

**TITLE 25. OKLAHOMA DEPARTMENT OF AEROSPACE AND AERONAUTICS
CHAPTER 15. AIRPORT CONSTRUCTION PROGRAM**

25:15-1-1. Purpose

The purpose of this chapter is to set forth the requirement for participation in the airport grant program administered by the Oklahoma Department of Aerospace and Aeronautics, and to establish the procedures to be followed by the Department in the administration and enforcement of its duties under Title 3, Oklahoma Statutes, Section 81-93 and Title 68, Oklahoma Statutes, Section 6003.1.

25:15-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Administrative official" means an official of the airport sponsor who is authorized to legally bind the airport sponsor.

"Airport Construction Program" means a list of airport construction projects approved by the Commission for implementation within a five-year programming horizon showing a description of the project, the cost of each phase of the project, when the project is expected to occur, and the sources of funding.

"Airport Development Worksheet" means a listing of the capital infrastructure projects needed at an airport over a twenty-year planning horizon together with the estimated cost, construction type, and airport component for each project. Projects identified for a particular airport must be consistent with the service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan. An airport development worksheet is developed and maintained for each system plan airport that is not part of the National Plan of Integrated Airport Systems (NPIAS) cooperatively by the airport sponsor and the Department staff.

"Airport layout plan/drawing" means the basic plan for the layout of an airport that shows, at a minimum, the present boundaries of the airport, the areas that the airport sponsor owns or controls for airport purposes, and any proposed areas that will be acquired by the airport sponsor in the future. It will include the location and nature of existing and proposed airport facilities such as runways, taxiways, aprons, terminal buildings, hangars, roads, and other vital airport infrastructure items. Also, it will provide the location of existing and proposed uses of property under control by the airport sponsor. The full airport layout plan-set is a combination of many pages of documents, including items such as instrument approach path details, terminal area maps, property maps, and the page that is identified as the airport layout drawing. Not every airport will have a full plan-set and may only have an airport layout drawing which will detail most of the above information on a single page drawing.

"Airport Sponsor" or "Municipality" is used interchangeably throughout this chapter. Either term means any incorporated city, village, or town of this state, any public institution of higher education, and any county or political subdivision or district of this state, or any public trust thereof, which is, or may be, authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical facilities. To be eligible for the state grant program, the airport sponsor must be one of

the governmental entities referenced in the preceding sentence and included in the Oklahoma Airport System Plan that has been adopted by the Commission. Nothing herein precludes two or more of these entities from acting jointly as an airport sponsor. In the event a public trust is the airport sponsor, the beneficiary of that public trust must also be a record owner of the airport property.

"Airport Sponsor Matching Share" means any funds provided by the airport, municipality or public trust, or any other source of funding that is not FAA.

"Commission" means the seven members of the Oklahoma Aerospace and Aeronautics Commission as appointed by the governor.

"Department" means the Oklahoma Department of Aerospace and Aeronautics, the state agency responsible for administering airport grant programs for the State of Oklahoma and the Federal Aviation Administration.

"Emergency" means a condition that could not have been foreseen and which affects the safety of the airport sufficiently that the airport or runway may need to be closed if the situation is not remedied.

"FAA" means the Federal Aviation Administration, a unit of the U.S. Department of Transportation.

"Letter of Interest" means a letter expressing the desire of an airport sponsor to have one or more projects included in the Airport Construction Program.

"Non- Primary Entitlement (NPE) funds" ~~are~~ means FAA Airport Improvement Program (AIP) funds set aside for general aviation airports listed in the National Plan of Integrated Airport Systems.

"Notification Letter" means correspondence prepared by the Department staff informing an airport sponsor that one or more of their projects have advanced to the current year of the Airport Construction Program. The letter sets forth the terms the Department imposes on airport sponsors participating in the state grant program, describes the project, authorizes the airport sponsor to begin engineering work for the project and directs the sponsor to prepare a grant application once project bids have been received.

"Oklahoma Airport System Plan" means the plan, adopted by the Commission, which identifies the airports included in the State's airport system and identifies the service level, functional classification, design standard, and airport reference code for each system airport.

"Project Sketch" means the sketch shown in color the area and location of proposed construction or rehabilitation work for the accompanying construction grant application. ~~ies the se~~

25:15-1-3. Planning

(a) Planning and Programming Process.

