

Petitioner: Omni Engineering, Inc.
Sections of the FAR Affected: 14 CFR 91.313(e).

Description of Relief Sought/Disposition: To allow Omni crewmembers to operate a Grumman HU-16D Albatross aircraft (Registration No. N695S, Serial No. 146426), which is currently certificated as a restricted category aircraft, over densely populated areas, in congested airways, and near busy airports where passenger transport operations are conducted.
Denial, May 12, 1997, Exemption No. 6619.

Docket No.: 28686.

Petitioner: Jerry L. Clifton.

Sections of the FAR Affected: 14 CFR 91.209.

Description of Relief Sought/Disposition: To allow Mr. Jerry L. Clifton, Mr. David L. Clifton, or Mr. Scott C. Clifton to operate a hot air balloon in tethered flight at altitudes at or below 250 feet above ground level during the period from sunset to sunrise without meeting certain aircraft lighting requirements. *Denial, May 6, 1997, Exemption No. 6618.*

[FR Doc. 97-14317 Filed 5-30-97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airport Improvement Program Grant Assurances; Proposed Modifications and Opportunity To Comment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed modification of airport improvement program grant assurances and of opportunity to comment.

SUMMARY: The FAA proposes to modify the standard grant assurances required of a sponsor before receiving a grant under the Airport Improvement Program (AIP). Pursuant to applicable law, the Secretary of Transportation is required to provide notice in the **Federal Register** and an opportunity for the public to comment upon proposals to modify the assurances or to require any additional AIP assurances.

These modifications are necessary for two reasons. First, much of Federal transportation law was repealed and reenacted without substantive change by enactment of the Codification of Certain U.S. Transportation Laws as Title 49, United States Code, Public Law 103-272, 108 Stat. 745 (July 5, 1994). Aviation programs, including the AIP, are now found in Subtitle VII of Title

49, rather than the original statutes under which those programs were originally established. Consequently, statutory citations in the existing grant assurances are now obsolete and the modifications published here cite current law. Second, Public Law 103-272 was amended by enactment of the Federal Aviation Administration Reauthorization Act of 1996, Public Law 104-264 (October 9, 1996) (The 1996 Act), which made substantive changes to the statutory grant assurances. The modifications to the grant assurances also incorporate those changes. For ease of reading, Title 49, Subtitle VII, as amended by the 1996 Act will be cited throughout the remainder of this notice as Title 49, U.S.C., as amended. In the actual assurance, however, the reference further specifies Subtitle VII.

DATES: These proposed modifications to the Grant Assurances will be effective on an interim basis on the date of publication in the **Federal Register**. Comments must be submitted on or before July 2, 1997. Any revision to the interim assurances which are necessary or appropriate in response to comments received will be adopted on or before 60 days after the close of the comment period.

ADDRESSES: Comments may be delivered or mailed to the FAA, Airports Financial Assistance Division, APP-500, Room 619, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. James Borsari (Management and Program Analyst) Telephone (202) 267-8822.

SUPPLEMENTARY INFORMATION: The Secretary must receive certain assurances from a sponsor (applicant) seeking financial assistance for airport planning, airport development, noise compatibility planning or noise mitigation under Title 49, U.S.C., as amended. These assurances are submitted as part of a sponsor's application for Federal assistance and are incorporated into all grant agreements. As need dictates, these assurances are modified from time to time to reflect new Federal requirements. Notice of such proposed modifications is published in the **Federal Register** and an opportunity provided for comment by the public.

The current assurances were published on February 3, 1988, at 53 FR 3104 and amended on September 6, 1988, at 53 FR 34361, on August 29, 1989, at 54 FR 35748 on June 10, 1994 at 59 FR 30076, and on January 5, 1995, at 60 FR 521.

