

weather reporting activities and communication activities related to air traffic control, such areas of land or water, or estate therein, or rights in buildings of the Sponsor as the FAA may consider necessary or desirable for construction at Federal expense of space or facilities for such purposes. The approximate amounts of areas and the nature of the property interests and/or rights so required will be set forth in the Grant Agreement relating to the project. Such areas or any portion thereof will be made available as provided herein within 4 months after receipt of written requests from the FAA.

28. *Fee and rental structure.* The airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the Airport as self-sustaining as possible under the circumstances existing at the Airport, taking into account such factors as the volume of traffic and economy of collection.

29. *Reports to FAA.* The Sponsor will furnish the FAA with such annual or special airport financial and operational reports as may be reasonably requested. Such reports may be submitted on forms furnished by the FAA, or may be submitted in such manner as the Sponsor elects so long as the essential data are furnished. The Airport and all airport records and documents affecting the Airport, including deeds, leases, operation and use agreements, regulations, and other instruments, will be made available of inspection and audit by the Secretary and the Comptroller General of the United States, or their duly authorized representatives, upon reasonable request. The Sponsor will furnish to the FAA or to the General Accounting Office, upon request, a true copy of any such document.

30. *System of accounting.* All project accounts and records will be kept in accordance with a standard system of accounting if so prescribed by the Secretary.

31. *Interfering right.* If at any time it is determined by the FAA that there is any outstanding right or claim of right in or to the Airport property, other than those set forth in Part II of the Application for Federal Assistance, the existence of which creates an undue risk of interference with the operation of the Airport or the performance of the covenants of this part, the sponsor will acquire, extinguish, or modify such right or claim of right in a manner acceptable to the FAA.

32. *Performance obligation.* The Sponsor will not enter into any transaction which would operate to deprive it of any of the rights and powers necessary to perform any or all of the covenants made herein, unless by such transaction the obligation to perform all such covenants is assumed by another public agency found by the FAA to be eligible under the Act and Regulations to assume such obligations and having the power, authority, and

financial resources to carry out all such obligations. If an arrangement is made for management or operation of the Airport by any agency or person other than the Sponsor or an employee of the Sponsor, the Sponsor will reserve sufficient rights and authority to insure that the Airport will be operated and maintained in accordance with the Act, the Regulations, and these covenants.

33. *Meaning of terms.* Unless the context otherwise requires, all terms used in these covenants which are defined in the Act and the Regulations shall have the meanings assigned to them therein.

B. *Airport Layout Plan Approval.* A sponsor seeking FAA approval of a new or revised airport layout plan shall submit with the plan an environmental assessment prepared in conformance with Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; January 10, 1980) and FAA Order 5050.4 "Airport Environmental Handbook" (45 FR 56622; August 25, 1980), if an assessment is required by Order 5050.4.

### III. Airport Planning

Each applicant for an airport planning grant shall submit the assurances numbered 1 (except for the phrase "and to finance and construct the proposed facilities"), 7, 9, 11 (except for the last sentence), and 12, 14, 15, 30, and 33 of Part II of this appendix.

(Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 *et seq.*); sec. 1.47(f)(1) Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(f) (1))

[Doc. No. 19430, 45 FR 34797, May 22, 1980, as amended by Amdt. 152-11, 45 FR 56622, Aug. 25, 1980]

## PART 155—RELEASE OF AIRPORT PROPERTY FROM SURPLUS PROPERTY DISPOSAL RESTRICTIONS

Sec.

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AUTHORITY: 49 U.S.C. 106(g), 40113, 47151-47153.

SOURCE: Docket No. 1329, 27 FR 12361, Dec. 13, 1962, unless otherwise noted.

**§ 155.1 Applicability.**

This part applies to releases from terms, conditions, reservations, or restrictions in any deed, surrender of leasehold, or other instrument of transfer or conveyance (in this part called "instrument of disposal") by which some right, title, or interest of the United States in real or personal property was conveyed to a non-Federal public agency under section 13 of the Surplus Property Act of 1944 (58 Stat. 765; 61 Stat. 678) to be used by that agency in developing, improving, operating, or maintaining a public airport or to provide a source of revenue from non-aviation business at a public airport.