(1) The Department staff shall, in consultation with airport sponsors, prepare and maintain the Oklahoma Airport System Plan. The Commission shall adopt and approve changes to the plan.

(2) The Department staff shall assist publicly owned, publicly used airports in identifying airport needs and deficiencies. Airport sponsors eligible to participate in grant or loan programs are sponsors of publicly owned, public use airports included in the Oklahoma Airport System Plan. The Department staff shall, in

consultation with each airport sponsor, prepare and maintain an airport development worksheet for each airport included in the Oklahoma Airport System Plan. The airport development worksheet shall be reviewed and updated at least once every three years. The airport development worksheet shall identify the capital projects needed at the airport over a 20 year planning horizon, together with the estimated cost, construction type, objective code, and airport component for each project. The identified projects shall be consistent with the service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.

(3) The Department staff shall, in consultation with airport sponsors, prepare and update annually the Airport Construction Program. The Commission shall approve the Airport Construction Program.

(b) **Airport Construction Program Content.**

(1) The Airport Construction Program shall contain a list of proposed State and FAA funded projects that can be implemented with forecast revenues within the five year programming horizon.

(2) Projects included for an airport in the Airport Construction Program shall be consistent with service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.

(3) The Airport Construction Program shall show the proposed sources of funding for each project.

(4) The Airport Construction Program shall show the proposed implementation schedule for each project.

(5) The Airport Construction Program shall include other priorities, policies, and procedures as adopted by the Commission.

(c) **Airport Construction Program Projects.**

(1) To be included in the Airport Construction Program a project must be eligible to receive airport grant or loan funding from the Department. To be eligible a project must be conducted on active public-use areas of an airport or to support those public-use areas of an airport. Types of projects considered eligible are listed below:

(A) Maintenance: this type of work is limited to pavement maintenance of runways, taxiways, and aprons and can include routine cleaning, filling, or sealing of cracks/joints, maintenance of pavement drainage systems, patching pavement, and remarking of the above mentioned pavement areas. Items not considered maintenance are applying herbicide to prevent grass encroachment, mowing of airport grass, FOD sweeping, replacing light bulbs, replacing light fixtures due to damage from a manmade source, re-topping of trees that had been previously topped in a Department project, and other similar type activities.

(B) Rehabilitation: this type of work is a more comprehensive restoration of an item to its original functionality. Items such as pavement sealcoats, overlays, reclamation, replacement of an entire set of lighting fixtures, refurbishment/remodel and expansion of a terminal building, refurbishment

of a sponsor owned hangar would be considered a project under the rehabilitation category.

(C) Reconstruction: this type of work is a complete restoration of an item to its original functionality once it has reached the end of its useful life. This results in a virtually new piece of pavement, electrical system, or building.

(D) New Construction/Installation: this type of work would construct new pavement such as a runway widening or extension, hangar taxiway area, or apron expansion, or construct new structures such a terminal building or hangar, or construct new drainage structures to support the removal of water from the airport. This work item would also include the installation of new navigational aids that weren't previously at an airport such a precision approach path indicator, runway edge lighting, omnidirectional approach light system, weather observation system, or similar item.

(E) Planning/Design: this type of work includes the engineer design and associated support work with any of the eligible project types. This could also include planning projects such as master plans, airport layout plans, specialty planning studies, and obstruction/approach surveys.

(F) Off-airport: this type of work is typically for the support of on-airport operations. This work item could include items such as obstruction removal, land acquisition, drainage improvements, relocation of roads and utilities, installation of navigational aids, or similar projects.

(2) The following are three basic tests that must be met to determine if a project is justified for inclusion in the Airport Construction Program:

(A) The project advances Department policy laid out in 3 O.S. § 85 and the adopted Oklahoma Airport System Plan. The basic goals and objectives in these policies include airport safety, security, economic enhancement, and capacity, meeting FAA or Department standards, preserving and improving airport infrastructure that is for the use and benefit of the public, airport planning, and other similar projects.

(B) The Department must determine if there is an actual need for the project at the airport within the five-year horizon.

(C) The project scope is appropriate. The Department must determine that all the elements of the project are necessary to obtain the project scope's overall goal. Any elements that do not meet this criteria must stand on their own separate merit and justification.