FAA uses three separate sets of standard assurances: Airport Sponsors

(owners/operators) (Appendix 1); Planning Agency Sponsors (Appendix 2); and Nonairport Sponsors Undertaking Noise Compatibility Program Projects (hereinafter referred to as Nonairport Sponsor Assurances) (Appendix 3). FAA is planning to modify the assurances currently in effect to reflect the necessary changes. The changes contained in this paragraph affect all three sets of assurances. Section C, subsection 1, "General Federal Requirements, Federal Regulations" is amended in each set of assurances to add references to 14 CFR part 13—Investigative and Enforcement Procedure, and 14 CFR Part 16—Rules of Practice for Federally Assisted Airport Enforcement Proceedings.

The following changes affect only Appendix 1, Airport Sponsors assurances:

(a) Under Section C. Sponsor Certification, Item 1, General Federal Requirements, the citations to the following Federal Legislation are included:

1. Native American Grave Repatriation Act—25 U.S.C. Section 3001, *et seq.*
2. Clean Air Act, Public Law 90-148, as amended.
3. Coastal Zone Management Act, Public Law 93-205.
4. Title 49 U.S.C., Section 303, (formerly known as Section 4(f)).
5. American Indian Religious Freedom Act, Public Law 95-341, as amended.

6. Wild and Scenic Rivers Act, Public Law 90-542, as amended.

(b) Under the section Federal Legislation, reference to the Endangered Species Act—16 U.S.C. 668(a), *et seq.* is deleted. The airport sponsor must comply with the law irrespective of a receipt of federal funds.

(c) The following Executive Orders are added to the General Federal Requirements:

1. Executive Order 11990—Protection of Wetlands
2. Executive Order 11998—Floodplain Management
3. Executive Order 12898—Environmental Justice

(d) The Federal Regulations are reclassified according to title.

(e) In Assurance 12, the reference to section 612 of the Federal Aviation Act of 1958 has been changed to section 44706 of Title 49, United States Code, to reflect the recodification of certain transportation laws. The words "public airport" has been deleted. The words "public use airport as defined in Title 49" has been added.

(f) In Assurance 19, the first sentence of subparagraph a. has been moved to

the end of subparagraph a. to improve clarity.

(g) In Assurance 19, subparagraph a., second paragraph, the words "at all times" are deleted.

(h) In Assurance 22, subparagraph a., to improve clarity, the words "any person, firm, or corporation to conduct or engage in any aeronautical activity for furnishing services to the public at the airport" replaces the words "all types, kinds and classes of aeronautical use."

(i) In Assurance 22, subparagraphs a., the words "fair and" are deleted. The word "fair" is also deleted in subparagraphs b.(1), and b.(2). Although the word "fair" appeared in the Airport and Airway Improvement Act of 1982, as amended, "fair" is deleted to bring the assurance more into conformity with the Title 49 recodification.

(j) In Assurance 22, subparagraph c, the words "at any airport owned by the sponsor" are replaced with the words "at the airport" to conform with the statute.

(k) In Assurance 22, subparagraph g, the words "contractors or concessionaire of" are replaced with the words "commercial aeronautical service providers authorized by" for clarity.

(l) In Assurance 22, subparagraph h, the words "fair, equal" are deleted since they have no statutory basis.

(m) In Assurance 24, the words "consistent with Assurance 22 and 23" are deleted since they are unnecessary. Further the words "being provided" and the word "users" are deleted. In place of "being provided" the word "at" was inserted.

(n) In assurance 25, now labeled, subparagraph a, the words "which are" are inserted before "directly and substantially related".

(o) In assurance 25, now labeled subparagraph a, the first phrase "If the airport is under the control of a public agency," is deleted to comply with section 804 of the 1996 Act. This assurance will implement both section 47107(b) and new section 47133 of Title 49, United States Code.

(p) In Assurance 25, subparagraphs b. and c. are new paragraphs in compliance with sections 804 and 805 of the 1996 Act. The new subparagraphs concern changes in procedures concerning single audits and civil penalties due to the 1996 Act.

(q) In Assurance 26, subparagraphs a and b have been combined into subparagraph a.

(r) In Assurance 26, subparagraphs c and d have been renamed subparagraphs b and c respectively.

(s) In Assurance 26, subparagraph e is renamed subparagraph d. After the word

"format", the words, "and time" are inserted. The phrases "not later than 60 days" after the word "public" and "ending after March 1, 1995" after the word "years" are deleted.

