compatibility planning, or noise mitigation under 49 U.S.C., as amended, must agree to comply with certain assurances. These grant assurances are incorporated in, and become part of a sponsor’s grant agreement for Federal assistance. As need dictates, the FAA modifies these assurances to reflect new Federal requirements. Notice of such modifications is published in the Federal Register, and an opportunity for public comment is provided. The assurances that apply to a sponsor depend on the type of sponsor.

There are three types of AIP grant assurances:

- Airport Sponsor (applicable for airport development);
- Non-Airport Sponsors Undertaking Noise Compatibility Program Projects; and
- Planning Agency Sponsors.

Prior to the FAA Reauthorization Act of 2018 (P.L. 115-254), the assurances were published on:

- February 3, 1988, at 53 FR 3104 and amended on September 6, 1988, at 53 FR 34361;
- August 29, 1989, at 54 FR 35748;
- June 10, 1994, at 59 FR 30076;
- January 4, 1995, at 60 FR 521;
- June 2, 1997, at 62 FR 29761;
- August 18, 1999, at 64 FR 45008;
- March 29, 2005, at 70 FR 15980;
- March 18, 2011, at 76 FR 15028;
- April 13, 2012, at 72 F.R. 22376; and
- April 3, 2014, at 79 FR 18755.

A complete list of the current grant assurances may be viewed at:
https://www.faa.gov/airports/aip/grant_assurances/

Discussion of AIP Grant Assurance Modifications

The FAA is making several changes to the AIP grant assurances. These changes will be in effect for grants issued on or after the date of publication of this notice. The changes to the AIP grant assurances are listed below. The grant assurance numbers referenced relate to the assurance (airport development grants):

Technical Non-Substantive Changes To Correct Minor Typographical Errors

Because these have no change on the substance of the assurances, these changes, including minor edits to Grant Assurance 37, have not been specifically called out.

Addition of Buy American and Hire American Executive Orders

The FAA has added Executive Order 13788 (“Buy American and Hire American”) and Executive Order 13858 (“Strengthening Buy-American Preferences for Infrastructure Projects”) to the list of executive orders applicable in Grant Assurance C.

Updates pursuant to Section 131 of the Act

Section 131 of the Act requires the FAA to change Sponsor Assurance #32 (“Engineering and Design Services”). Sponsor Assurance #32 now applies to a sponsor if “any phase of such project has received funds under this subchapter.”

Updates pursuant to Section 135 of the Act

Section 135 of the Act expands the statutory grant assurance regarding veteran’s preference to include veterans of “Operation New Dawn, Operation Inherent Resolve, Operation Freedom’s Sentinel, or any successor contingency operation to such operations;” and small business concerns owned and controlled by disabled veterans. FAA has revised Sponsor Assurance #15, Veteran’s Preference, to include these changes.

Updates pursuant to Section 163 of the Act

Section 163 of the Act modified the FAA’s authorities and responsibilities regarding changes in airport land use under certain circumstances. Sponsor Assurances #5(b) and #29 have been amended to reflect this provision.

In consideration of the above, the FAA makes the following changes to the existing published Airport Sponsor Assurances.

C. Sponsor Certification. The sponsor hereby assures and certifies 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 this project including but not limited to the following updated provisions.

Executive Orders

g. Executive Order 13788 - Buy American and Hire American

Executive Order 13858 - Strengthening Buy-American Preferences for Infrastructure Projects

5. Preserving Rights and Powers.

b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, 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 compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this 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.

29. Airport Layout Plan.

a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, 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;
- 3) the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
- 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans 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 any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility, or efficiency of the airport.

b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned,

leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

32. Engineering and Design Services. If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U. S. C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

As noted previously, all other grant assurances remain in full force and effect except as shown above.

Issued in Washington, DC on February 25, 2020.

Robert John Craven,
Director,
Office of Airport Planning and Programming.
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