(3) For hangar construction projects, special selection criteria and requirements will be implemented to include the following:

(A) Preference will be given to hangar projects which will support new businesses, expansion/enhancement of existing on-airport businesses, and new aircraft being brought to the state. Preference will also be given to hangar projects which help an airport sponsor increase their based aircraft for potential inclusion into the NPIAS or to attain classified status within the NPIAS.

(B) An airport sponsor must show a valid hangar waiting list for those potential occupants of the hangars to be constructed or an acceptable

plan on how they will advertise for the available hangar space once constructed.

(C) Airport sponsors will need to provide a plan to charge fair market aeronautical rates for hangars that are constructed as a part of this program.

(4) For a project to be considered for inclusion in the Airport Construction Program, the airport sponsor must submit a letter of interest to the Department detailing the basic scope and estimated cost of the project that they want to have included in the Airport Construction Program.

(d) **Airport Construction Program Development.**

(1) The Airport Construction Program lists projects for which expenditures are expected to begin within the five year programming horizon.

(2) On a two-year cycle, the Department staff shall update the NPIAS needs database and the ADWS database (for Non-NPIAS airports). To update the Department's database, sponsors will use FAA's Overall Development Objective (ODO) data sheet or similar document for each requested project.

(3) The Department staff shall evaluate projects in the NPIAS and ADWS databases and recommend projects for inclusion in the Airport Construction Program based on:

(A) Airport system development priorities, policies, and procedures adopted by the Commission and/or the FAA.

(B) Multi-year on-going projects that are currently identified in the approved Airport Construction Program will be given higher priority during the development of the Airport Construction Program.

(C) The airport's pavement condition index, pavement life-cycle consideration as developed by the pavement management program.

(D) The National Priority Rating System developed by FAA and included in FAA's Order 5090.5 titled "Formulation of the National Plan of Integrated Airport Systems (NPIAS) and the Airports Capital Improvement Plan (ACIP)".

(E) The amount of aviation activity, the types of airplanes served, the numbers of based airplanes at the airport, and the population included in the airport's service area.

(F) Other factors as may be relevant (for example, the services provided at the airport, the sponsor's demonstrated ability to maintain and operate the airport, the sponsor's ability to address safety inspection deficiencies, etc.)

(G) An emergency project request, with verifiable justification, may be submitted to the Department for inclusion in the Airport Construction Program at any time.

(4) The five year programming horizon of the Airport Construction Program shall be broken down into three general time periods (Appendix A): near-term program, transition year, and the extended program.

(A) Near-term program: This shall be the current year plus years two and three. Projects in this time period are considered to be of low flexibility.

(B) Transition year: This shall be year four. Projects in this time period are considered to be of moderate flexibility.

(C) Extended program: This shall be year five. Projects in this time period are considered to be flexible.

25:15-1-4. Programming Implementation Airport Grant and Loan Program Requirements and Procedures

(a) **Contingency.** Implementation of an airport grant program or loan program is contingent upon funding being available to the Department for this purpose.

(b) **Notification to Proceed.**

(1) As funding becomes available, the Department staff shall send a notification letter to each airport sponsor that has a capital project included in the approved Airport Construction Program as described in 25:15-1-3.

(2) The notification letter shall:

(A) Advise the airport sponsor of the proposed cost sharing for the project and identify project development items eligible for funding.

(B) Authorize or direct the airport sponsor to:

(i) confirm in writing within 30 days the airport sponsor's intention to proceed with the project as programmed;

(ii) select an engineering consultant and provide a copy of the contract entered into with the consultant;

(iii) prepare project plans and specifications and to coordinate the project design with the Department staff;

(iv) prepare to meet the federal and state administrative requirements depending upon the proposed funding sources;

(v) provide updated project costs after the final design is completed;

(vi) proceed to bid when directed by the Department's staff; and

(vii) submit a grant application for the Department's consideration and approval.

(c) **Grant Application or Loan Application; General Information.**

(1) The airport sponsor shall submit a complete grant or loan application for a capital project for:

(A) Reimbursement of the cost of planning and engineering; and/or

(B) Reimbursement for the cost of construction based on the bids received by the airport sponsor.

(2) The airport sponsor's administrative official must sign the grant or loan application form(s). If the administration and/or operation of the airport is performed by a Trust, the Chairman of the Trust must also sign the grant or loan application.