(t) In Assurance 27, the words "to the United States" are moved to begin after the opening phrase "It will make available."

(u) Assurance 36 is a new assurance required by section 143 of the 1996 Act and codified as section 47107(a)(20) of Title 49, United States Code.

The following changes affect only Appendix 2, Planning Agency Sponsor assurances:

(a) The Federal Regulations are reclassified according to title.

The following changes affect only Appendix 3 Nonairport Sponsor assurances:

(a) Under Section C. Sponsor Certification, Item 1, General Federal Requirements, the citations to the following Federal Legislation are included:

1. Native American Grave Repatriation Act—25 U.S.C. 3001, *et seq.*

2. Clean Air Act, Public Law 90-148, as amended.

3. Coastal Zone Management Act, Public Law 93-205.

4. Title 49 U.S.C., Section 303, (formerly known as Section 4(f)).

5. American Indian Religious Freedom Act, Public Law 95-341, as amended.

6. Wild and Scenic Rivers Act, Public Law 90-542, as amended.

(b) Under the section on Federal Legislation, reference to the Endangered Species Act—16 U.S.C. 688(a), *et seq.* is deleted. The airport sponsor must comply with the law irrespective of a receipt of federal funds.

(c) The following Executive Orders are added to the General Federal Requirements:

1. Executive Order 11990—Protection of Wetlands

2. Executive Order 11998—Flood Plain Management

3. Executive Order 12898—Environmental Justice

(d) The Federal Regulations are reclassified according to title.

These assurances are issued pursuant to the authority of Title 49, United States Code.

Issued in Washington, DC on May 23, 1997.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

Appendix 1—Assurances

Airport Sponsors

A. General

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.

2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.

3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. Duration and Applicability

1. Airport Development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor

The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurance against exclusive rights or the terms, conditions and assurances with respect to real property acquired with Federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project

shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor

Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of the grant agreements shall remain in full force and effect during the life of the project.

C. Sponsor Certification

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

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:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act—40 U.S.C. 276(a) *et seq.*¹
- c. Federal Fair Labor Standards Act—29 U.S.C. 201, *et seq.*
- d. Hatch Act—5 U.S.C. 1501, *et seq.*²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, *et seq.*^{1, 2}
- f. National Historic Preservation Act of 1966—Section 106—16 U.S.C. 470(f).¹
- g. Archaeological and Historic Preservation Act of 1974—16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act—25 U.S.C. Section 3001, *et seq.*
- i. Clean Air Act, Public Law 90—148, as amended.
- j. Coastal Zone Management Act, Public Law 93—205, as amended.
- k. Flood Disaster Protection Act of 1973—Section 102(a)—42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303 (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973—29 U.S.C. 794.
- n. Civil Rights Act of 1964—Title VI—42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975—42 U.S.C. 6101, *et seq.*
- p. American Indian Religious Freedom Act, Public Law 95—341, as amended.

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

q. Architectural Barriers Act of 1968—42 U.S.C. 4151, *et seq.*¹

r. Powerplant and Industrial Fuel Use Act of 1978—Section 403—2 U.S.C. 8373.¹

s. Contract Work Hours and Safety Standards Act—40 U.S.C. 327, *et seq.*¹

t. Copeland Antikickback Act—18 U.S.C. 874.¹

u. National Environmental Policy Act of 1969—42 U.S.C. 4321, *et seq.*¹

v. Wild and Scenic Rivers Act, Public Law 90—542, as amended.

w. Single Audit Act of 1984—31 U.S.C. 7501, *et seq.*²

x. Drug-Free Workplace Act of 1988—41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246—Equal Employment Opportunity¹

Executive Order 11990—Protection of Wetlands

Executive Order 11998—FloodPlain Management

Executive Order 12372—

Intergovernmental Review of Federal Programs.

