New Appraisal Requirements for Obligated Airport Property

Submitted to the Appraisal Institute by:

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What Is a Federally Obligated Airport?

• A local governmental entity that has taken federal assistance (land or money) for airport development

• “Lien” on the airport property to protect the federal government’s interest in public airport use.

• Roughly 3,300 public use airports that are “significant” to the national airspace system.
What Are Federal Obligations?

Commitments designed to ensure:

• Federal investments & public interest are protected
• Aeronautical access
• A competitive & fair environment at airports
Where Do They Come From?

- Civil Aeronautics Act of 1938 (DLAND & DCLA)
- Surplus Property Act of 1944
- Federal Airport Act of 1946 (FAAP)
- Federal Aviation Act of 1958 (FAAct)
- Civil Rights Act of 1964
- Airport & Airway Development Program of 1970 (ADAP)
- Airport & Airway Improvement Program of 1982 (AIP)
Where Do They Come From?

• Airport & Airway Safety & Capacity Expansion Act of 1987
• Airport Noise & Capacity Act of 1990 (ANCA)
• FAA Authorization of 1994
• FAA Reauthorization Act of 1996
• Wendell H. Ford Aviation Investment & Reform Act for the 21st Century (AIR 21)
• Century of Aviation Reauthorization Act (Vision 100)
• FAA Modernization & Reform Act of 2012 (FMRA)
How Long Do These Obligations Last?

That Depends...

Useful life of the facilities developed (20 years)

Common Obligations apply as long as the airport is an airport

FOREVER!

(but most obligations extended through FAAP & ADAP have expired)
FAA Reauthorization Act of 2018  
P.L. 115-254  
Section 163 – Limited Regulation of Non-federally Sponsored Property  

• Limits FAA’s oversight of certain types of airport land use.  
• Contains exceptions that reinforce FAA’s interpretation of the self-sustaining principle as articulated in FAA policy documents.  
• Applies to all “obligated” airports – approximately 3,300 airports in U.S.
Q: What is the statutory self-sustaining principle?

A: Title 49 U.S.C. § 47107(a)(13) states that the airport sponsor must maintain a schedule of charges for facilities and services at the airport that will make the airport as self-sustaining as possible under the circumstances at that airport.
FAA Reauthorization Act of 2018
P.L. 115-254

FAA’s Policy and Procedures Concerning the Use of Airport Revenue, February 16, 1999, (64 FR 7721) interprets the statutory self-sustaining principle to require that the airport receive Fair Market Value for the sale of airport property and the leasing of airport property and facilities (land, buildings, other improvements) for nonaeronautical use.
Airport Rates & Charges

FMV

Residual
Hybrid
Compensatory

Aero

Nominal
FAA Reauthorization Act of 2018 P.L. 115-254

Extends FAA’s Policy Into a Statutory Requirement

• Stated exception permits FAA to require airports receive Fair Market Value for all commercial transactions – use, lease, encumbrance, transfer, and disposal.

• Stated exception permits FAA to require airports not pay more than Fair Market Value in commercial transactions for purchase of land and facilities.
FAA Appraisal Standards

• CGL 2018-3, Appraisal Standards for the Sale and Disposal of Federally Obligated Airport Property.
• Developed to inform and assist FAA field offices, airport sponsors, and commercial appraisers about FAA accepted appraisal requirements.
• A tool being used to help implement Section 163.

FAA Appraisal Standards

Appraisal Report(s) is **REQUIRED** when:

• There is a need to establish Fair Market Value for:
  • Sale of Airport Property
  • Exchange of Airport Property for Off-Airport Property
  • Set a nonaeronautical lease rate

**UNLESS** selling Property and:

• Sponsor determines that the appraisal is uncomplicated and property value is reasonably determined to be less than $25,000. Documented Waiver Valuation required.
FAA Appraisal Standards

High Value
- Property worth more than $1M
- Requires TWO independent appraisal reports and
- Requires a review appraisal

Other Properties
- Property worth more than $25K, but less than $1M
- Requires one independent appraisal report
FAA Appraisal Standards

Nonaeronautical land users include:

• Private developers
• Non-aviation commercial interests
• Other municipal purposes
FAA Appraisal Standards

Appraiser Qualifications

• A contracted real estate appraiser must be licensed by a state appraisal licensing board.

• Under USPAP, airport properties are typically considered complex and normally must be appraised by a state “Certified General Appraiser.”

• The appraiser must have competency with the property type, relevant real estate markets, the intended use of the appraisal report, and appraisal methods needed to develop a credible fair market value of the property.
FAA Appraisal Standards

Scope of Work

FAA strongly recommends airport sponsors include a sample scope of work statement in the local solicitation for appraisal services.