(3) The Department shall consider all grant or loan applications in accordance with 25:15-1-3(c).

(4) Reimbursement for the cost of engineering is contingent upon submission of the final set of plans and specifications to the Department staff.

(d) **Grant or Loan Application; Funding Information.**

(1) Each airport sponsor must state in its application that it has on hand funds to pay all estimated costs of the proposed project that are not borne by the Department or any other state or federal agency. As part of this requirement, each airport sponsor is required to provide written verification in the grant or loan application (designated as Exhibit E) to the Department that the airports sponsor's share of the project has been reserved in an account that will be used for defraying the costs of the project.

(2) If any of the funds for the project are to be furnished by another state or federal agency, the airport sponsor must provide evidence that the funds are available with the grant or loan application.

(e) **Information Regarding State Level of Participation and Required Matches.**

(1) For state grants, the maximum level of participation for the Department shall not exceed 95 percent. The airport sponsor is required to provide a minimum of 5 percent of the project funding for the airport sponsor matching share.

(2) For FAA grants for projects identified in the Department's Airport Construction Program, the Department may provide half of the match that is required from the airport sponsor.

(3) For FAA grants for projects identified in the Department's Airport Construction Program, the Department may provide supplemental state grant funding for project items. The maximum level of participation for the Department in such supplemental funding shall not exceed 95 percent. The airport sponsor is required to provide a minimum of 5 percent of the supplemental project funding for the airport sponsor matching share.

(4) For non-primary entitlement (NPE) grants or special federal earmarks not identified in the Department's Airport Construction Program, the Department will not provide half the match that is required from the airport sponsor. If NPE grant funds are transferred from other airport sponsors to an airport sponsor for a project identified in the Department's Airport Construction Program, the Department may assist with half of any required match from the receiving airport sponsor so long as it will save the Department state funds.

(5) For terminal building projects, the Department's maximum cost-share level shall be 50 percent and shall not exceed \$1,000,000. The airport sponsor is required to provide a dollar-for-dollar airport sponsor matching share for every dollar the Department provides. Remaining share to complete the project could come from any available source. New construction or complete reconstruction of an existing terminal building are considered eligible projects under this item. At the Department's sole discretion a rehabilitation and expansion of a terminal building may also be considered as eligible under this item.

(6) For hangar construction projects, the Department may provide funding via grant or loan. Priority shall be given to construction of new hangars, but the Department may consider rehabilitation of existing sponsor owned hangars if it enhances the longevity of the hangars and provides for additional revenue for the airport.

(A) For state grants the -Department's maximum cost-share level of participation shall not exceed 40 percent. The airport sponsor is required to provide a minimum 5 percent for the airport sponsor matching share.

Remaining share to complete project could come from any available source.

(B) For state loans the maximum cost-share level of participation shall be not exceed 70 percent. The airport sponsor is required to provide a minimum 5 percent for the airport sponsor matching share. Remaining share to complete project could come from any available source.

(7) For fuel system construction projects, the Department's maximum cost-share level shall be 50 percent and shall not exceed ~~\$300,000~~ \$500,000 per system type (fixed or mobile) per fuel type (e.g Jet-A, AvGas). Fuel systems must be in new condition and acquired in compliance with local procurement procedures and/or laws in place that govern the municipality/airport. The airport sponsor is required to provide a minimum of 5 percent for the airport sponsor matching share. Remaining share to complete project could come from any available source.

(8) For funding directed to the Department as a part of the Preserving Rural Economic Prosperity (PREP) program or other similar state funding program created by the legislature for specifically identified site locations and infrastructure projects ~~of a non-competitive nature~~ within the Oklahoma Airport System the Department may provide funds at a 100 percent level.

(f) **Grant Application; Project Information.** The airport sponsor will provide the following information:

(1) The airport sponsor shall submit an Airport Layout Drawing or project sketch (designated as Exhibit A) indicating the location of the proposed construction work with all grant applications.

(2) The airport sponsor shall submit final project plans and specifications with the grant application (designated as Exhibit B).

(3) The airport sponsor shall submit a project narrative with the grant application describing the items of airport development for which the airport sponsor is requesting assistance (designated as Exhibit B-1).