Executive Order 12699—Seismic Safety of Federal and Federally Assisted New Building Construction¹

Executive Order 12898—Environmental Justice

Federal Regulations

a. 14 CFR Part 13—Investigative and Enforcement Procedures.

b. 14 CFR Part 16—Rules of Practice For Federally Assisted Airport Enforcement Proceedings.

c. 14 CFR Part 150—Airport noise compatibility planning.

d. 29 CFR Part 1—Procedures for predetermination of wage rates.¹

e. 29 CFR Part 3—Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹

f. 29 CFR Part 5—Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to nonconstruction contracts subject to the Contract Work Hours and Safety Standards Act).¹

g. 41 CFR Part 60—Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹

h. 49 CFR Part 18—Uniform administrative requirements for grants and cooperative agreements to state and local governments.³

i. 49 CFR Part 20—New restrictions on lobbying.

j. 49 CFR Part 21—Nondiscrimination in federally-assisted programs of the Department of Transportation—effectuation of Title VI of the Civil Rights Act of 1964.

k. 49 CFR Part 23—Participation by minority business enterprise in Department of Transportation programs.

l. 49 CFR Part 24—Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.^{1, 2}

m. 49 CFR Part 27—

Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.¹

n. 49 CFR Part 29—Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

o. 49 CFR Part 30—Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors..

p. 49 CFR Part 41—Seismic safety of Federal and federally assisted or regulated new building construction.¹

Office of Management and Budget Circulars

a. A-87—Cost Principles Applicable to Grants and Contracts with State and Local Governments.

b. A-128—Audits of State and Local Governments.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Sponsor

a. Public Agency Sponsor: It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

receiving Federal Assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

³ 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments

b. Private Sponsor: It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.

4. Good Title

a. It holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. 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 the 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 the 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.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and 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 Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall insure that such arrangement also requires compliance therewith.

6. Consistency With Local Plans

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport. For noise compatibility program projects, other than land acquisition, to be carried out on property not owned by the airport and over which property another agency

has land use control or authority, the sponsor shall obtain from each such agency a written declaration that such agency supports that project and the project is reasonably consistent with the agency's plans regarding the property.

7. Consideration of Local Interest

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation With Users

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Air and Water Quality Standards

In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

11. Pavement Preventive Maintenance

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or

certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Recordkeeping Requirements

a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference

It shall include in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.

17. Construction Inspection and Approval

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such

project as the Secretary shall deem necessary.

18. Planning Projects

In carrying out planning projects:

a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance

a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood

conditions. Any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for—

(1) Operating the airport's aeronautical facilities whenever required;

(2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and

(3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.

Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airports hazards.

21. Compatible Land Use

It will take appropriate action, including the adoption of zoning laws, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff or aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination

a. It will make its airport available as an airport for public use on reasonable terms and without unjust discrimination, to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to—

(1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

(2) charge reasonable, and not justly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or nontenants and signatory carriers and nonsignatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport; from performing any services on its own aircraft with its own employees

(including, but not limited to maintenance, repair, and fueling) that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involving will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, parts, and any other activities sale of aircraft which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the

provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections

It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

(i) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

(ii) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas

by other authorized aircraft, or during any calendar month that—

a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or

b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan

a. 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; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. 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. If a change or alternation 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.

30. Civil Rights

It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer or the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefit, or (b) the period during which the sponsor retains ownership or possession of the property.

31. Disposal of Land

a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary.

b. (1) For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the

United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (a) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (b) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.

(2) Land shall be considered to be needed for airport purposes under this assurance if (a) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (b) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

c. Disposition of such land under (a) or (b) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services

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 with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for

products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition

(1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access by Intercity Buses

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

Appendix 2—Assurances

Planning Agency Sponsors

A. General

1. These assurances shall be complied with in the performance of grant agreements for integrated airport system planning grants to planning agencies.

2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. A sponsor is a planning agency designated by the Secretary of Transportation which is authorized by the State or States or political subdivisions concerned to engage in areawide planning.

