



# Noise Land Reuse Plans

An Introduction to FAA Requirements

# Agenda

**1. Unison Consulting Introduction**

**2. Noise Land Disposal (Background)**

**3. FAA Noise Land Reuse Guidance  
PGL 08-02**

**4. How to Develop a Winning Plan**

**5. Who's going to Pay for It?**



# Introduction to Unison Consulting, Inc.





# Firm Background

- Firm established as a full-service aviation consultancy in 1989 and acquired in 2008 by UCG Associates
- Formed as a M/DBE firm following the acquisition
- The firm's team of consultants are experts in economics, finance, retail concessions, airport planning, information technology, and airport management
- Senior consultants have prior management experience with leading airports, government consulting firms, airlines, the FAA, and other national aviation consulting firms
- Served over 100 airport clients, large and small, and numerous government agencies across North & South America, the Caribbean and Asia
- Headquartered in Chicago with offices in Orange County (CA), St. Louis, San Antonio, and San Francisco



# Firm Practice Areas

Four major practice areas including:

- Airport Finance & Economics
- Retail Concessions Planning & Management
- Program Management & Control Systems
- Information Systems



# Federal Assistance Maximization Specialty

- Strategic focus on positioning airports to obtain maximum benefits from FAA Federal Assistance Programs for Airports (i.e. AIP grants and PFCs)
- Includes expertise in policies and procedures for individual project financing and continuing program compliance to maintain eligibility
- Relies on 18-year FAA experience of specialty area director
  - Legal advisor to FAA airport program office
  - Manager, FAA Airports Compliance Division
  - Manager, FAA Airports Financial Assistance Division (1999-2008)



# Noise Land Disposal Requirement (Background)



# What is the FAA's Noise Compatibility Program?

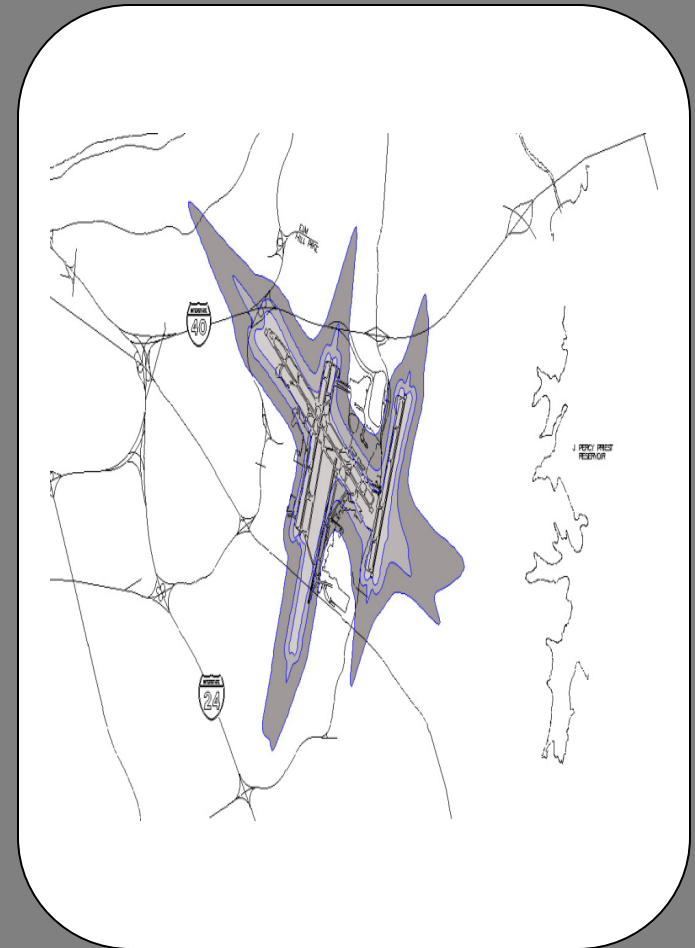
- A voluntary program for airports to identify land uses incompatible with the airport and to develop and implement plans to eliminate or mitigate the incompatibility
- AIP grants are available for compatibility measures, such as: land acquisition and relocation or sound insulation
  - 35% of AIP discretionary funds are dedicated to program