(4) The airport sponsor shall submit a line-item project cost list with the grant application that provides a detailed cost breakdown of the project (designated as Exhibit B-2). This list will be based on the bid awarded by the airport sponsor. The amounts on this list are considered not to be exceeded amounts without prior approval. Any expenditure over these line-item amounts will not be considered for reimbursement unless approval has been received as described in 25:15-1-4(h).

(5) The airport sponsor shall submit the engineering contract for the project scope and the project engineering fees with the grant application (designated as Exhibit B-3).

(6) The Sponsor will submit a certification stating compliance with FAA standards unless an approved Modification to Standards for state standards has been received from the appropriate funding agency.

(7) The airport sponsor shall submit the contract for on-site construction observations (designated Exhibit B-4).

(8) The airport sponsor shall provide a signed statement in the grant application that the airport sponsor is not currently in default to any state agency for any

obligation related to the development, operation or maintenance of the airport (designated as Exhibit C).

(9) The airport sponsor shall provide a signed statement with the grant application that the airport sponsor will not award any contract to any contractor who is currently suspended or disbarred by any federal agency, the Oklahoma Department of Central Services or the Oklahoma Department of Transportation for the project contemplated under the grant application (designated as Exhibit C-1).

(10) The airport sponsor shall provide an affidavit with the grant application that states the person signing is the administrative official for the sponsor, that the sponsor has not provided any compensation, donation or gift to an officer or employee of the state in procuring the grant, that any employee of the state compensated by the airport sponsor involved in the development of the grant will not provide any services in the project, and that this project will not result in any duplication of previous grant requests or awards (designated as Exhibit C-2).

(g) **Hangar Loan Application; Project Information.** The airport sponsor will provide the following information:

(1) The airport sponsor shall submit an Airport Layout Drawing or project sketch (designated as Exhibit A) indicating the location of the proposed construction work with all loan applications.

(2) The airport sponsor shall submit final project plans and specifications with the loan application (designated as Exhibit B).

(3) The airport sponsor shall submit a project narrative with the loan application describing the items of airport development for which the airport sponsor is requesting assistance (designated as Exhibit B-1).

(4) The airport sponsor shall submit a line-item project cost list with the loan application that provides a detailed cost breakdown of the project (designated as Exhibit B-2). This list will be based on the bid awarded by the airport sponsor. The amounts on this list are considered not to be exceeded amounts without prior approval. Any expenditure over these line-item amounts will not be considered for reimbursement unless approval has been received as described in 25:15-1-4(h).

(5) The airport sponsor shall submit the engineering contract for the project scope and the project engineering fees with the loan application (designated as Exhibit B-3).

(6) The Sponsor will submit a certification stating compliance with FAA standards unless an approved Modification to Standards for state standards has been received from the appropriate funding agency.

(7) The airport sponsor shall submit the contract for on-site construction observations (designated Exhibit B-4).

(8) The airport sponsor shall provide a signed statement in the loan application that the airport sponsor is not currently in default to any state agency for any obligation related to the development, operation or maintenance of the airport (designated as Exhibit C).

(9) The airport sponsor shall provide a signed statement with the loan application that the airport sponsor will not award any contract to any contractor

who is currently suspended or disbarred by any federal agency, the Oklahoma Department of Central Services or the Oklahoma Department of Transportation for the project contemplated under the loan application (designated as Exhibit C-1).

(10) The airport sponsor shall provide an affidavit with the loan application that states the person signing is the administrative official for the sponsor, that the sponsor has not provided any compensation, donation or gift to an officer or employee of the state in procuring the loan, that any employee of the state compensated by the airport sponsor involved in the development of the loan will not provide any services in the project, and that this project will not result in any duplication of previous grant or loan requests or awards (designated as Exhibit C-2).

(11) The airport sponsor shall provide a signed Loan Agreement with the loan application that confirms the airport sponsor agrees to the terms established in the Loan Agreement.

(A) The interest rate will be determined by the Department at the time a loan is issued but will be more competitive than what is available in the traditional loan market and allow for the Department to recover costs associated with administering the loan.

(B) The payback period for a hangar loan will be a year term with annual payments.

(C) The first payment will be due no later than the last day of the month beginning two months after completion and final acceptance of the project and continuing each subsequent year by the last day of that same month for the entire loan term.