3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. Duration

The terms, conditions and assurances of the grant agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification

The sponsor assures and certifies, in respect to this grant, that:

1. General Federal Requirements

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:

Federal Legislation

- a. Title 49 U.S.C., subtitle VII, as amended.
- b. Federal Fair Labor Standards Act—29 U.S.C. 201, et seq.
- c. Hatch Act—5 U.S.C. 1501, et seq.
- d. Rehabilitation Act of 1973—29 U.S.C. 794.
- e. Civil Rights Act of 1964—Title VI—42 U.S.C. 2000d through d-4.
- f. Age Discrimination Act of 1975—42 U.S.C. 6101, et seq.
- g. Single Audit Act of 1984—31 U.S.C. 7501, et seq.
- h. Drug-Free Workplace Act of 1988—41 U.S.C. 702 through 706.

Executive Orders

Executive Order 12372—

Intergovernmental Review of Federal Programs

Federal Regulations

- a. 14 CFR Part 13—Investigative and Enforcement Procedures.
- b. 14 CFR Part 16—Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 49 CFR Part 18—Uniform administrative requirements for grants and cooperative agreements to state and local governments.
- d. 49 CFR Part 20—New restrictions on lobbying.
- e. 49 CFR Part 21—Nondiscrimination in federally assisted programs of the Department of Transportation—effectuation of Title VI of the Civil Rights Act of 1964.
- f. 49 CFR Part 23—Participation by minority business enterprise in Department of Transportation programs.
- g. 49 CFR Part 29—Government-wide debarment and suspension (non-procurement) and government-wide

requirements for drug-free workplace (grants).

h. 49 CFR Part 30—Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S.

Office of Management and Budget Circulars

a. A-87—Cost Principles Applicable to Grants and Contracts with State and Local Governments.

b. A-128—Audits of State and Local Governments.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated in reference in the grant agreement.

2. Responsibility and Authority of the Sponsor

It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

3. Sponsor Fund Availability

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States.

4. Preserving Rights and Powers

It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary.

5. Consistency With Local Plans

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies in the planning area.

6. Accounting System, Audit, and Recordkeeping Requirement

a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the project supplied by other sources, and such other financial

records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with The Single Audit Act of 1984.

b. It shall make available to the Secretary and Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by the recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

7. Planning Projects

In carrying out planning projects:

a. It will execute the project in accordance with the approved program narrative contained in the project application or with modifications similarly approved.

b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

f. It will grant the Secretary the right to disapprove the Sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of

this grant does not mean constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

8. Reports and Inspections

It will submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request.

9. Civil Rights

It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program.

10. Engineering and Design Services

It will award each contract, or sub-contract for planning studies, feasibility studies, or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor.

11. Foreign Market Restrictions

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

12. Policies, Standards, and Specifications

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary.

Appendix 3—Assurances

Nonairport Sponsors Undertaking Noise Compatibility Program Projects

A. General

1. These assurances shall be complied with in the performance of grant agreements for noise compatibility projects undertaken by sponsors who are not proprietors of the airport which is the subject of the noise compatibility program.

2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. Sponsors are units of local government in the areas around the airport which is the subject of the noise compatibility program.

3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. Duration

The terms, conditions, and assurances, of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired or throughout the useful life of the items installed under the project, but in any event not to exceed twenty (20) years from the date of the acceptance of a grant offer of Federal funds for the project. However, there shall be no time limit on the duration of the terms, conditions, and assurances with respect to real property acquired with Federal funds. Furthermore, the duration of the Civil Rights assurance shall be as specified in the assurance.

C. Sponsor Certification

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

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:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act—40 U.S.C. 276(a), et seq.
- c. Federal Fair Labor Standards Act—29 U.S.C. 201 et seq.
- d. Hatch Act—5 U.S.C. 1501, et seq.
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970—42 U.S.C. 4601, et seq.
- f. National Historic Preservation Act of 1966—Section 106—16 U.S.C. 470(f).
- g. Archeological and Historic Preservation Act of 1974—469 through 469c.
- h. Native American Grave Repatriation Act—25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.