✓ Purpose and/or function of the appraisal;
✓ Requirement that appraiser must perform an appraisal and develop an Appraisal Report;
✓ Description of the sponsor as the client, and FAA as an intended user;
✓ Definition of the estate being appraised;
✓ Assumptions and limiting conditions;
✓ Data search requirements and parameters;
✓ Identification of the technology requirements, including approaches to value, to be used to analyze data; and
✓ Other specifications required to adequately appraise the property and meet FAA and other regulatory requirements.
FAA Appraisal Standards
Scope of Work

Sample Scope of Work

The land must be appraised at an economic highest and best use as described in the Uniform Appraisal Standards for Federal Land Acquisitions at section 4.3.2.3, *Highest and Best Use, Economic Use* (see [https://www.justice.gov/file/408306/download](https://www.justice.gov/file/408306/download)). As applicable, the appraiser in estimating the market value of the airport land shall consider the development potential of airport land parcels considering the location of airport land and any potential plottage (for combining it) with adjoining development land.
FAA Appraisal Standards
Acceptable Appraisal Report

USPAP Standards Rule 2 “Real Property Appraisal, Reporting” requires:

✓ Identity of the client (airport sponsor) and any intended users of the report (e.g. FAA);

✓ State the intended use of the appraisal (for proposed sale/lease at FMV);

✓ Describe information sufficient to identify the real estate involved in the appraisal, including the physical and economic property characteristics relevant to the assignment;

✓ State the real property interest appraised;

✓ State definition of value and cite the source of the definition. Must be FMV;

✓ State the effective date of the appraisal and the date of the report;

✓ Summarize the scope of work used to develop the appraisal;

✓ Provide adequate market data and analysis to support the appraised FMV; and

✓ Include a signed certification in accordance with Standards Rule 2-3.
FAA Appraisal Standards
Acceptable Appraisal Report

• Credible results
• Not misleading
• Appraised at the HBU for Market development (For Sale / Long term Lease)
• Market Data and Analysis Presented to Support the Appraised FMV
CGL 2018-3 Lessons Learned

- Plottage Value for Commercial / Industrial Development
- Capitalized Ground Rent Valuation
- Disposal of Closed Airport
Plottage with Adjoining Development

FAA Approved Airport Layout Plan
Plottage with Adjoining Development

Updated Aerial
Capitalized Ground Rent

How Do We Know Rent on an Airport Property is at FMV?

One way to think about establishing rental rates based on FMV is to answer the question: How much would an airport tenant pay monthly to lease airport land, allowing the airport sponsor to make a rate of return on its property’s fee value?

Here is a simplified example of a market rent required on a typical airport ground lease which requires the tenant to construct its own building and pay all operating expenses including any real estate tax on its development and use of the property:

- **Appraised Fair Market Value (FMV)** - An appraiser has completed an appraisal of fee value of airport land based on recent market land sales with highest best use for industrial development similar to the proposed development of airport land (without access to the ramp). The appraised FMV of the land is $10 per square foot (or $200,0000 for the 20,000 sqft airport lot with access and utilities).

- **Cap Rate** – The appraiser determines that a local owner/investor currently would expect to earn about 8 percent annually on a market ground lease for industrial development after vacancy (@3%) and land owner management expenses (@5%) are paid.
Capitalized Ground Rent

How Do We Know Rent on an Airport Property is at FMV?

In equation form:

\[
\text{Gross Annual Rent @ FMV} = \frac{(\text{CAP Rate} \times \text{Appraised FMV})}{(1 - \text{Vacancy Rate} - \text{Annual Management Fee Rate})}
\]

\[
\text{Gross Rent @ FMV} = \frac{(8\% \times \$10)}{(1 - .03 - .05)} = \$0.87 \text{ per square foot/ year (rounded).}
\]

The Gross Rent, therefore, to be received on the airport 20,000 sqft lot with an FMV of $200,000 ($10/sq. ft.) for a market required 8% return on FMV is $0.87 per square foot/year before expenses.

The market gross annual rent on the airport’s 20,000 sqft lot would be $17,400 annually or $1,450 monthly.
Disposal of Closed Airport @ FMV
Sale of Closed Denver Stapleton Airport

4700 acre site (roughly 2785 acres developable)
City of Denver Approved Redevelopment Plan (mid 1990’s for urban-infill/mixed used development)
Actual development proposed over a 15 to 20 year plan. Development tracts identified.
Infrastructure development proposed under a mix of public funding, tax incentive financing, developer cost.
Disposal of Closed Airport @ FMV
Sale of Closed Denver Stapleton Airport

Final Appraisal Report Accepted by FAA

• Appraised FMV $78,000,000 (2,785 acres developable @ $28,000/acre) as of January 2000 relying on comparable market sales and discounted cash flow analysis.

• Contract of Sale (Master Development Agreement) March 2000. Take down options would be exercised as development tracts became available (hazmat remediation, removal of airport infrastructure, etc.)

• April 2000, FAA accepted the submitted appraisal report as adequately documented to support the appraised FMV on the sale of airport land.
Disposal of Closed Airport @ FMV
Sale of Closed Denver Stapleton Airport

Closed Stapleton Airport 1995

Stapleton Redevelopment - Present
FAA Appraisal Standards
Scope of Work

CGL contains 9 sample scopes of work for most common nonaeronautical land uses and sales

✓ Disposal of existing airport;
✓ Disposal of nonaeronautical airport land;
✓ Acquisition of on-airport leasehold;
✓ Concurrent/interim lease of on-airport property;
✓ Sale/lease of oil/gas/mineral rights;
✓ Sale/disposal of utilities/pipeline easement;
✓ Disposal/lease of hotel;
✓ Disposal/lease of golf course; and
✓ Sale/lease of agricultural land
Summary

• New law limits assistance FAA can provide to airport sponsors, but did not alter the statutory requirement related to self-sustainability; FAA can require documentation to support commercial transactions.

• New law articulates FAA’s policy on self-sustainability in statute; includes exceptions that permit regulations ensuring receipt of Fair Market Value.

• Airport sponsors may only have one opportunity to “get it right” when leasing or selling nonaeronautical property – increased reliance on appraisal services.
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