(h) **Change Orders.** As described in 25:15-1-4(f) and 25:15-1-4(g) the B-2 form lists line-item project costs that cannot be exceeded. During the course of the construction of a project, change orders and/or supplemental agreements may be necessary to increase or decrease bid or line-item amounts and quantities due to unknown or unforeseen circumstances. A change order and/or supplemental agreement shall be sent to the Department along with a request to amend the approved grant's B-2 line-item or bid item.

(1) For change orders and/or supplemental agreements that will not increase the Department's overall share for the project the Director may approve such an amendment to the grant application. Change orders and/or supplemental agreements approved by the Director shall be presented to the Commission at its next regular or special business meeting stating the reasons for the change order and/or supplemental agreement with such information as the Commission may require.

(2) For change orders and/or supplemental agreements involving a total increase to the Department's overall share for the project not to exceed Ten Thousand Dollars (\$10,000) the Director may approve such an amendment to the grant application. Such change orders and/or supplemental agreements approved by the Director shall be presented to the Commission at its next regular or special business meeting stating the reasons for the change order and/or supplemental agreement with such information as the Commission may require.

(3) Change orders and/or supplemental agreements involving a total increase to the Department's overall share for the project in excess of Ten Thousand Dollars (\$10,000) must be presented to and approved by the Commission before such an amendment can be made to the grant application.

(i) **Grant or Loan Application; Height Hazard Zoning and Land Use.** Each airport sponsor shall indicate within the application that it has taken action 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 take-off of aircraft, and assuring the protection or control of the aerial approaches to the airport (designated as Exhibit D). The adoption and enacting of these zoning regulations is outlined in Title 3, Section 103 through 116, of the Oklahoma State Statutes.

(j) **Grant or Loan Application; Assurances.** The airport sponsor, upon signing the grant or loan application, agrees to the following assurances:

(1) Upon the approval of the grant or loan by the Commission, the ~~capital~~ project will be completed within a maximum of two years unless otherwise explicitly authorized by the Commission.

(2) The airport sponsor agrees to the following conditions regarding the users of the airport:

(A) Neither the airport sponsor nor the occupant of any of the airport facilities shall discriminate against any person or a class of persons in the use of any facility provided to the public on airport property.

(B) The airport sponsor shall operate the airport in such a manner that the airport is open to all types and classes of users and establish such non-discriminatory conditions required for the safe and efficient operation of the airport.

(C) Any agreement, contract, lease or other arrangement that the airport sponsor enters into shall include provisions that such services meet the demands of all users of the airport, that services shall be provided on a non-discriminatory basis, that charges for goods and services shall be fair and reasonable, that services allow any user of the airport to perform any and all services to their own aircraft, and that essential facilities will be operated in a manner that these facilities shall be available to all users of the airport. In addition, if the airport sponsor provides any or all of these services, the airport sponsor agrees to the same provisions.

(3) The airport sponsor certifies that it has the legal authority to carry out all provisions of the grant or loan application in conformity with State and Federal Statutes, Acts, and Regulations.

(4) The airport sponsor shall reserve sufficient powers and authority when entering into any transaction or arrangement to perform any of the covenants expressed in the grant or loan application.

(5) The airport sponsor shall provide the following minimum essential facilities: a landing area and an aircraft parking area.

(6) The airport sponsor shall agree to properly maintain the airport under the following conditions:

(A) The airport sponsor will operate and maintain the airport and all facilities to meet the needs of all users of the airport.

(B) The airport sponsor shall not permit the airport to be used for an activity that would impede or obstruct aeronautical activity.

(C) The airport sponsor shall appropriate the funds required to properly maintain the airport to prevent deterioration of the facilities. Failure to have a documented pavement maintenance program shall be cause for the Department to disqualify the airport sponsor for additional funds. In addition, failure to have a documented pavement maintenance program shall be considered a breach of these assurances.

(7) The airport sponsor shall maintain an updated Airport Layout Plan that has been prepared in accordance with the FAA's regulations and shall not make any alterations to the airport other than those outlined in the approved Airport Layout Plan, or approved by the FAA or the Department in writing.