- k. Flood Disaster Protection Act of 1973—Section 102(a)—42 U.S.C. 4012a.
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973—29 U.S.C. 794.
- n. Civil Rights Act of 1964—Title VI—42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975—42 U.S.C. 6101, et seq.
- p. American Indian Religious Freedom Act, P.L. 95-341.
- q. Architectural Barriers Act of 1968—U.S.C. 4151, et seq.
- r. Powerplant and Industrial Fuel Use Act of 1978—Section 403—42 U.S.C. 8373.
- s. Contract Work Hours and Safety Standards Act—40 U.S.C. 327, et seq.
- t. Copeland Antikickback Act—18 U.S.C. 874.
- u. National Environmental Policy Act of 1969—42 U.S.C. 4321, et seq.
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984—31 U.S.C. 7501, et seq.
- x. Drug-Free Workplace Act of 1998—41 U.S.C. 702 through 706.

Executive Orders

- Executive Order 11246—Equal Employment Opportunity
- Executive Order 11990—Protection of Wetlands
- Executive Order 11998—Floodplain Management
- Executive Order 12372—Intergovernmental Review of Federal Programs.
- Executive Order 12699—Seismic Safety of Federal and Federally Assisted New Building Construction
- Executive Order 12898—Environmental Justice

Federal Regulations

- a. 14 CFR Part 13—Investigative and Enforcement Procedures.
- b. 14 CFR Part 16—Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150—Airport noise compatibility planning.
- d. 20 CFR Part 1—Procedures for predetermination of wage rates.
- e. 29 CFR Part 3—Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.
- f. 29 CFR Part 5—Labor standards provisions applicable to contracts covering federally financed and assisted construction.
- g. 41 CFR Part 60—Office of Federal contract compliance programs, equal employment opportunity, Department of Labor (Federal and federally-assisted contracting requirements).

h. 49 CFR Part 18—Uniform administrative requirements for grants and cooperative agreements to state and local governments.

i. 49 CFR Part 20—New restrictions on lobbying.

j. 49 CFR Part 21—Nondiscrimination in federally-assisted programs of the Department of Transportation—effectuation of Title VI to the Civil Rights Act of 1964.

k. 49 CFR Part 23—Participation of minority business enterprise in Department of Transportation programs.

l. 49 CFR Part 24—Uniform relocation assistance and real property acquisition regulation for Federal and federally assisted programs.

m. 49 CFR Part 27—Non-Discrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

n. 49 CFR Part 29—Governmentwide debarment and suspension (non-procurement) and governmentwide requirements for drug-free workplace (grants).

o. 49 CFR Part 30—Denial of public work contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

p. 49 CFR Part 41—Seismic safety of Federal and federally assisted or regulated new building construction.

Office of Management and Budget Circulars

a. A-87—Cost Principles Applicable to Grants and Contracts with State and Local Governments.

b. A-128—Audits of State and Local Governments.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Sponsor

It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

3. Sponsor Fund Availability

a. It has sufficient funds available for that portion of the project costs which are not to be paid by the United States.

b. It has sufficient funds available to ensure operation and maintenance of items funded under the grant agreement which it will own or control.

4. Good Title

For projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers

a. It will not enter into any transaction, or take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act to acquire, extinguish, or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property, for which it holds good title and upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the 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 the 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 making binding upon the transferee, all of the terms, conditions and assurances contained in this grant agreement.

c. For all noise compatibility projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that governmental unit. Except as otherwise specified by the Secretary, that agreement shall obligate that governmental unit to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility project. That agreement and changes thereto must be approved in advance by the Secretary.

d. For noise compatibility projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary.

6. Consistency With Local Plans

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport. For noise compatibility projects to be carried out on property which is not owned by the sponsor and which is under the land use control or authority of a public agency other than the sponsor, the sponsor shall obtain from each agency a written declaration that such an agency supports the project and the project is reasonably consistent with the agency's plans regarding the property.

7. Consideration of Local Interest

It has give fair consideration to the interest of communities in or near which the project may be located.

8. Accounting System, Audit, and Recordkeeping Requirements

a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records should be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with the Comptroller General no later than six (6) months following the close of the fiscal year for which the audit was conducted.