**§ 155.3 Applicable law.**

(a) Section 4 of the Act of October 1, 1949 (63 Stat. 700) authorizes the Administrator to grant the releases described in §155.1, if he determines that—

(1) The property to which the release relates no longer serves the purpose for which it was made subject to the terms, conditions, reservations, or restrictions concerned; or

(2) The release will not prevent accomplishing the purpose for which the property was made subject to the terms, conditions, reservations, or restrictions, and is necessary to protect or advance the interests of the United States in civil aviation.

In addition, section 4 of that Act authorizes the Administrator to grant the releases subject to terms and conditions that he considers necessary to protect or advance the interests of the United States in civil aviation.

(b) Section 2 of the Act of October 1, 1949 (63 Stat. 700) provides that the restrictions against using structures for industrial purposes in any instrument of disposal issued under section 13(g)(2)(A) of the Surplus Property Act of 1944, as amended (61 Stat. 678) are considered to be extinguished. In addition, section 2 authorizes the Administrator to issue any instruments of release or conveyance necessary to remove, of record, such a restriction, without monetary consideration to the United States.

(c) Section 68 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2098) releases, remises, and quitclaims, to persons entitled thereto, all reserved rights of the United States in radioactive minerals in instruments of disposal of public or acquired lands. In addition, section 3 of the Act of October 1, 1949 (50 U.S.C. App. 1622b) authorizes the Administrator to issue instruments that he considers necessary to correct any instrument of disposal by which surplus property was transferred to a non-Federal public agency for airport purposes or to conform the transfer to the requirements of applicable law. Based on the laws cited in this paragraph, the Administrator issues appropriate instruments of correction upon the written request of persons entitled to ownership, occupancy, or use of the lands concerned.

**§ 155.5 Property and releases covered by this part.**

This part applies to—

(a) Any real or personal property that is subject to the terms, conditions, reservations, or restrictions in an instrument of disposal described in §155.1; and

(b) Any release from a term, condition, reservation, or restriction in such an instrument, including a release of—

(1) Personal property, equipment, or structures from any term, condition, reservation, or restriction so far as necessary to allow it to be disposed of for salvage purposes;

(2) Land, personal property, equipment or structures from any term, condition, reservation, or restriction requiring that it be used for airport purposes to allow its use, lease, or sale for nonairport use in place;

(3) Land, personal property, equipment, or structures from any term, condition, reservation, or restriction requiring its maintenance for airport use;

(4) Land, personal property, equipment, or structures from all terms, conditions, restrictions, or reservations to allow its use, lease, sale, or other disposal for nonairport purposes; and

(5) Land, personal property, equipment, or structures from the reservation of right of use by the United

## § 155.7

States in time of war or national emergency, to facilitate financing the operation and maintenance or further development of a public airport.

### § 155.7 General policies.

(a) Upon a request under § 155.11, the Administrator issues any instrument that is necessary to remove, of record, any restriction against the use of property for industrial purposes that is in an instrument of disposal covered by this part.

(b) The Administrator does not issue a release under this part if it would allow the sale of the property concerned to a third party, unless the public agency concerned has obligated itself to use the proceeds from the sale exclusively for developing, improving, operating, or maintaining a public airport.

(c) Except for a release from a restriction against using property for industrial purposes, the Administrator does not issue a release under this part unless it is justified under § 155.3(a) (1) or (2).

(d) The Administrator may issue a release from the terms, conditions, reservations, or restrictions of an instrument of disposal subject to any other terms or conditions that he considers necessary to protect or advance the interests of the United States in civil aviation. Such a term or condition, including one regarding the use of proceeds from the sale of property, is imposed as a personal covenant or obligation of the public agency concerned rather than as a term or condition to the release or as a covenant running with the land, unless the Administrator determines that the purpose of the term or condition would be better achieved as a condition or covenant running with the land.

(e) A letter or other document issued by the Administrator that merely grants consent to or approval of a lease, or to the use of the property for other than the airport use contemplated by the instrument of disposal, does not otherwise release the property from the terms, conditions, reservations, or restrictions of the instrument of disposal.