# The NCP Process

## Step 1: Noise Exposure Map

- Identifies noise impacts in areas surrounding airport
- Uses "LDN" contour (a 24-hour average measure of exposure with night time penalty)

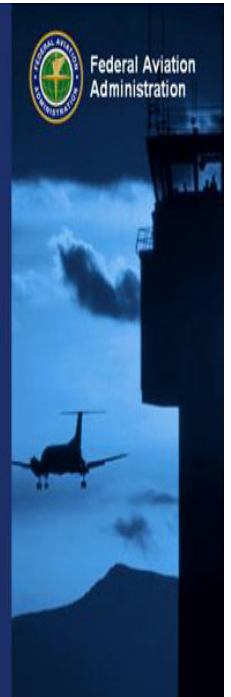


# The NCP Process (con't)

## Step 2: Develop a NCP

- Cooperation among local government
- Public participation
- Preventative measures like zoning as well as remediation (acquisition or sound insulation)

### FAA Part 150 Program



# The NCP Process (con't)

## Step 3: FAA Review and Approval

- FAA must issue decision in 180 days. Any noise compatibility measure that FAA does not disapprove within that time is approved

# The NCP Process (con't)

## Step 4: Implement Approved Noise Compatibility Measures

- Apply for grants – approval of a measure in Step 3 is required for funding but is no guarantee



# Federal Noise Compatibility Standards

- 75 dB or higher:
  - Transportation, manufacturing, mining agriculture are compatible
  - Wholesale and retail, warehousing are compatible with mitigation
  - Residential, hospital, school not compatible even with mitigation

# Federal Noise Compatibility Standards

- 70-75 dB:
  - Wholesale and retail, warehousing are compatible with mitigation
  - Offices and business activities are compatible with mitigation
  - Hospitals are compatible with mitigation and local communities may designate schools and residential use as compatible with mitigation

# Federal Noise Compatibility Standards

- 65-70 dB:
  - Wholesale and retail, warehousing are compatible
  - Offices and business activities are compatible
  - Hospitals are compatible with mitigation and local communities may designate schools and residential use as compatible with mitigation
- 65 dB and below:
  - All uses are considered compatible without mitigation

# Permissible Noise Compatibility Measures

- Zoning to prevent incompatible use
- Avigation easements
- Subdivision regulation
- Building Codes
- ***Voluntary*** noise abatement flight procedures
- Sound attenuation
- **PROPERTY ACQUISITION**





# Noise Land Disposal Requirement

- Title 49, U.S. Code section 47107(c) requires airports to give FAA assurances that if they acquire land for noise compatibility purposes with AIP funds:
  - They will dispose of the land (at fair market value) at the earliest practicable time after it is no longer needed for noise compatibility
  - Repay the Federal share to the FAA or reinvest the Federal share in other noise compatibility projects



# Noise Land Disposal Requirement (con't)

- Incorporated in AIP Grant Assurance No. 31
  - Grant assurance tracks the statutory language



# The OIG Audit Report

- Reviewed 11 out of 108 airports receiving grants for noise land acquisition
- Found inconsistent application of grant assurance by FAA and by airport sponsors
- All 11 airports were holding land no longer needed for noise compatibility
- Six out of eight airports that had disposed of noise land had not applied proceeds correctly (or could not document that they had)

# The OIG Audit Report

- The report can be viewed online at: <http://www.oig.dot.gov>

The screenshot shows the DOT Office of Inspector General website in a Windows Internet Explorer browser window. The address bar displays <http://www.oig.dot.gov/>. The page features a navigation menu with links for About, Contact, Home, Hotline, Jobs, and Privacy Policy. A search bar is located in the top right corner. The main content area is divided into several sections:

- Focus On:** A section titled "Actions Taken and Needed to Implement Mandates and Address Recommendations Regarding Rail Safety". The text states: "On August 26, 2008, we issued our final audit report to the Federal Railroad Administration (FRA) on certain actions it has taken and needs to take to implement congressional mandates and address recommendations made by the National Transportation Safety Board (NTSB) and the Office of Inspector General regarding rail safety. We found that FRA implemented many congressional rail safety mandates over the past 18 years, but it did not have a centralized process for tracking and monitoring the implementation of such mandates. We also found that FRA addressed many of NTSB's rail safety recommendations over the past 19 years, but it did not routinely meet the Department of Transportation's requirements for providing timely written responses to NTSB. We recommended that FRA establish a centralized process for documenting, tracking, and monitoring congressional rail safety mandates that includes planned and actual milestones. We also recommended that FRA establish procedures to ensure that NTSB receives an: 1) initial response for each rail safety recommendation within 90 days of issuance and 2) implementation timetable for each rail safety recommendation that FRA agrees to implement. FRA concurred with our audit results and recommendations and agreed to take immediate corrective actions."
- Latest Releases:** A list of recent news items, including "Actions Taken and Needed to Implement Mandates and Address Recommendations Regarding Rail Safety" (Aug 26), "Inspector General Announces DOT's FY 2009 Top Management Challenges" (Aug 26), "Former Kentucky Judge Executive is Sentenced for Mail Fraud" (Aug 19), "Letter to Senator Coburn Regarding the City of San Francisco's Use of Federal Transit Funds" (Aug 20), and "Quarterly Report on Amtrak's FY 2008 Operational Reforms Savings and Financial Performance" (Aug 07).
- OIG Hotline:** A red banner with the text "Report Allegations of Fraud, Waste, and Abuse in DOT Programs".
- Reading Room:** A list of documents for review, including "DOT Management Issues", "Aviation and Special Programs", "Financial and Information Technology", "Surface and Facilities", "Competition and Economic Analysis", "Acquisition and Procurement", and "Criminal Investigations".

At the bottom of the page, there are links for "Announcements", "Audits", "Correspondence", "Investigations", "Semiannual Reports", and "Testimonies". The browser's taskbar at the bottom shows the Start button, several open applications, and the system clock indicating 3:56 PM on August 26, 2008.



# FAA Response

- Concurred in finding that assurance had been applied inconsistently
- Agreed to issue detailed guidance to airports and FAA field staff
- Agreed to provide training internally to FAA staff and externally through FAA and industry conferences
- Published the detailed guidance as Program Guidance Letter (PGL) 08-2