9. Minimum Wage Rates

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

10. Veteran's Preference

It shall include, in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in administrative, executive, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans as defined in Section 47117 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

11. Conformity to Plans and Specifications

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval by the Secretary, shall be incorporated into this grant agreement. Any modifications to the approved plans, specifications, and schedules shall also be subject to approval by the Secretary and incorporation into the grant agreement.

12. Construction Inspection and Approval

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms with the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such

project as the Secretary shall deem necessary.

13. Operation and Maintenance

It will suitably operate and maintain noise program implementation items that it owns or controls upon which Federal funds have been expended.

14. Hazard Prevention

It will protect such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) by preventing the establishment or creation of future airport hazards on property owned or controlled by it or over which it has land use jurisdiction.

15. Compatible Land Use

It will take appropriate action, including the adoption of zoning laws, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, it will not cause or permit any change in land use, within its jurisdiction that will reduce the compatibility, with respect to the airport, of the noise compatibility measures upon which Federal funds have been expended.

16. Reports and Inspections

It will submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request. It will also make records and documents relating to the project, and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request.

17. Civil Rights

It will comply with such rules as are promulgated, to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap, be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor or

any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the sponsor retains ownership or possession of the property.

18. Engineering and Design Services

It will award each contract or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, surveying, mapping, or related services with respect to the project in the same manner as a contract for architectural and engineering services as negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor.

19. Foreign Market Restrictions

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

20. Disposal of Land

a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the Secretary.

b. Disposition of such land under (a) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

21. Relocation and Real Property Acquisition

(1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse

property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subparts D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[RTCA, Inc.; Joint Special Committee 181/
EUROCAE Working Group 13]

Standards of Navigation Performance

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for Joint Special Committee 181/ EUROCAE Working Group (WG) 13 meeting to be held June 16-20, 1997, starting at 9:00 a.m. The meeting will be held at the Amway Grand Plaza Hotel, Grand Rapids, Michigan: (616) 776-6450 (phone); (616) 776-6489 (fax). The host point of contact is Mr. Mike Cramer of Smiths Industries: (616) 241-7542 (phone); (616) 241-7861 (fax);
cramer_mike@si.com (E-mail).

The agenda will include the following: Monday, June 16, and Tuesday, June 17, 9:00 a.m.-5:00 p.m., Working Group (WG) Sessions: WG-1, Working Papers Review; WG-2, DO-201A Restructure and Review; WG-3, DO-200A Final Preparation. Wednesday, June 18, 9:00 a.m.-5:00 p.m., Full Committee: Final Review DO-201A. Thursday, June 19, 9:00 a.m.-12:00 noon, Full Committee: Final Review DO-201A. Friday, June 20, Full Committee: 8:30 a.m.-12:00 noon, Final Review DO-201A; 1:00 p.m.-2:30 p.m., Closing Plenary Session: (1) Review and Approval of Minutes of Previous Meeting; (2) Working Group Reports; (3) Chairman's Remarks; (4) Old Business; (5) New Business; (6) Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C.

20036; (202) 833-9339 (phone); (202) 833-9434 (fax); or <http://www.rtca.org> (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 27, 1997.

Janice L. Peters,

Designated Official.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[RTCA, Inc.; Special Committee 192]

National Airspace Review Planning and Analysis

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for the Special Committee 192 meeting to be held June 18-19, 1997, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW, Suite 1020, Washington, DC 20036.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Approval of Proposed Meeting Agenda; (3) Review and Approval of Minutes of the Previous Meeting; (4) Report from Design and Infrastructure Work Group; (5) Report from Modeling and Measurement Work Group; (6) Other Business; (7) Set Agenda for Next Meeting; (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036; (202) 833-9339 (phone); (202) 833-9434 (fax); or <http://www.rtca.org> (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 27, 1997.

Janice L. Peters,

Designated Official.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 97-2525]

Notice of Request for Renewal of an Existing Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to renew the information collection that documents a railroad's cost of labor, materials, supplies, and equipment incurred when undertaking Federal-aid highway projects.

DATES: Comments must be submitted on or before August 1, 1997.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. All comments received will be available for examination at the above address between 10:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB renewal of this information collection.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Winans, Office of Engineering, (202) 366-4656, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.