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### § 155.9 Release from war or national emergency restrictions.

(a) The primary purpose of each transfer of surplus airport property under section 13 of the Surplus Property Act of 1944 was to make the property available for public or civil airport needs. However, it was also intended to ensure the availability of the property transferred, and of the entire airport, for use by the United States during a war or national emergency, if needed. As evidence of this purpose, most instruments of disposal of surplus airport property reserved or granted to the United States a right of exclusive possession and control of the airport during a war or emergency, substantially the same as one of the following:

(1) That during the existence of any emergency declared by the President or the Congress, the Government shall have the right without charge except as indicated below to the full, unrestricted possession, control, and use of the landing area, building areas, and airport facilities or any part thereof, including any additions or improvements thereto made subsequent to the declaration of the airport property as surplus: *Provided, however,* That the Government shall be responsible during the period of such use for the entire cost of maintaining all such areas, facilities, and improvements, or the portions used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid.

(2) During any national emergency declared by the President or by Congress, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which the surplus property is located or used or of such portion thereof as it may desire: *Provided, however,* That the United States shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively, or over which it may have exclusive possession and control, during the period of such use, possession, or control and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of such property as it may use

nonexclusively or over which it may have nonexclusive control and possession: *Provided further*, That the United States shall pay a fair rental for its use, control, or possession, exclusively or nonexclusively, of any improvements to the airport made without U.S. aid.

(b) A release from the terms, conditions, reservations, or restrictions of an instrument of disposal that might prejudice the needs or interests of the armed forces, is granted only after consultation with the Department of Defense.

**§ 155.11 Form and content of requests for release.**

(a) A request for the release of surplus airport property from a term, condition, reservation, or restriction in an instrument of disposal need not be in any special form, but must be in writing and signed by an authorized official of the public agency that owns the airport.

(b) A request for a release under this part must be submitted in triplicate to the District Airport Engineer in whose district the airport is located.

(c) Each request for a release must include the following information, if applicable and available:

(1) Identification of the instruments of disposal to which the property concerned is subject.

(2) A description of the property concerned.

(3) The condition of the property concerned.

(4) The purpose for which the property was transferred, such as for use as a part of, or in connection with, operating the airport or for producing revenues from nonaviation business.

(5) The kind of release requested.

(6) The purpose of the release.

(7) A statement of the circumstances justifying the release on the basis set forth in §155.3(a) (1) or (2) with supporting documents.

(8) Maps, photographs, plans, or similar material of the airport and the property concerned that are appropriate to determining whether the release is justified under §155.9.

(9) The proposed use or disposition of the property, including the terms and

conditions of any proposed sale or lease and the status of negotiations therefor.

(10) If the release would allow sale of any part of the property, a certified copy of a resolution or ordinance of the governing body of the public agency that owns the airport obligating itself to use the proceeds of the sale exclusively for developing, improving, operating, or maintaining a public airport.

(11) A suggested letter or other instrument of release that would meet the requirements of State and local law for the release requested.

(12) The sponsor's environmental assessment prepared in conformance with Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; Jan. 10, 1980), and FAA Order 5050.4, "Airport Environmental Handbook" (45 FR 56624; Aug. 25, 1980), if an assessment is required by Order 5050.4. Copies of these orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA regional office headquarters or any airports district office.

[Doc. No. 1329, 27 FR 12361, Dec. 13, 1962, as amended by Amdt. 155-1, 45 FR 56622, Aug. 25, 1980]

**§ 155.13 Determinations by FAA.**

(a) An FAA office that receives a request for a release under this part, and supporting documents therefore, examines it to determine whether the request meets the requirements of the Act of October 1, 1949 (63 Stat. 700) so far as it concerns the interests of the United States in civil aviation and whether it might prejudice the needs and interests of the armed forces. Upon a determination that the release might prejudice those needs and interests, the Department of Defense is consulted as provided in §155.9(b).

(b) Upon completing the review, and receiving the advice of the Department of Defense if the case was referred to it, the FAA advises the airport owner as to whether the release or a modification of it, may be granted. If the release, or a modification of it acceptable to the owner, is granted, the FAA prepares the necessary instruments and delivers them to the airport owner.