# FAA's Noise Land Reuse Guidance (PGL 08-2)





# Getting the Noise Land Inventory Right

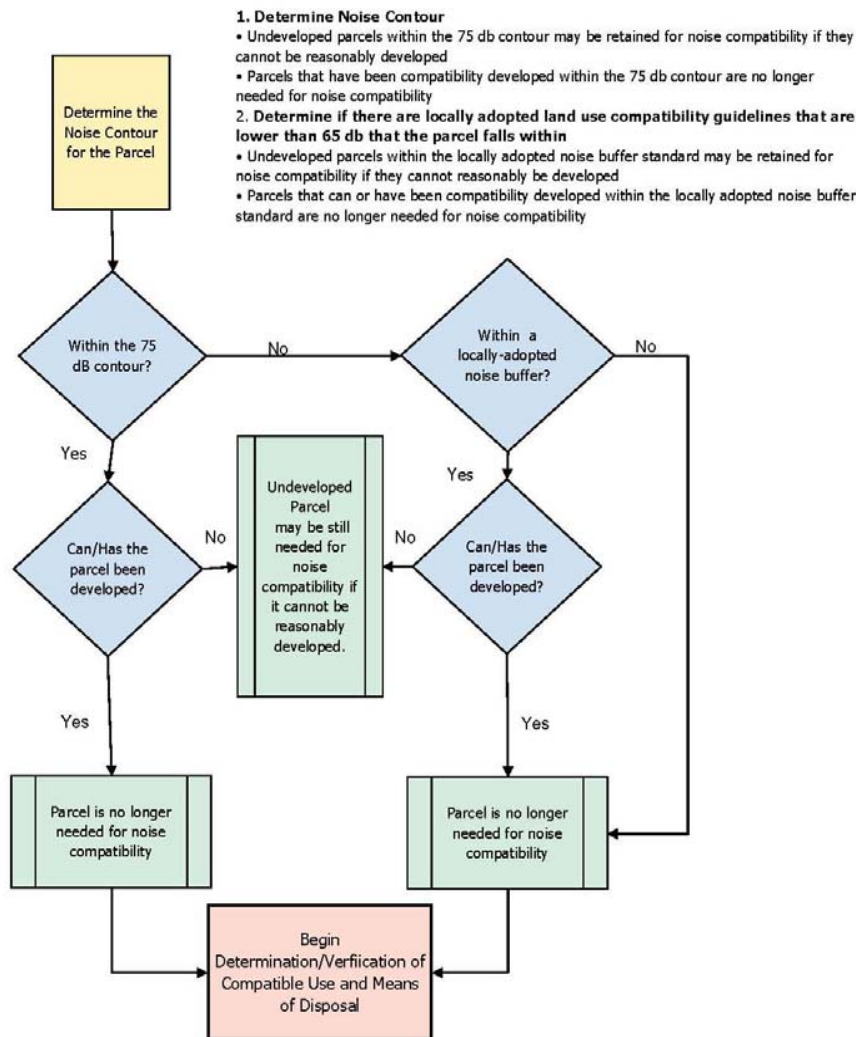
- Attachment B of PGL 08-2
- Include a schedule of all acquired noise land (should be the same as the Exhibit A) and show:
  - Current Status per approved Reuse Plan; e.g. Sold, leased, retained for noise compatibility, converted to AIP eligible use, converted to aeronautical related (revenue producing)
  - Assessors Parcel Number (APN) or other Recordation Data on Sold Redevelopment Parcels

# Getting the Noise Land Inventory Right (con't)

- Include an aerial photo / map showing acquired land and show:
  - Noise Contours (latest approved NEM)
  - Airport Development / Aeronautical Use Parcels highlighted
  - Redevelopment Parcels highlighted (parcels already disposed and those proposed for disposal)
  - Retained easements, deed covenants, other retained property rights



# When is Land Available for Reuse?





# 75 dB Contour or Higher

- Has the parcel been developed or can it reasonably be developed?
  - If the answer is yes, property is available
  - If the answer is no, land may be retained for noise compatibility purposes.
- Reasonable development may include commercial aeronautical development




# 65-75 dB

- Incompatibility is considered to be eliminated through the airport's acquisition of property; it is available for reuse.
  - Airport must retain adequate rights to prevent future incompatible use



# Below 65 dB

- Local communities may designate land uses in noise contours as incompatible with the airport
- The airport and FAA will consider the local standard, but airports should still encourage development compatible with that standard



# Exceptional Circumstances for Retaining Undeveloped Parcels

- Airport is updating noise contours.
  - Hold until new contours completed
- Assembling individual residential parcels
  - Hold until sufficient acreage for viable commercial development is assembled.
- Severely depressed real estate market due to specific local events
  - Hold until market normalizes

# Disposal Options

- Convert to AIP eligible airport development land
  - No requirement to “repay” Federal share or reinvest in noise program
- Exchange for AIP eligible airport development land
  - If fair market value of noise land exceeds fair market value of development land, the Federal share of the excess value must be repaid or reinvested

# Example of Exchange Value Calculation

Airport Noise Land FMV	\$500,000
Exchanged Land FMV	-- <u>\$350,000</u>
Difference in Value	\$150,000
Federal Share @ 80%	\$120,000