(8) The Department shall prepare a financial report of income and expenditures of all project funds. All project records shall be maintained by the airport sponsor for not less than three (3) years from the final acceptance of the project by the Department, and the airport sponsor shall provide access to these records upon request of the Department or the FAA. This provision shall in no way affect any requirement imposed upon the airport sponsor by the Oklahoma Open Records Act or any other state or federal law. These records shall include such documentary evidence as invoices, cost estimates, payrolls, vouchers, cancelled checks or warrants, and receipts for cash payments that support each item of project costs. The final 10% of state grant or loan funds will not be released until a satisfactory financial report has been completed and accepted by the Department staff.

(9) The Department shall not pay or be obligated to pay for any work on the project that has been incurred prior to the grant or loan application being submitted to and awarded by the Department except for planning and/or engineering costs incurred pursuant to submitting a completed grant or loan application. In addition, any funds approved by the Commission shall only be used for project costs identified in the grant or loan application unless approval has been obtained as described in 25:15-1-4(g).

(10) The airport sponsor understands that fuel systems funded by the Department must be operated by the public airport sponsor and not a third party entity or contractor.

(11) The airport sponsor certifies that it will take the necessary and appropriate action, to the furthest extent possible, including the potential acquisition of property, 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 the landing and takeoff of aircraft. In addition, an airport sponsor shall take the necessary and appropriate action to assure that such terminal airspace as is required to protect instrument and visual operation to the airport will be adequately cleared and protected by removing, lowering, marking, lighting, or otherwise mitigating existing airport hazards and by preventing the establishment or creation of new airport hazards.

(k) **Grant or Loan Agreement; Terms and Conditions.** Upon approval by the Commission, the completed grant or loan application shall constitute an agreement

between the Department and the airport sponsor. Both the Department and the airport sponsor are bound to all the requirements of the grant or loan agreement. In addition, all grants or loans of the Department shall be subject to the following terms and conditions:

(1) The time period of the grant or loan agreement between the airport sponsor and the Department shall be twenty (20) years from the date of the airport sponsor's acceptance and/or the life of the improvements contemplated under the grant or loan application, whichever is longer.

(2) The airport and all visual navigational aids shall be under the control of and maintained by the airport sponsor for the period covered by the grant or loan agreement.

(3) For the purposes of the grant or loan agreement, the airport sponsor must have title free and clear of any reversionary interest, lien, easement, lease, or other encumbrance for all property to be constructed on during the grant or loan agreement. If the property is leased, the airport sponsor asserts that the lease will be maintained no less than the time period of the grant or loan agreement, and in both circumstances, asserts that the property will not be used for any purpose other than the operation of the airport. In addition, airport property as defined in the airport layout plan cannot be transferred by the airport sponsor without the written approval of the Department.

(4) The airport and all visual navigational aids shall be made available to all classes of aeronautical users without discrimination by airport sponsor with adequate access at all times.

(5) The airport sponsor will not grant or permit, either directly or indirectly, any exclusive right to any person, firm or corporation for any aeronautical activities, and will terminate any existing exclusive rights now existing before accepting a grant from the Department.

(6) The airport sponsor shall complete the project in accordance with FAA's standard specifications unless prior written modification to standards has been approved by the FAA (for federally funded projects) or the Department (for state only projects). The airport sponsor shall provide the following reports to the Commission:

(A) A weekly progress report using the appropriate FAA form;

(B) A copy of all acceptance tests shall be provided by the acceptance testing laboratory as soon as they are available; and

(C) An acceptance test summary report shall be provided to the Department upon completion of the project.

(7) The airport sponsor, upon request by the Department, shall provide annual statements of airport revenues and expenses.

(8) The airport sponsor shall comply with the Municipal Airports Act, Title 3, Section 65, and the provisions thereafter, of the Oklahoma State Statutes, specifically Section 65.12, that requires that revenues from airport operations be deposited in a separate fund and used exclusively for the airport.

(9) All airport development using grant or loan funds shall be consistent with the Airport Layout Plan approved by the FAA. A copy of the approved Airport Layout Plan, with any modifications, will be filed with the Department.

(10) The airport sponsor shall comply with all applicable provisions of Title 61 of the Oklahoma State Statutes which governs competitive bidding for public construction contracts.

(11) The airport sponsor shall provide a tabulation of all bids signed by the Engineer-of-record for the project with the grant or loan application.

(12) The airport sponsor shall operate lighting for the airport when such lighting is included in the project.

