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## FAA RELEASES CONCERNING AIRPORT LAND

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*Hershey Airport Conference  
March 22, 2016*



### What is an FAA release?

The formal written authorization discharging and relinquishing the FAA's right to enforce one or more of the sponsor's federal obligations under the grant assurances and/or the Surplus Property Act and/or 49 U.S.C 47125.

The FAA will only grant a release of such obligations after receipt and consideration of a written release request submitted by an airport sponsor.



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## What are the different types of Release Requests Concerning Airport Land?

Typical release requests include, but are not limited to, those concerning:

- Concurrent use (Grant Assurance 29)
- Interim use (Grant Assurances 5b, 29)
- Change of use of airport land from aeronautical to nonaeronautical use (Grant Assurances 5b, 29)
- Long term nonaeronautical lease (Grant Assurances 5b, 29)
- Airport Land disposals/sales (Grant Assurances 5b, 29)

Land Release related:

- NEUP (Surplus Property Act)
- Reverter Clauses (Surplus Property Act)



## What should a sponsor do prior to submitting a release request to the FAA?

### **Ask your ADO for instructions!**

Sponsors are encouraged to seek guidance from ADOs prior to submitting release requests for the following reasons:

- Identification of information sponsors must provide in their request (FAA Order 5190.6b/Eastern Region Sponsor's Guide)
- Focuses information to be provided with the release request
- Identification of showstoppers
- Expedites the process



## What factors does the FAA consider when evaluating release requests?

In reviewing release requests the FAA considers:

- the net benefit to aviation-safety, efficiency, revenue
- Compatibility of the proposal with the needs of civil aviation including:
  - Whether the original purpose or use of the property or facilities to be sold, or changed in use to nonaeronautical, is still applicable and/or whether it will be obfuscated by the release;
  - Whether the release will obligate the sponsor under new terms that conform to applicable law
- The ways in which the sponsor is obligated;
- The sponsor's compliance record;
- Applicable guidance with respect to the particular type of release sought;



## Factors to consider with respect to release requests concerning airport real property

- Land still needed for aeronautical purposes now or in the future
- Sale/Lease agreements-subordinate to FAA requirements
- Appraisals-FMV
- Grant Assurance 31/49 U.S.C. 47107(c)(2)(B)
- Grant Assurance 25/Airport revenue use policy
- Revenue implications-short term lease v. sale v. long term lease
- Lease w/option to buy-avoid duplication
- Prohibition on residential development
- Requirements for environmental review, airspace studies, changes to the ALP and public notice and comment



# Public Notice Requirements

For the following types of releases FAA must provide the public an opportunity for notice and comment at least 30 days prior to approving the release request:

Change in use to nonaeronautical or sale of:

- airport property acquired with federal assistance per 49 USC 47107(c)(2)(B);
- surplus airport property provided to the airport for aeronautical purposes;
- airport property conveyed to the airport by the US Gov't;
- airport property used as an aircraft movement area with federally financed airport improvements.

The public notice and comment requirements do not apply to:

- Approval of the interim use of airport property (5 years or less);
- Grant of utility or other types of easements that will have no adverse effect on the aeronautical use of the airport;
- Release of noise compatibility land;
- Release where the public notice and comment requirements are satisfied by an environmental review.



# FAA Release documents

Releases concerning airport real property:

➤Contents:

1. Determination on need to retain for aeronautical purposes, applicable grant agreements
2. Standard clauses-Aeronautical protection, use of revenue, environmental
3. Lease/sale agreement terms consistent with letter of release terms or express written notification

➤Concurrent/Interim Use Release letter Additional Terms

1. Recovery time for repossession for aero/exclusive aero use
2. Duration of release

➤Change in Use/Long Term Lease/Sale Release letter Additional Condition

1. Recording of the letter of release in the local register of deeds to finalize release approval



# QUESTIONS



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