\*Amount repaid or reinvested = \$120,000

# Disposal Options (con't)

- Convert to or exchange for AIP ineligible airport development land
  - Airport must repay Federal share of full FMV of parcel or reinvest in noise program
- Fee simple sale at FMV
  - Airport must repay Federal share of full FMV of parcel or reinvest in noise program





# Disposal by Long-Term Lease

- Generally a lease over 25 years is long term
- FAA may also consider the nature and useful life of improvements
  - Example, a 15 year lease with two 10 year options, but with an office building with 25 year useful life would be considered disposal by lease
- Short-term lease proceeds are treated as airport revenue

# Disposal by Long-Term Lease (con't)

- FAA expects Federal share of full FMV to be repaid or credited for reinvestment at the time of lease
  - Airport may need to bond to raise money and apply rentals to pay-off the bond



# Protecting against future incompatible use

- Avigation easements
- Restrictive covenants
- Use restrictions in lease
- In case of sale, easements or other reservations must be recorded in local public land records



# FMV Appraisals

- Based on highest and best use (compatible with level of airport noise and reflecting any retained property rights)
- Appendix D of guidance – sample scope of work for appraisal



# “Raw Land” Appraisal

- If property is not yet approved for development, use raw land value for appraisal
- Costs of subsequent development are not deductible in determining FMV



# “Approved for Development” Appraisal

- Sometimes called “Entitlement Stage”
- If approved, appraise as “developable and buildable” land
- Reasonable permitting costs may be deducted from appraised value before calculating Federal Share for repayment or reinvestment
  - But net value may not be lower than raw land appraised value for calculating Federal share

# Example of Approved for Development Calculation

100 acres AFD @ \$9,000 per acre	\$900,000
Permitting Costs	<u>\$650,000</u>
Net FMV	\$250,000
Raw land value @ \$3,000 per acre	\$300,000
* FMV for repayment, reinvest	\$300,000



# Previously Sold Land

- Use the retrospective appraisal method to determine historic fair market value at time of sale (or lease)
- Advance this appraised value to the present using Bureau of Labor Statistics Consumer Price Index





# Offsetting Expenses

- Costs to prepare land for disposal, e.g. demolition of structures, may be offset against proceeds in determining Federal Share
- Costs to hold the land pending disposal, e.g. lawn mowing or guard services, may not be offset

# Handling the Money

- Can be held by sponsor in escrow account
  - FAA will track in SOAR and sponsor will use in lieu of AIP funds or to supplement AIP grants
  - But *not* as Local Share



# Handling the Money



- FAA can hold the money
- Distributed like grants, except:
  - Sponsor does not have to compete
  - Funds are not subject to annual appropriations cycle & do not expire



# FAA Review

- Is the inventory complete?
- Is the retention of parcels justified?
- Is the disposal method consistent with the guidance?
  - Choice of specific disposal method is up to airport
  - FAA will review to assure adequate interests are retained
- Did the airport get fair market value?



# FAA Review (con't)

- If lease, is airport making lump sum repayment
- Environmental review requirements
  - Disposal by sale or lease is not subject to NEPA
  - Disposal by conversion or exchange to airport development land requires FAA approval of ALP amendment, which is subject to NEPA



# Putting a Winning Plan Together





# Elements of a Winning Plan

- Complete, comprehensive inventory
- Detail, Detail, Detail
- Documentation
- Reasonable assumptions
  - Future aeronautical need
  - Need to assemble parcels for viable disposal
  - Local real estate market conditions
- Communication
  - Keep the FAA in the loop



# Funding the Plan

- AIP funding is not available in a stand-alone grant to develop a reuse plan. The airport must use its own resources, except:
- FAA will treat development of a reuse plan as an allowable cost of a master plan or master plan update
- For newly acquired parcels, a reuse plan must be submitted at project closeout. Therefore FAA treats development of plan as an allowable cost of the land acquisition itself





***THANK YOU!***