(13) The Department and/or the state are not parties to any contract entered into by the airport sponsor to accomplish the project.

(14) The airport sponsor shall understand and agree that should the airport sponsor fail to abide by all of the terms and conditions of the grant or loan agreement, then the funds provided by the Department shall be withdrawn. In addition, the airport sponsor shall notify the Department of any delays or problems with the project and request an extension or deviation from the Department.

(15) The airport sponsor shall understand and agree that should the airport sponsor fail to submit timely loan payments during the course of the 10 year loan payback period, the airport sponsor will be prohibited from receiving any additional grants or loans until such payments are made and may have existing federal and state projects programmed in the 5-year Airport Construction Program delayed or removed.

(l) **Grant or Loan Agreement; Payments.**

(1) The airport sponsor shall request reimbursement for project costs from the Department on a monthly basis upon initiation of the project. The Department shall reimburse the sponsor only for bid items at the bid unit price. The Department will only process the request for reimbursement when accompanied by the following documentation:

(A) For federal participation grants, a copy of a FAA Invoice Summary Worksheet and a Cost Distribution Worksheet based upon the line items in the executed grant or loan.

(B) For non-federal participation grants, an Invoice Summary Worksheet based upon line items in the executed grant or loan.

(C) Copies of all vendor invoices.

(D) A construction quantities report from the primary contractor signed by the Engineer-of-record.

(E) All test invoices.

(2) The Department shall process the monthly requests for reimbursement until 90% of the grant or loan awarded by the Department is expended or 90% of the Department's total project cost is expended in the event the project comes in under budget. The final 10% will be released upon the completion of the following items:

(A) The summary of acceptance testing report and if required by the specifications, the calculated lot-wise percentage within limits (PWL) of the project. The report shall document the results of all acceptance tests performed, the construction lot, location of the material tested and the quantity represented.

(B) A report submitted by the Resident Inspector or Engineer-of-Record detailing those acceptance tests that were out-of-tolerance and include the pay reductions applied and reasons for accepting any out-of-tolerance material.

(C) All final acceptance and close-out forms for the project have been submitted to the Department.

(D) For federal participation grants, a copy of the final signed FAA form SF 271 Outlay Report.

(E) A satisfactory financial report has been completed by the Department.

(m) **Endorsement by the Commission:**

(1) Upon receipt of the fully executed and complete grant or loan application, the Department staff shall verify compliance with the terms of the notification letter.

(2) If the grant or loan application is found to be in compliance with the terms of the notification letter, the Department staff shall forward the grant or loan application to the Commission for action.

(3) If the Commission approves the grant or loan application, the Department staff shall communicate that approval to the airport sponsor with authorization to proceed.

(4) If the Department staff finds that the grant or loan application is not in compliance with the terms of the notification letter, the Department staff shall notify the airport sponsor of the non-compliance and suggest possible remedies.

(5) Upon receipt of the Department staff's finding of non-compliance, the airport sponsor may:

(A) Modify the grant or loan application to bring it into compliance with the terms of the notification letter; or

(B) State the reason that the airport sponsor believes it is in compliance and request that the grant or loan application be forwarded to the Commission for action; or

(C) Agree that it is not in compliance and request that the grant or loan application be forwarded to the Commission as is.

(D) Request the grant or loan application not be forwarded to the Commission.

(6) The Department staff shall notify the airport sponsor of the Commission's action.

25:15-1-5. Airport Compliance

It is the Department's goal to use the most effective means to maintain airports in full compliance of grant assurance and terms and conditions requirements. Airports must remain in compliance ~~with all grant assurances~~ to remain eligible for grant funding from the Department. When the Department is working with airports to correct a grant assurance violation, the Commission, as the governing body of the Department, may elect to move the airport's compliance status to conditional compliance. Conditional compliance status means an airport may continue to receive grant funding in the future and does

not necessitate the immediate removal of any currently awarded grant funding provided the airport is complying with the conditions that the Commission has stipulated and is actively working to correct the grant assurance violation. The Commission may elect to move an airport's compliance status to non-compliance if a grant assurance has been violated. Non-compliance status means that an airport will not be eligible to receive grant funds from the Department in the future and may, at the Commission's sole discretion, require the repayment of previously awarded grant funding.